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WHAT DO WE NEED TO RESOLVE AFTER ESTABLISHING THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE IN THE SLOVAK REPUBLIC?[1]

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Abstract
Establishment of the European Public Prosecutor's Office is a result of the European Union's initiatives as a consequence of the fraud against its financial interests. Many questions beg consideration at the EU level as well as at national level of all EU Member States, including the Slovak Republic. The aim of the paper is the assessment of Slovak understanding of the European Public Prosecutor's Office. The article's focus comprises five crucial issues that need to be resolved in Slovakia. The first section points out at the process of adoption and implementation of the European Public Prosecutor's Office. Consequently, the following section tackles with the question whether the European Public Prosecutor's Office could be considered a law enforcement authority at national level. The third section is focused on number of the European delegated prosecutors and related competence and jurisdiction. While the fourth section is focused on the execution of evidence in criminal proceedings, the fifth section is focused on application of mutual recognition. At the outset of the contribution, the historical method of research was used, namely in regard to the genesis of the EPPO. The most frequently used method was the analytical method of research. This method was used in regard to the analyses and assessments of literary sources, legislation and implementation of electronic monitoring. Another frequently used method was the comparative method of research. Further, the synthetic method of research was used. Information gathered in order to elaborate the contribution was collected in particular through the three following gathering techniques. The first data gathering method was the review of scientific literature; the works of renowned authors was analysed. The second data gathering method was access to legislation. It should be highlighted that not only consolidated legislation was used, but also original versions were analysed, in particular in the case of historical issues. Third, research into official documents of European organisations was conducted, in particular documents of the European Union.

KEY WORDS: *European Public Prosecutor's Office (EPPO), Implementation at national level, Functioning at national level, Law enforcement authority, Mutual recognition.*

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INTRODUCTION

At the early stage of the European integration in 1950s, integration was probably not expected to focus on financial interests of the States involved. Decades later, fraud(s) against the financial interests of European Communities[4] (of which in 1990s the European Union was established by the Treaty on European Union) occurred. On the one hand, at this time of beginnings of the European integration, the institutional framework of European Communities was rather uncomplicated. On the other hand, as regards its successor – the European Union – its institutional framework is far from simple (Funta, 2014; Funta, Golovko, Juriš, 2020; Chrenšť, Nesvadba, 2020). Many institutions, authorities, units and other bodies have been established within the European Union. Concerning the European Public Prosecutor's Office (hereinafter referred to as 'EPPO'), it was established by Regulation (EU) 2017/1939 implementing enhanced co-operation on the establishment of the European Public Prosecutor's Office [hereinafter the 'Regulation (EU) 2017/1939 on the EPPO'], underlining thus the rising need to fight against a form of serious crime damaging the EU's financial interests. These comprise a specific category entitled 'criminal offence affecting the financial interests of the Union'. This regulation stipulated that the EPPO shall be responsible for 'investigating, prosecuting and bringing to judgment the perpetrators of, and accomplices to, *criminal offences affecting the financial interests of the Union*' [Article 4 of Regulation (EU) 2017/1939 on the EPPO (emphasis added)] which are provided for in the Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law and determined by this Regulation. In that respect, the EPPO shall undertake 'investigations and carry out *acts of prosecution* and exercise the functions of prosecutor in the competent courts of the Member States, until the case has been finally disposed of' [Article 4 of Regulation (EU) 2017/1939 on the EPPO (emphasis added)].

In principle, the EPPO may not be considered a topic neither of constitutional law (Drgonec, 2019; Baraník, 2020; Ondrová, 2020) nor a matter of international security (Medelský, 2017; Saktorová, 2020). It is a topic on European and national importance. Although, as regards establishment of the EPPO, various experts have published both at the

[4] Established by the founding treaties, namely the *Treaty establishing the European Coal and Steel Community*, Paris (France), 18th April 1951; the *Treaty establishing the European Economic Community*, Rome (Italy), 25th March 1957; and the *Treaty establishing the European Atomic Energy Community*, Rome (Italy), 25th March 1957.

