

DECISION OF THE COLLEGE OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE OF 29 SEPTEMBER 2020

LAYING DOWN RULES ON CONDITIONS OF EMPLOYMENT OF THE EUROPEAN DELEGATED PROSECUTORS

The College of the European Public Prosecutor's Office (EPPO),

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 ('EPPO') (hereinafter referred to as 'the EPPO Regulation')¹, and in particular Article 114(c) thereof,

Having regard to the proposal of the European Chief Prosecutor,

Whereas:

- (1) European Delegated Prosecutors form the decentralised level of the EPPO located in the Member States and they shall, from the time of their appointment as European Delegated Prosecutors until dismissal, be active members of the public prosecution service or judiciary of the respective Member States which nominated them.
- (2) Pursuant to Article 96(6) of the EPPO Regulation, European Delegated Prosecutors shall be engaged as special advisors in accordance with Articles 5, 123 and 124 of the Conditions of Employment of Other Servants of the European Union (hereinafter referred to as 'the CEOS')². As a consequence, pursuant to Article 124 CEOS, Articles 1c, 1d, 11, 11a, 12 and 12a, the first paragraph of Article 16, Articles 17, 17a, 19, 22, 22a and 22b, Article 23 and the second paragraph of Article 25 of the Staff Regulations, concerning the rights and obligations of officials, and Articles 90 and 91 of the Staff Regulations, concerning appeals, apply by analogy to European Delegated Prosecutors.
- (3) Article 114(c) of the EPPO Regulation provides that the College shall adopt rules on the conditions of employment, performance criteria, professional insufficiency, rights and obligations of the European Delegated Prosecutors, including rules on the prevention and management of conflicts of interest.

¹ OJ L 283, 31.10.2017, p.1.

² Council Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1385/62).

Has adopted the following rules:

Chapter I

GENERAL PROVISIONS

Article 1

Scope

Article 124 CEOS sets out the Staff Regulations' provisions applying by analogy to European Delegated Prosecutors. In order to complement the rules provided for in the CEOS, the present rules set out additional conditions of employment, rights and obligations of the European Delegated Prosecutors of the EPPO.

Article 2

Renewal of contracts for the term of office

Without prejudice to Article 24, contracts of special advisors foreseen by Article 123 CEOS, by virtue of which European Delegated Prosecutors are formally engaged, shall be automatically renewed as necessary to allow them to complete their term of office provided for in Article 17(1) of the EPPO Regulation.

Article 3

Languages

The European Delegated Prosecutors shall be engaged on the condition that they have a satisfactory knowledge of the working language for the operational and administrative activities of the EPPO, adopted pursuant to Article 107(2) of the EPPO Regulation.

Chapter II

RIGHTS AND OBLIGATIONS

Article 4

Outside activities

1. By analogy to Article 12b of the Staff Regulations, a European Delegated Prosecutor wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside his/her work for the EPPO, shall first obtain the permission of the European Chief Prosecutor. Permission shall be refused if the activity or assignment in question is such as to interfere with the performance of the European Delegated Prosecutor's duties or is incompatible with the interests of the EPPO.

2. By analogy to the second paragraph of Article 16 of the Staff Regulations, a European Delegated Prosecutor intending to engage in an occupational activity other than his/her function as national prosecutor or within the national judiciary within two years after the end of their mandate as European Delegated Prosecutor, shall inform the European Chief Prosecutor thereof. If the respective activity is related to investigations carried out by the European Delegated Prosecutor during his/her service within the EPPO and it could lead to a conflict with legitimate interests of the EPPO, the College may, having regard to the interests of the service, either forbid him/her from undertaking it or give its approval subject to any conditions it deems fit. The College shall notify its decision within 30 working days of being so informed. If no such notification has been made by the end of that period, this shall be deemed to constitute implicit acceptance.

Article 5

Prevention of conflict of interests

1. Not later than two months after the entry into service, the European Delegated Prosecutor shall file a declaration of interests, which shall include:

- a. the previous professional activities over the last five years;
- b. any volunteer activity when it may give rise to a conflict of interest.
- c. the professional activity of his/her spouse, civil partner or cohabiting partner;

2. In case of substantial modification of his/her interests, the European Delegated Prosecutor shall file a complementary declaration within three months.

3. The declarations referred to in paragraphs 1 and 2 shall be sent to the European Chief Prosecutor and securely stored. The supervising European Prosecutor shall have access at any time to the declarations of the respective European Delegated Prosecutors. The declarations may be communicated to the College upon its request.

4. In case of potential conflict of interest, the College shall endeavor to apply adequate and proportionate measures.

Article 6

Disclosure of information in legal proceedings

By virtue of Article 124 CEOS, Article 19 of the Staff Regulations applies by analogy to European Delegated Prosecutors. However, Article 19 of the Staff Regulations shall not be construed as applying to disclosure in legal proceedings by European Delegated Prosecutors within the exercise of their duties.

