

# DECISION OF THE COLLEGE OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE OF 2 DECEMBER 2020

## LAYING DOWN GUIDELINES ON SIMPLIFIED PROCEDURES AND ON THE DELEGATION OF POWERS OF THE PERMANENT CHAMBERS RESPECTIVELY

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

Having regard to the Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('EPPO'), and in particular Articles 10(3), 10(7), 35(1) and 40 thereof,

Having regard to the Internal Rules of Procedure of the EPPO, adopted by the College on 12 October 2020, and in particular Articles 55 and 56 thereof,

Considering the need to ensure a coherent prosecution policy and to combat effectively the crimes against the financial interest of the European Union,

Taking into account the proposal of the European Chief Prosecutor, based on the conclusions of the dedicated working group of European Prosecutors,

Has adopted the following decision:

### Sole article

1. Guidelines of the College of the EPPO on criteria for the application of simplified prosecution procedures are laid down in the Annex I, which forms an integral part of this Decision.
2. Guidelines of the College of the EPPO on the delegation of the decision-making powers of the Permanent Chambers are laid down in the Annex II, which forms an integral part of this Decision.
3. This decision shall enter into force on the date of its adoption.



EUROPEAN  
PUBLIC  
PROSECUTOR'S  
OFFICE

COLLEGE DECISION 023/2020

Done at Luxembourg on 2 December 2020.

On behalf of the College,

**Laura Codruța KÖVESI**  
**European Chief Prosecutor**



EUROPEAN  
PUBLIC  
PROSECUTORS  
OFFICE

## Annex I

# GUIDELINES OF THE COLLEGE OF THE EPPO ON CRITERIA FOR THE APPLICATION OF SIMPLIFIED PROSECUTION PROCEDURES

### I. General guiding principles

The application in an individual case of simplified prosecution procedures in accordance with Article 40 of the 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", shall be based on the following guiding principles:

#### 1. *Legality*

Simplified prosecution procedures may be used only to the extent such procedures are provided for in the national law applicable to the actual case.

#### 2. *Proportionality*

Simplified prosecution procedures shall only be applied when considered the most reasonable and adequate solution for the case.

The assessment on the application of simplified procedures shall take into consideration the seriousness of the criminal offence, based especially on the damage caused or likely to be caused to the interests, goods or values legally protected by the incriminating provisions, and the suitability of those procedures to restore the damage and prevent the commission of new criminal offences. The seriousness of the offence is not an *ab initio* impediment to apply simplified prosecution procedures, provided that the applicable national law does not expressly prohibit simplified procedures for that offence.

#### 3. *Opportunity*

Simplified prosecution procedures may be applied where, in addition to the legality and proportionality criteria, such procedures also meet the opportunity criterion when assessed on the basis of the following requisites:

- i) The public interest is served by resolving the case and / or recovering damages in a swift and timely manner. The public interest shall be assessed not only from a national point of view, but also from the perspective of the European Union;
- ii) The application of simplified prosecution procedures is consistent with the effective protection of the financial interests of the European Union and the principles of proportionality, impartiality and fairness towards the defendant(s)



that shall guide the investigations and prosecutions of the EPPO as set out in the EPPO Regulation. Before deciding on applying simplified prosecution procedures in a particular case, the Permanent Chamber shall duly take into account the prosecution policy of the EPPO and assess whether applying simplified procedures in that case will enable the EPPO to reach its general objectives.

## II. Specific Guidelines and criteria for the application for the application of simplified prosecution procedures

1. Where the applicable national law regulates simplified prosecution procedures, the handling European Delegated Prosecutor may propose to the competent Permanent Chamber to apply a simplified procedure in accordance with the conditions laid down in the applicable national law, if such procedure is legal, proportional and opportune, as described above.
2. In order to allow the Permanent Chamber to assess the legality, proportionality and opportunity of using a simplified prosecution procedure, the handling European Delegated Prosecutor shall include in the reasoned proposal drawn-up in accordance with Article 40(1) of the EPPO Regulation and Article 56(1) (c) of the Internal Rules of Procedure, an explanation on the motives for using such procedure - including the respective legal grounds and, where applicable, specifying if the application of such a procedure is mandatory under the applicable national law – and at least the following elements:
  - a) information on the legal qualification and minimum and maximum penalty according to the respective national law;
  - b) evaluation of the seriousness of the offence(s);
  - c) estimation of the damage caused or likely to be caused and of the overall gain sought by the perpetrator;
  - d) assessment on the complexity of the case;
  - e) information on the transnational character of the criminal activity;
  - f) information on the nature and background of the defendant(s), namely if they are natural or legal persons and if they have a criminal record;
  - g) assessment on the suspect's willingness and his/her possibility to repair the damage caused or to compensate it in any other manner;
  - h) relevant information on the existing victims other than the EU;
  - i) where applicable, the outcome of the consultation with the national prosecution authorities, carried out in application of the second sub-paragraph of Article 40(1) of the EPPO Regulation;
  - j) a reasoned opinion on the proposed penalty.
3. In the situations referred to in the second sub-paragraph of Article 40(1) of the EPPO Regulation, the handling European Delegated Prosecutors shall indicate to the relevant national prosecution authority a deadline to respond to the request for



consultation. This deadline shall be no longer than 30 days. In the absence of a response within the set deadline, the European Delegated Prosecutor shall proceed with submitting his/her proposal to the Permanent Chamber.

## Annex II

### GUIDELINES OF THE COLLEGE OF THE EPPO ON THE DELEGATION OF THE DECISION-MAKING POWERS OF THE PERMANENT CHAMBERS

The Permanent Chambers may delegate their decision-making powers to the pertinent supervising European Prosecutor within the limits provided for in Article 10(7) of the EPPO Regulation and taking into account the guidelines below:

#### I. Criteria regarding the seriousness of the offence

When assessing the seriousness of the offences, the Permanent Chamber shall consider, *inter alia*, the following:

- a) the damage caused or likely to be caused, which in any case must be less than EUR 100 000;
- b) the duration and/or the intensity of the crime(s), including the preparatory acts, the complexity of the means used to commit the offence and their ability to hurt the values and interests protected by the incriminating provisions applicable to the case;
- c) the number of suspects and/or victims;
- d) whether the criminal conduct of the perpetrator has an organised or a systematic nature;
- e) whether the criminal activity has a cross-border nature;
- f) the criminal conduct's repercussions at the European Union and whether it is harmful to the European Union's reputation, even if considered only at a national or local level.

#### II. Criteria on the complexity of the proceedings

When assessing the complexity of the proceedings, the Permanent Chamber shall consider, *inter alia*, the following:

- a) whether the bulk of the investigation measures were taken in the territory of the Member State of the supervising European Prosecutor;
- b) the duration of the investigation;
- c) the number of investigative measures taken;
- d) the complexity of legal and factual questions to be resolved.