European level (Zwiers, 2011; Erkelens, Meij, Pawlik, 2015; Geelhoed, Erkelens, Meij, 2018; Winter, 2018; Ligeti, Antunes, Giuffrida, 2000) and at national level in the Slovak Republic (Šramel, 2010; Šramel, 2011; Ivor, Polák, Záhora, 2021). On the other hand, as regards the Slovak Republic, following its establishment many polemic issues have occurred as regards its functioning at national level.

1 ACCEPTANCE AND IMPLEMENTATION OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE

At the level of the European Union, the fraud against the European Union's financial interests proves a cross-border dimension. Its consequence is an imposing of a custodial sentence (Mencerová, 2015; Ferenčíková, 2020). Previous instruments and possibilities of the fight against this fraud appeared as insufficient. The beginnings of the EPPO within enhanced co-operation in some Member States of the European Union resulted to negative approach, since the EPPO as a part of national criminal proceedings affects their sovereignty, for example, in case of prosecuting of crimes and their perpetrators, as well as subsequent imposition of criminal sanctions (Kmec, 2006). On the contrary, in recent years almost all Member States of the European Union decided to implement the EPPO, which is expected to be effective measure as a European Union's body protecting its financial interests.

However, besides the implementation of the enhanced co-operation, as regards the EPPO, further problems can occur during harmonisation of the European criminal law. In our opinion the establishment of the EPPO – focused solely on fraud against the European Union's financial interests – is not a final step. In comparison to Europol, in 1993 was established the Europol Drugs Unit focused on only one crime – unlawful drug trafficking. Later in 1995 this unit was renamed to the European Police Office and its competence was extended to other areas of crime – its objective shall be, within the framework of co-operation between the Member States of the European Union to improve the effectiveness and co-operation in preventing and combating, in particular, terrorism, unlawful drug trafficking and other serious forms of international crime. Moreover, the scope of Europol was focused also to trafficking in nuclear and radioactive substances, illegal immigrant smuggling, trade in human beings and motor vehicle crime. Today official name of the Europol is the European Union Agency for Law Enforcement Co-operation and its scope was extended to 30 crimes, for

example, drug trafficking, terrorism, organised crime, money-laundering activities, trafficking in human beings, motor vehicle crime, murder and grievous bodily injury, illicit trade in human organs and tissue and racism and xenophobia. Moreover, the Agency´s responsibility covers also related criminal offences, namely: criminal offences committed in order to procure the means of perpetrating acts in respect of which Europol is competent; criminal offences committed in order to facilitate or perpetrate acts in respect of which Europol is competent; and criminal offences committed in order to ensure the impunity of those committing acts in respect of which Europol is competent. It should be noted that many crimes within Europol's competence fall within so called 32 mutual recognition crimes.

The establishment of the EPPO and its implementation in individual States indicates two essential issues. First, on the one hand, the functioning of the EPPO offers *newer* (also *better*?) mechanisms for the protection of the financial interests of the European Union. It can lead to more effective protection of the financial interests of Union. Second, considering the dynamics of the harmonisation of European criminal law, including its weaknesses, one could expect that this process will result to two groups of States, i.e. the States willing the co-operation by the EPPO and the reluctant States. The question which leads to tension is the co-operation between the States of different approach.

2 SHALL WE CONSIDER THE EPPO AS A LAW ENFORCEMENT AUTHORITY AT NATIONAL LEVEL?

In historical perspective, there is no observation on modern European aspects of the law enforcement authorities in Slovak national law (Jáger, 2019; Skaloš, 2020; Šramel, 2011a; Šramel, 2011b). These days, at the national level the law enforcement authorities are well known. As regards the Slovak Republic, they are police officer and prosecutor (Ivor, Polák, Záhora, 2021). The question, which begs consideration, is if the EPPO is the prosecuting authority, i. e. if it belongs between the law enforcement authority.

Basically, the EPPO is operational on two levels. First, the central level based in Luxembourg consists of one European Chief Prosecutor, its two Deputies, 22 European Prosecutors [one per each participating Member State of the European Union; at the time of the writing 22 (of 27) Member States of the European Union have decided to accept and to implement the EPPO], two of whom as Deputies for the European Chief Prosecutor and

the Administrative Director. Second, the decentralised level consists of European Delegated Prosecutors who are located in the participating States. The central level shall supervise the investigations and prosecutions carried out at the national level. The European Delegated Prosecutors are eligible to carry out the investigation(s) and prosecution(s) in their States. Sure, both levels shall co-operate (Klátik, Deset, Klimek, 2019).