Article 7

Right to assistance

1. By analogy to Article 24 of the Staff Regulations, the EPPO shall assist a European Delegated Prosecutor, in particular in proceedings against any person perpetrating threats, insulting or defamatory acts or utterances, or any attack to person or property to which he/she or a member of his/her family is subjected by reason of his/her position or duties.
2. The EPPO shall jointly and severally compensate the European Delegated Prosecutor for damage suffered in such cases, insofar as the European Delegated Prosecutor did not either intentionally or through grave negligence cause damage and has been unable to obtain compensation from the person who did cause it.

Chapter III

WORKING CONDITIONS AND SOCIAL SECURITY

Article 8

Working time regime

1. By analogy to Article 55(1) of the Staff Regulations, European Delegated Prosecutors shall be at all times at the disposal of the EPPO.
2. The hours of the working day shall be determined based on the regime applicable to national prosecutors in the participating Member State of the respective European Delegated Prosecutor.
3. For overtime worked and for the availability outside the regular working hours, as required by the exigencies of the service, the European Delegated Prosecutors shall be entitled to a service allowance at the flat rate of 400 EUR per month.

Article 9

Leave and public holidays

1. The European Delegated Prosecutors' rights relating to annual leave are those governed by the respective national rules and regulations applicable to prosecutors working in the national services to which they remain members.
2. The European Delegated Prosecutors shall benefit from the national rules on public holidays applicable to prosecutors working in the national services of which they remain members.
3. Considering the requirements related to the continuity of the service, the requests for leave shall be approved by the European Chief Prosecutor, who may delegate this task to the supervising European Prosecutor.

Article 10

Sick leave

1. The European Delegated Prosecutors' rights relating to sick leave are those established by the national rules.
2. While the European Delegated Prosecutor is on sick leave, the EPPO shall pay the entitlements referred to in Article 14(1) under the same conditions as those foreseen by the national rules, unless such entitlements are covered by the national sickness insurance scheme.

Article 11

Maternity, paternity and parental leave

1. The European Delegated Prosecutors shall benefit from the national rules on maternity, paternity and parental leave.
2. While the European Delegated Prosecutor is on maternity, paternity or parental leave, the EPPO shall pay the entitlements referred to in Article 14(1) under the same conditions as those foreseen by the national rules, unless such entitlements are covered by the national social security scheme.

Chapter IV

CAREER AND PERFORMANCE

Article 12

Career progression and entry into level

1. The career of a European Delegated Prosecutor shall progress on a scale comprising 8 levels.
2. Every three years, a European Delegated Prosecutor shall advance to the next level, unless the College has found his/her performance to be not satisfactory during at least two of the three preceding appraisal exercises.
3. A European Delegated Prosecutor shall normally be recruited at level 1. In case a European Delegated Prosecutor has relevant prior work experience, he/she shall benefit from an additional level for each period of five full years of relevant work experience. Such classification upon entry into service shall not exceed level 3.

Article 13

Appraisal

1. The professional performance of each European Delegated Prosecutor shall be the subject of an appraisal report every second year and, respectively, at the end of their contract. This report shall indicate whether the performance is satisfactory or is not satisfactory. The report may be transmitted to the national authorities for their internal assessment regarding national appraisals, upon their request.
2. The report mentioned in paragraph 1 shall be adopted by an appraisal committee appointed by the College on a proposal of the European Chief Prosecutor.
3. The procedure for the appraisal referred to in paragraph 1 shall be laid down by a separate College Decision.

Chapter V REMUNERATION

Article 14

Remuneration

1. For their activity, European Delegated Prosecutors are entitled to the following:
 - a) a basic monthly remuneration, that is for each level, as follows:

LEVELS							
1	2	3	4	5	6	7	8
	(+ 6%)	(+6%)	(+ 6%)	(+ 6%)	(+ 6%)	(+ 6%)	(+ 6%)
5,697.61	6,039.47	6,401.84	6,785.95	7,193.11	7,624.70	8,082.18	8,567.11

- b) the service allowance referred to in Article 8(3);
 - c) where applicable, the top-up amount referred to in Article 16, as determined at the time of the engagement.
2. The entitlements mentioned in paragraph (1) are subject to Regulation (EEC, Euratom, ECSC) No 260/68 of the Council of 29 February 1968 laying down the conditions and procedure for applying the tax for the benefit of the European Communities (OJ L 56, p. 8), as subsequently amended.

Article 15

Correction coefficient and annual update

Articles 64 and 65 of the Staff Regulations shall apply by analogy.

Article 16

Top-up amount

1. In case the total net remuneration of a European Delegated Prosecutor is lower than what it would be if that prosecutor would only have remained a national prosecutor, he/she may apply, submitting appropriate supporting documents, to the Administrative Director to receive an additional top-up amount that ensures that the total net remuneration will be equal to the net national remuneration.
2. For the purpose of paragraph (1), the total remuneration paid by the EPPO shall consist of the amounts mentioned in Article 14 (1) a) and b).
3. In accordance with Article 96(6) of the EPPO Regulation, the top up shall not cover any contributions to the social security, pension and insurance coverage national scheme.

