Council Implementing Decision (EU) 2020/1008 of 9 July 2020 amending Implementing Decision (EU) 2018/1696 on the operating rules of the selection panel provided for in Article 14(3) of Regulation (EU) 2017/1939

COUNCIL IMPLEMENTING DECISION (EU) 2020/1008

of 9 July 2020

amending Implementing Decision (EU) 2018/1696 on the operating rules of the selection panel provided for in Article 14(3) of Regulation (EU) 2017/1939

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO')[(1)], and in particular Article 14(3),

Having regard to the proposal from the European Commission,

Whereas:

(1) The European Public Prosecutor's Office was established to investigate, prosecute and bring to judgment the perpetrators of, and accomplices to, criminal offences affecting the financial interests of the Union.

(2) Regulation (EU) 2017/1939 provides that the Council is to appoint each European Prosecutor from amongst three qualified candidates nominated by each Member State after having received a reasoned opinion from the selection panel provided for in Article 14(3) of that Regulation.

(3) The selection and appointment of the European Prosecutors, who together with the European Chief Prosecutor form the College of the EPPO, is a prerequisite for the setting up of the EPPO.

(4) On 13 July 2018, the Council adopted Implementing Decision (EU) 2018/1696[(2)] establishing the operating rules of the selection panel ('the operating rules') provided for in Article 14(3) of Regulation (EU) 2017/1939.

(5) Rule VI.2 of the operating rules provides that upon receipt of the nominations, the selection panel is to review them with regard to the requirements set out in Article 16(1) of Regulation (EU) 2017/1939. The selection panel is to hear the candidates nominated. The hearing is to take place in person. In the event that a nominated candidate withdraws his/her nomination before the hearing takes place, the selection panel is, through its secretariat, to request that the Member State concerned nominate a new candidate.

(6) Rule VII.2 of the operating rules provides that the selection panel, on the basis of its findings during the review and hearing, is to formulate an opinion on the candidates' qualifications to perform the duties of European Prosecutors and is to expressly state whether or not a candidate fulfils the conditions set out in Article 16(1) of Regulation

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Decision (EU) 2020/1008. (See end of Document for details)*

(EU) 2017/1939. The selection panel is to provide reasons for its opinion. In the event that nominated candidates do not fulfil the conditions set out in Article 16(1) of Regulation (EU) 2017/1939, the same rule provides that the selection panel is, through its secretariat, to request that the Member State concerned nominate a corresponding number of new candidates.

(7) As an exception to the second paragraph of Rule VI.2 and to the second paragraph of Rule VII.2 of the operating rules, the selection panel should have the possibility to present its reasoned opinion to the Council on only two eligible candidates where it is sufficiently established that it is objectively impossible for a Member State, given the exceptional circumstances in that Member State, to find a third eligible candidate within a reasonable time, in spite of having deployed all necessary efforts to do so. The selection panel should make use of this possibility only if a candidate withdraws his/her nomination or has been found ineligible by the selection panel and where that Member State had already nominated a new candidate at least once before in accordance with Rule VI.2 or VII.2. In such a situation, the selection panel should be able to submit to the Council its opinion on two eligible nominees, and the Council should be able to proceed to the appointment on the basis of a list with only two eligible candidates.

(8) Implementing Decision (EU) 2018/1696 should therefore be amended accordingly.

(9) In order to ensure the timely start of the activities of the EPPO, this Decision should enter into force on the day following that of its publication,

HAS ADOPTED THIS DECISION:

Article 1

In Rule VII.2 of the Annex to Implementing Decision (EU) 2018/1696, the following paragraph is inserted after the second paragraph:

By way of exception to the second paragraph of this point and to the second paragraph of Rule VI.2, where it is sufficiently established that it is objectively impossible for a Member State, given the exceptional circumstances in that Member State, to find a third eligible candidate within a reasonable time, in spite of having deployed all necessary efforts to do so, the selection panel may, after consulting the Member State concerned and giving sufficient grounds, provide its reasoned opinion to the Council on only two eligible candidates..

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 9 July 2020.

For the Council

The President

M. ROTH