Where, in accordance with the applicable national law, there are reasonable grounds to believe that an offence within the competence of the EPPO is being or has been committed, the European Delegated Prosecutor in a Member State which according to its national law has jurisdiction over the offence shall initiate an investigation [Article 26(1) of Regulation (EU) 2017/1939 on the EPPO]. A case shall as a rule be initiated and handled by a European Delegated Prosecutor from the Member State where the focus of the criminal activity is or, if several connected offences within the competences of the EPPO have been committed, the Member State where the bulk of the offences has been committed. A European Delegated Prosecutor of a different Member State that has jurisdiction for the case may only initiate or be instructed by the competent Permanent Chamber to initiate an investigation where a deviation from the rule set out in the previous sentence is duly justified, taking into account the following criteria, in order of priority [Article 26(4)(a)(b)(c) of Regulation (EU) 2017/1939 on the EPPO]:

- the place of the suspect's or accused person's habitual residence;
- the nationality of the suspect or accused person;
- the place where the main financial damage has occurred.

When the European Delegated Prosecutor submits a draft decision proposing to bring a case to judgment, the Permanent Chamber shall decide on this draft within 21 days. The Permanent Chamber cannot decide to dismiss the case if a draft decision proposes bringing a case to judgment [Article 36(1) of Regulation (EU) 2017/1939 on the EPPO]. Where the Permanent Chamber does not take a decision within the 21-day time limits, the decision proposed by the European Delegated Prosecutor shall be deemed to be accepted [Article 36(2) of the Regulation (EU) 2017/1939 on the EPPO].

Moreover, the role of European Delegated Prosecutor is highlighted also in appeal proceedings. Where, following a judgment of the Court, the prosecutor has to decide whether to lodge an appeal, the European Delegated Prosecutor shall submit a report including a draft decision to the

competent Permanent Chamber and await its instructions [Article 36(7) of Regulation (EU) 2017/1939 on the EPPO].

Indeed, as regards prosecutors in the Slovak Republic, one could say that the authorities eligible to conduct the investigation are both national prosecutor (i.e. "standard" national prosecutor) and the European Delegated Prosecutor. In our opinion, the European Delegated Prosecutor should be accepted as the law enforcement authority in Slovak criminal proceedings. In addition to that, also supervising European Prosecutor as well as the competent Permanent Chamber should be accepted as the law enforcement authority in Slovak criminal proceedings, since the competences regarding prosecution are 'divided' into three dimensions – two central (supervising European Prosecutor and the Permanent Chamber) and one decentralised (European Delegated Prosecutor).

Another significant question to be answered is the relationship of the EPPO with the Police officer(s) and national courts.

The answer may be found in this short analysis of the relationship. First, as regards relationship between the EPPO and police officer(s) as a standard law enforcement authority, its key element – in our opinion – shall be co-operation. The problem, which can be observed, is that while an investigator (a police officer) is a national law-enforcement authority, the EPPO is European law-enforcement authority. Such a mixture of authorities is not obvious in our national context as regards criminal investigation and criminal proceedings. In the past, such mixed relations faced many problems, for example, as regards joint investigation teams in the European Union (Ivor, Polák, Záhora, 2021). Moreover, as regards new approaches in criminal proceedings, Slovak practice finds it difficult to accept them. For example, as regards system of electronic monitoring of sentenced persons in criminal proceedings, its implementation and real application is far from rosy (Klátik, Klimek, 2020).

Second, as regards relationship between the EPPO and national courts, another mixture of national and European mixture can be observed. The procedural acts of the EPPO shall be subject to judicial review by the national courts. This is another novelty in national criminal proceedings which can lead to unexpected situations. On top of that, the courts of particular Member State of the European Union, including national courts of the Slovak Republic, can adopt different decision in similar case(s). On the one hand, the Regulation (EU) 2017/1939 on the EPPO can be considered as unprecedented step of the harmonisation of the European criminal law, but, on the other hand, this approach requires another harmonisation as

regards the unity of decision-making activity of national courts in cases under competence of the EPPO.