Article 17

Recovery of overpayments

1. Any sum overpaid shall be recovered if the recipient was aware that there was no due reason for the payment or if the fact of the overpayment was patently such that he/she could not have been unaware of it.
2. The request for recovery must be made no later than five years from the date on which the sum was paid. Where the recipient deliberately misled the administration with a view to obtaining the sum concerned, the request for recovery shall not be invalidated even if this period has elapsed.

Chapter VI

DISCIPLINARY MEASURES

Article 18

Disciplinary action and proceedings

1. Any failure by a European Delegated Prosecutor to comply with his/her professional obligations, as foreseen by the EPPO Regulation, Article 124 CEOS and the

present rules, whether intentionally or through negligence on his part, shall make him/her liable to disciplinary action.

2. Where the European Chief Prosecutor becomes aware of evidence of failure within the meaning of paragraph 1, he/she may launch administrative investigations to verify whether such failure has occurred.

3. The misconducts liable to give rise to disciplinary action and the disciplinary procedure against European Delegated Prosecutors shall be determined in a separate decision (hereinafter "the decision on the disciplinary procedure") to be adopted by the College upon proposal of the European Chief Prosecutor.

4. These provisions shall be without prejudice to the independence of European Delegated Prosecutors as provided in Article 6 (1) of the EPPO Regulation.

Article 19

Composition of the Disciplinary Board

By derogation to Article 5 (2) of Annex IX to the Staff Regulations, the procedure applicable to the Disciplinary Board and its composition shall be determined in the decision on the disciplinary procedure.

Article 20

Suspension

1. The provisions of Articles 23 and 24 of Annex IX to the Staff Regulations apply by analogy for the decision of suspending a European Delegated Prosecutor.

2. The decision to suspend a European Delegated Prosecutor shall be taken by the College upon a proposal by the Disciplinary Board when there are serious grounds to believe that the disciplinary breach could lead to the disciplinary measure of dismissal.

Article 21

Disciplinary measures

1. The disciplinary measures applicable to European Delegated Prosecutors shall be determined in the decision on the disciplinary procedure.

2. By derogation to Article 11 of Annex IX to the Staff Regulations, any disciplinary measure against a European Delegated Prosecutor shall be taken by the College only upon a proposal by the Disciplinary Board and in accordance with the decision on the disciplinary procedure.

Chapter VII

SPECIAL RULES

Article 22

European Delegated Prosecutors exercising functions as national prosecutors

1. A European Delegated Prosecutor may continue to exercise functions as national prosecutor in accordance with Article 13(3) of the EPPO Regulation only if this is permitted under the agreement reached, according to Article 13(2) of the EPPO Regulation, between the European Chief Prosecutor and the relevant authority of the Member State of the respective European Delegated Prosecutor.
2. When a European Delegated Prosecutor of a Member State also exercises functions as national prosecutor in accordance with Article 13(3) of the EPPO Regulation, the EPPO shall pay the remuneration according to Article 14 of these rules and the Member State shall reimburse the EPPO for the actual work performed as a national prosecutor.

Article 23

Special conditions

1. In accordance with Article 13(3) of the EPPO Regulation, a European Delegated Prosecutor that continues to exercise functions as national prosecutor shall inform his/her supervising European Prosecutor of any situation that will prevent him/her from fulfilling his/her obligations in capacity of European Delegated Prosecutor, including any conflict of interest that might arise.
2. Article 8(1) of these rules shall fully apply to European Delegated Prosecutors that continue to exercise functions as national prosecutors.
3. The criteria for determining in each individual case the assessment of the actual work performed monthly by the European Delegated Prosecutor on behalf of the EPPO and on behalf of the national authorities, as well as the precise modalities of reimbursement by the Member State of the EPPO, shall be determined by a working arrangement between the EPPO and the relevant authority of the respective Member State.

Chapter VIII

TERMINATION OF CONTRACT

Article 24

Termination of contract

1. Where the European Delegated Prosecutor envisages an early termination, the period of notice shall be three months. The College may shorten the period of notice.

The EPPO shall immediately inform the Member State concerned to ensure the timely replacement of the European Delegated Prosecutor in accordance with Article 17(5) of the EPPO Regulation.

2. The contract may be terminated by the EPPO without notice if the European Delegated Prosecutor is unable to resume his/her duties after the expiry of a six months period after having been placed on sick leave pursuant to Article 10. The termination shall be communicated immediately to the European Delegated Prosecutor as well as to the competent authority in the relevant Member State.

3. After the disciplinary procedure has been followed, the contract may be terminated without notice.

4. The contract shall be terminated by the EPPO without notice if the College, under a reasoned proposal made by the European Chief Prosecutor, finds that the European Delegated Prosecutor no longer fulfils the requirements set out in Article 17(2) of the EPPO Regulation or is unable to perform his/her duties for reasons other than those covered under paragraph 3.

Article 25

Entry into force

These rules shall enter into force on the date of their adoption by the College of the European Public Prosecutor's Office (EPPO).

Done at Luxembourg on 29 September 2020.

For the College,

Laura Codruța KÖVESI
European Chief Prosecutor