Another polemic issue is case material. Regulation (EU) 2017/1939 on the EPPO stipulates that 'all case material shall be accessible upon request to the competent Permanent Chamber for the purpose of preparing decisions' [Article 10(6) of the Regulation (EU) 2017/1939 on the EPPO]. It means that the whole case material, which is created by the EPPO as the law enforcement authority, shall be translated into the one of the official languages of the European Union. Investigation and prosecution could require its translation into more languages; in particular, languages that accused person(s) understand(s). Considering that cases under the EPPO´s competence will relate serious crimes, the case materials could contain hundreds and also thousands of pages. On the one hand, Slovak Criminal Proceedings Code guarantees the right to translation in criminal proceedings [Articles 2(20), 28 and 29], as well as Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings [Article 3]. On the other hand, Regulation (EU) 2017/1939 on the EPPO is not clear in whether the EPPO´s central office or its decentralised part is responsible for provision of translated documents for the case material.

Translation of all case material or even translation of its major part can be considered as serious administrative and time-consuming problem, which needs to be resolved, since translation(s) must not cause any delays of proceedings. This issue has two possible solutions. The first solution is to make a court interpreter a part of the criminal proceedings and (s)he translates the needed documents of case material into a target language. The second one to develop all case material in Slovak language and submitted it to a permanent chamber, which will provide its translation to a required language. We are the opinion that the second option is worthy of being preferred. In our opinion, the wording of Regulation (EU) 2017/1939 on the EPPO does not regulate the obligation of decentralised units to translate the case material into any other language than a national official language.

3 NUMBER OF EUROPEAN DELEGATED PROSECUTORS AND RELATED COMPETENCE AND JURISDICTION

Another issue requiring consideration in the EPPO context is the number of European Delegated Prosecutors. As seen, the EPPO is operational on two levels.

Regulation (EU) 2017/1939 on the EPPO stipulates that '[t]here shall be *two or more European Delegated Prosecutors* in each Member State' [Article 13(2) of Regulation (EU) 2017/1939 on the EPPO (emphasis added)]. Their number depends on the decision of the European Chief Prosecutor, who shall reach the agreement with appropriated national units – in Slovakia it is the General Prosecutor's Office of the Slovak Republic. We are the opinion the higher number of the European Delegated Prosecutors is suitable in larger States and in smaller States, as is the case of Slovakia, their number should be lower. At the beginning of the whole EPPO activities, two or three European Delegated Prosecutors would be appropriate.

As regards *material competence*, under the Regulation (EU) 2017/1939 on the EPPO the EPPO shall be competent in respect of the criminal offences affecting the financial interests of the European Union that are provided for in Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law. As regards special offences the EPPO shall only be competent when the intentional acts or omissions are connected with the territory of two or more Member States of the European Union and involve a total damage of at least 10 million EUR [Article 22(1) of the Regulation (EU) 2017/1939 on the EPPO]. As regards the condition focused on the territory of two or more States, it does not cause difficulties. However, as regards the limit for a total damage – at least 10 million EUR – one could presume that the crimes involving such a damage will be committed in larger States, not in the Slovak Republic. One could presume that in such a small State as Slovakia above mentioned limit will be hardly reached (despite the fact that in Slovakia "nothing is possible").

As regards the *territorial jurisdiction*, we are the opinion that European Delegated Prosecutors could follow the approach of the prosecutors of the Special Prosecutor's Office (a part of the General Prosecutor's Office of the Slovak Republic), i.e. they should be eligible to work on the whole territory of the Slovak Republic. It is not needed to establish "local" units (district and regional) for European Delegated Prosecutors.

4 EXECUTION OF EVIDENCE IN CRIMINAL PROCEEDINGS

Regulation (EU) 2017/1939 on the EPPO stipulates that '[e]vidence presented by the prosecutors of the EPPO or the defendant to a court shall not be denied admission on the mere ground that the evidence was gathered in another Member State or in accordance with the law of another Member State' [Article 37(1) of Regulation (EU) 2017/1939 on the EPPO (emphasis

added)]. It is clear that the Regulation focuses on the admissibility of evidence in criminal proceedings. However, it does not regulate other important issues, for example, the admissibility of illegally obtained evidence or its legality.

On the contrary, in the Corpus Juris 2000, a project of the European States that has never came into force (due to strong hesitance regarding Europeanisation of criminal proceedings two decades ago), the provisions on evidence were more detailed. Under Corpus Juris, the evidence must be excluded, for example, if it was obtained by the Community or national agents either in violation of the fundamental rights enshrined in the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms; or in violation of applicable national law without being justified by the European rules (rules set out in the Corpus Juris 2000); however, 'such evidence *is only excluded* where its admission would undermine the fairness of the proceedings to admit it' [Article 33(1) of the Corpus Juris 2000 (emphasis added)]. Further, under the Corpus Juris 2000, the national law applicable to determinate whether the evidence has been obtained legally or illegally 'must be the law of the country *where the evidence was obtained*' (emphasis added). When evidence has been obtained legally in this sense, it should not be possible to oppose the use of this evidence because it was obtained in a way that would have been illegal in the country of use. But it should always be possible to object to the use of such evidence, even where it was obtained in accordance with the law of the State where it was obtained, if it has nevertheless violated rights enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms or the European rules (rules set out in the Corpus Juris 2000; Article 33(2) of the Corpus Juris 2000). As apparent, the Corpus Juris 2000, on the contrary to Regulation (EU) 2017/1939 on the EPPO which is silent, calls for the protection of fundamental rights and freedoms according to the Protection of Human Rights and Fundamental Freedoms or the European rules.

It should be underlined that it is not clear how the competent court decides on the admissibility of the evidence, since this issue is important for the evidence used in criminal proceedings. In legal practice can occur, for example, illegal evidence which could prove the innocence of the accused person.

Effective functioning of the EPPO depends on of the effective work of national police officers. Despite the fact that the criminal proceedings is conducted by a European unit, i.e. the EPPO, it shall cope with national stereotypes and problems of the investigation practice, including gathering

of evince, which has various effectivity in various EU Member States. In other words, the issue problematic in one State, may not be problematic in another State. For example, in Slovakia an expertise provided by the Institute of Forensic Science of the Police Force may take longer time than a similar expertise executed in other States. Such problem could be resolved mostly by improving the organisation of police facilities and forensic experts, better technical equipment, more professional attitude of the competent persons.

5 APPLICATION OF MUTUAL RECOGNITION

The European approach of co-operation in criminal matters is based on mutual recognition of judicial co-operation. In case of cross-border investigations the EPPO is eligible – in special situations [under Article 31(6) and Recital No. 73 of the Preamble to Regulation (EU) 2017/1939 on the EPPO] – to use mutual recognition measures.

Much has been written and published on the topic of mutual recognition as a general concept of the European Union (Armstrong, 2002; Schmidt, 2008; Kerber, van den Bergh, 2012; Janssens, 2013). As regards criminal matters, the mechanism of mutual recognition permits decisions to move freely from one European State to another. It is understood as a key element of judicial co-operation in criminal matters. Its implementation became one of the main areas of European Union activity regarding criminal justice (Klimek, 2017).

Two important issues shall be explained, first, abolition of the double criminality requirement in case of criminal offence affecting the financial interests of the European Union, and the second is a possible application of some mutual recognition measures.

Within the European Union have been adopted legislative instruments addressed to its Member States to implement criminal dimension of mutual recognition in Europe. Some of these instruments invoke the criminal offence fraud, including that affecting the financial interests of the European Union on the so-called 'list of 32 mutual recognition offences' (also known as '32 MR offences', 'list of 32 offences', or 'double criminality list').

This issue required a short introduction here. For many decades, a double criminality requirement and its verification has been a general principle of international law in the European context as regards co-operation in criminal matters. Recent evolution in this co-operation reveals a tendency to abandon the double criminality requirement in the EU criminal law. The Member States of the European Union sought out for alternatives and the

possibility to limit the use of the double criminality requirement (Vermeulen, De Bondt, van Damme, 2010).

Within co-operation in criminal matters between the EU Member States, the principle of mutual recognition and the presumption of the mutual trust caused the abolition of the double criminality requirement for selected categories of criminal offences. In case mutual recognition measures in criminal matters, the verification of double criminality is abolished for 32 mutual recognition offences (in case of mutual recognition of financial penalties 39 offences, since the list is extended for these purposes). Such partial removal of the double criminality requirement (i.e. no double criminality requirement for listed offences) can be observed in these mutual recognition instruments, as they follow:

- Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States [Article 2(2)] – in the Slovak Republic implemented by Act No. 154/2010 Coll. on the European arrest warrant;
- Framework Decision 2008/909/JHA on the mutual recognition of custodial sentences and deprivation of liberty [Article 7(1)] – in the Slovak Republic implemented by Act No. 549/2011 Coll. on the Recognition and Enforcement of Decisions Imposing Criminal Sanction Involving Deprivation of Liberty;
- Framework Decision 2008/947/JHA on mutual recognition of probation measures and alternative sanctions [Article 10(1)] – in the Slovak Republic implemented by Act No. 533/2011 Coll. on the Recognition and Enforcement of Decisions Imposing Penal Sanction Not Involving Deprivation of Liberty or Probation Measures;
- Framework Decision 2005/214/JHA on the mutual recognition of financial penalties [Article 5(1); in this framework decision the list is extended to 39 offences] – in the Slovak Republic implemented by Act No. 183/2011 Coll. on the Recognition and Enforcement of Financial Penalties;
- Framework Decision 2009/829/JHA on the European supervision order [Article 14(1)] – in the Slovak Republic implemented by Act No. 161/2013 Coll. on the Transmission, Recognition and Enforcement of Decisions on Supervision Measures as a Substitute for Detention;
- Directive 2014/41/EU on the European investigation order (Annex D) – in the Slovak Republic implemented by Act No. 236/2017 Coll. on the European Investigation Order in Criminal Matters; and
- Regulation (EU) 2018/1805 on the mutual recognition of freezing

orders and confiscation orders [Article 3 (1)] – no implementation is needed since the Regulation is applicable in national law.

Under the measures mentioned, the Member State recognising and executing foreign decision may invoke the double criminality requirement. It is an optional step, and therefore the double criminality check is not mandatory in the procedure. Taking the decision rests on the competent authority of the executing State. However, the double criminality shall not be checked in the Member State recognising and executing foreign decision.

Framework Decision 2002/584 /JHA have taken such a revolutionary step for the first time on the European arrest warrant and the surrender procedures between Member States. In surrender procedure introduced by this Framework Decision, the double criminality was 'softened'. It is not required for the list of 32 offences, i.e. mutual recognition offences. In practice, abolition of the verification of double criminality is understood as a key feature of the European arrest warrant. As seen, further procedural impact can be observed, for example, in the mechanism based on Framework Decision 2008/909/JHA on the mutual recognition of custodial sentences and deprivation of liberty. Similarly, as regards the European arrest warrant, the judicial authority of the executing Member State does not check the double criminality of 32 categories of offences. Such a rule contains all the above mentioned mutual recognition legislative instruments in criminal matters. The result is a simplification of co-operation in criminal matters within the European Union.

As regards application of mutual recognition measures, the European Delegated Prosecutors 'should, during their term of office, also be members of the prosecution service of their Member State [...] and should be granted by their Member State *at least the same powers as national prosecutors*'[5] (emphasis added). Indeed, mutual recognition measures are applicable by the EPPO in criminal proceedings, for example, the European arrest warrant, the European investigation order, mutual recognition of freezing orders and confiscation orders. These measures are applicable, in particular, during pre-trial procedure.

CONCLUSION

The fraud against the European Union's financial interests has a cross-border dimension. Former possibilities of the fight against this fraud

[5] Recital No. 33 of the Preamble to the Regulation (EU) 2017/1939 on the EPPO.

appeared as insufficient. The beginnings of the EPPO within enhanced co-operation in some Member States of the European Union resulted to negative approach. However, the EPPO became a reality. There is an assumption that the establishment of the EPPO – focused solely on fraud against the European Union's financial interests – is not a final step, as regards its competence.

In the Slovak Republic, the authorities eligible to conduct the investigation are both the national prosecutor (i.e. "standard" national prosecutor) and a 'new' European Delegated Prosecutor. The 'new' European Delegated Prosecutor should be accepted as the law enforcement authority in Slovak criminal proceedings. In addition, Supervising European Prosecutor as well as the competent Permanent Chamber should be accepted as the law enforcement authority in Slovak criminal proceedings, since the competences regarding prosecution are 'divided' into three dimensions – two central (supervising European Prosecutor and the Permanent Chamber) and one decentralised (European Delegated Prosecutor). As regards translation of all case material, the all case material elaborated in Slovak language shall be submitted at permanent chamber, which is responsible for its translation in the required language.

Regulation (EU) 2017/1939 on the EPPO stipulates that there shall be two or more European Delegated Prosecutors in each Member State of the European Union. Their number depends on the decision of European Chief Prosecutor, who shall reach the agreement with appropriated national units – in Slovakia it is the General Prosecutor's Office of the Slovak Republic. The higher number of European Delegated Prosecutors is suitable for larger States and in smaller States, as in case of Slovakia, their number should be lower. At the beginning, two or three European Delegated Prosecutors would be appropriate approach.

Within the European Union have been adopted legislative instruments addressed to its Member States to implement criminal dimension of mutual recognition in Europe. As regards the European Delegated Prosecutors, s(he) should be granted by their Member State at least the same powers as national prosecutors. Indeed, mutual recognition measures are applicable by the EPPO in criminal proceedings, for example, the European arrest warrant, the European investigation order, mutual recognition of freezing orders and confiscation orders.

REFERENCES

ARMSTRONG, K. (2002). Mutual Recognition. In: BARNARD, C., SCOTT, J. eds. *The Law of the Single European Market: Unpacking the Premises*. Oxford – Portland: Hart Publishing. 2002. pp. 225-268.

BARANÍK, K. (2020). *Ústava na hviezdnom nebi: Vzťah Ústavy Slovenskej republiky k medzinárodnému právu*. Prague: Leges, 2020. 296 pp.

CHRENŠŤ, J., NESVADBA, A. (2020). *Právo Európskej únie*. Bratislava: Akadémia Policajného zboru v Bratislave, 2020. 328 pp.

DRGONEC, J. (2019). *Ústava Slovenskej republiky: Komentár*. 2nd edition. Bratislava: C. H. Beck, 2019. 1792 pp.

ERKELENS, L. H., MEIJ, A. W. H., PAWLIK, M. eds. (2015). *The European Public Prosecutor's Office: An extended arm or a Two-Headed dragon?* The Hague: T. M. C. Asser Press, 2015. 285 pp. DOI: https://doi.org/10.1007/978-94-6265-035-0.

FERENČÍKOVÁ, S. (2020). Skúmanie konkrétnych možností, limitov a perspektív ukladania trestu odňatia slobody v neštátnych ústavoch na výkon trestu odňatia slobody v Slovenskej republike vzhľadom na právne a mimoprávne záruky zákonnosti. In: *Štát a právo*. Vol. 7, No. 4, 2020. pp. 300-336. DOI: https://doi.org/10.24040/sap.2020.7.4.300-336.

FUNTA, R. (2014). *Vybrané otázky medzinárodného práva verejného a súkromného*. Brno: Tribun, 2014. 274 pp.

FUNTA, R., GOLOVKO, L., JURIŠ, F. (2020). *Európa a európske právo*. 2nd edition. Brno, MSD, 2020. 445 pp.

GEELHOED, W., ERKELENS, L. H., MEIJ, A. W. H. eds. (2018). *Shifting Perspectives on the European Public Prosecutor's Office*. The Hague: T. M. C. Asser Press, 2018. 198 pp. DOI: https://doi.org/10.1007/978-94-6265-216-3.

IVOR, J., POLÁK, P., ZÁHORA, J. (2021). *Trestné právo procesné I: Všeobecná časť*. 2nd edition. Bratislava: Wolters Kluwer, 2021. 596 pp.

JÁGER, R. (2019). *Dejiny štátu a práva na území Slovenska do roku 1848*. Banská Bystrica: Belianum, 2019. 194 pp.

JANSSENS, CH. (2013). *The Principle of Mutual Recognition in EU Law*. New York: Oxford University Press, 2013. 358 pp. DOI: https://doi.org/10.1093/acprof:oso/9780199673032.001.0001.

KERBER, W., VAN DEN BERGH, R. (2012). Mutual Recognition in the Global Trade Regime: Lessons from the EU Experience. In: LIANOS, I., ODUDU, O. eds. *Regulating Trade in Services in the EU and the WTO: Trust, Distrust and Economic Integration*. New York: Cambridge University Press, 2012. pp. 121-146. DOI: https://doi.org/10.1017/CBO9781139022118.007.

KLÁTIK, J., DESET, M., KLIMEK, L. (2019). *Európska prokuratúra a perspektívy jej činnosti pri ochrane finančných záujmov EÚ*. Prague: Leges, 2019. 144 pp.

KLÁTIK, J., KLIMEK, L. (2020) Implementation of Electronic Monitoring of Sentenced Persons in the Slovak Republic. In: *Sociopolitical Sciences*. Vol. 10, No. 5, 2020. pp. 59-75. DOI: https://doi.org/10.33693/2223-0092-2020-10-5-59-75.

KLIMEK, L. (2017). *Mutual Recognition of Judicial Decisions in European Criminal Law*. Cham: Springer, 2017. 742 pp. DOI: https://doi.org/10.1007/978-3-319-44377-5.

KMEC, J. (2006). *Evropské trestní právo. Mechanizmy europeizace trestního práva a vytváření skutečného evropského trestního práva*. Praha: C. H. Beck, 2006. 217 pp.

LIGETI, K., ANTUNES, M. J., GIUFFRIDA, F. (2000). *The European Public Prosecutor's Office at Launch*. Milano: Wolters Kluwer, 2000. 236 pp.

MEDELSKÝ, J. (2017). *Medzinárodná bezpečnosť*. Bratislava: Akadémia Policajného zboru, 2017. 289 pp.

MENCEROVÁ, I. et al. (2015). *Trestné právo hmotné: Všeobecná časť*. 2nd edition. Šamorín: Heuréka, 2015. 501 pp.

ONDROVÁ, J. (2020). Verejnosť ako strážca spravodlivého výkonu súdnej moci. In: *Štát a právo*. Vol. 7, No. 1, 2020. pp. 63-74. DOI: https://doi.org/10.24040/sap.2020.7.1.63-74.

SAKTOROVÁ, Ľ. (2020). Teoretické vymedzenie konceptu globálnej občianskej spoločnosti v kontexte medzinárodných vzťahov a medzinárodného práva. In: *Štát a právo*. Vol. 7, No. 4, 2020. pp. 337-383. DOI: https://doi.org/10.24040/sap.2020.7.4.337-383.

SCHMIDT, S. (2008). Mutual Recognition as a New Mode of Governance. Oxon – New York: Routledge, 2008. 174 pp.

SKALOŠ, M. (2020). *Dejiny štátu a práva na území Slovenska 2 (1848 – 1948)*. Banská Bystrica: Belianum, 2020. 410 pp.

ŠRAMEL, B. (2010). Európsky verejný žalobca. In: *Akademiké akcenty*: *Conference proceedings*. Bratislava: Pan-European University, 2010. pp. 221-237.

ŠRAMEL, B. (2011). Európsky verejný prokurátor – nevyhnutný ochranca Európy? In: *Justičná revue*. Vol. 63, No. 1, 2011. pp. 95-108.

ŠRAMEL, B. (2011a). Ústavné zakotvenie verejnej žaloby v Českej republike a Slovenskej republike: komparatívne zhodnotenie. In: *Státní zastupitelství*. Vol. 11, No. 5, 2011. pp. 48-55.

ŠRAMEL, B. (2011b). Verejná žaloba na území Slovenskej republiky v historickom kontexte. In: *Státní zastupitelství*. Vol. 9, No. 11, 2011. pp. 23-34.

VERMEULEN, G., DE BONDT, W., VAN DAMME, Y. (2010). *EU Cross-Border Gathering and Use of Evidence in Criminal Matters: Towards Mutual Recognition of Investigative Measures and Free Movement of Evidence?* Antwerpen – Apeldoorn – Portland: Maklu, 2010. 254 pp.

WINTER, L. B. ed. (2018). T*he European Public Prosecutor's Office: The Challenges Ahead*. Cham: Springer, 2018. 279 pp. DOI: https://doi.org/10.1007/978-3-319-93916-2.

ZWIERS, M. W. (2011). *The European Public Prosecutor's Office: Analysis of a Multilevel Criminal Justice System*. Cambridge: Intersentia, 2011. 503 pp.