

DECISION OF THE COLLEGE OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE OF 1 MARCH 2023

ADOPTING THE WORKFLOW ON EPPO CASES OPENED AT
EUROJUST, INVOLVING NON-PARTICIPATING MEMBER STATES
AND/OR THIRD COUNTRIES, AT THE REQUEST OF THE HANDLING
EUROPEAN DELEGATED PROSECUTOR

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'), hereinafter referred to as "the EPPO Regulation", and in particular Articles 53, 54, 99 and 100,

Having regard to the Working Arrangement between the EPPO and the European Union Agency for Criminal Justice Cooperation ('Eurojust'), and in particular Articles 8, 9 and 10,

Considering that the legal framework in place, particularly Article 54 of the EPPO Regulation, entails that access to EPPO's case related information - in relation to a request addressed to Eurojust - by the Eurojust's National Member of the handling European Delegated Prosecutor's Member State depends on a positive evaluation of the necessity for the transmission of the operational personal data to the latter, conducted on a case-by-case basis by the handling European Delegated Prosecutor who may accept or refuse the transmission, in part or in its entirety, to the National Member of his/her Member State at Eurojust,

Considering that as regards the National Member of the requested non-participating Member State at Eurojust (actual primary recipient of the information), the necessity of the transfer of the operational personal data is, in principle, presumed in every EPPO case.

HAS DECIDED AS FOLLOWS:

Article 1

The workflow on EPPO cases opened at Eurojust, involving non-participating Member States and/or third countries, at the request of the handling European Delegated Prosecutor is laid down in the Annex, which forms an integral part of this Decision.



Article 2

This decision shall enter into force on the date of its adoption.

Done at Luxembourg on 1 March 2023.

On behalf of the College,

Laura Codruța KÖVESI
European Chief Prosecutor



EUROPEAN
PUBLIC
PROSECUTORS
OFFICE

ANNEX: WORKFLOW ON EPPO CASES OPENED AT EUROJUST, INVOLVING NON-PARTICIPATING MEMBER STATES AND/OR THIRD COUNTRIES, AT THE REQUEST OF THE HANDLING EUROPEAN DELEGATED PROSECUTOR

1. Involvement of the Eurojust's National Member in EPPO cases

- The Eurojust's National Member of the participating Member State concerned by the case will be involved in the EPPO case, be it at the request of a handling European Delegated Prosecutor from his or her Member State, or at the request of a non-participating Member State, or at the request of a Liaison Prosecutor of a third country seconded at Eurojust, or even at the request of a third country without a Liaison Prosecutor seconded at Eurojust, after having taken the appropriate steps.

2. Access to information by the Eurojust's National Members in EPPO cases

- Taking into account the legal framework in place, particularly Article 54 of the EPPO Regulation, access to information relating to an EPPO case by the Eurojust's National Member of the handling EDP's Member State depends on a **positive evaluation of the necessity** for the transmission of the operational personal data to the latter. This evaluation is to be conducted on a case-by-case basis by the handling European Delegated Prosecutor, who may accept or refuse the transmission, in part or in its entirety, to the National Member of his or her Member State at Eurojust.
- As regards the National Member of the requested non-participating Member State (actual primary recipient of the information), the necessity of the transfer of the operational personal data is, in principle, presumed in every EPPO case.

3. Different case scenarios of EPPO and Eurojust cases

In relation to the opening of EPPO cases at Eurojust and access, internally at Eurojust, to the EPPO information shared with Eurojust, different scenarios are to be considered:

a) EPPO cases involving a non-participating Member State or a third country having a Liaison Prosecutor at Eurojust

- The concerned national desk, when requested to intervene by a handling European Delegated Prosecutor from its Member State, will channel the specific part of the case file received only to the national desk/Liaison Prosecutor concerned at Eurojust. The

national desk requested by a handling European Delegated Prosecutor from its Member State can't transmit any documents outside the desk, other than the requested national desk/Liaison Prosecutor and, when relevant, the Casework Unit staff member supporting the case. **In particular, documents cannot be transmitted to the national authorities of the requested Eurojust's national desk.**

- For coordination meetings at Eurojust, the "business as usual model" will apply. For example, if a national desk is requested to assist in the organisation of a coordination meeting by a handling European Delegated Prosecutor from its country, the latter will benefit of the desk as a contact point and will decide on a case-by-case basis on the practical involvement of the desk, including whether the National Member will chair or not the coordination meeting (i.e. if better placed, it could be chaired by the National Member of the involved non-participating Member State/Liaison Prosecutor of the involved third country or even by the handling European Delegated Prosecutor). Such a case will be opened at Eurojust as a national desk case (not as a College case). Only the desk that opened the case and the requested desk or the third country Liaison Prosecutor will know about its contents.

b) Cases opened by a non-participating Member State at Eurojust involving the EPPO

- If the requested EPPO participating Member State is known, the requesting national desk will open the case towards the national desk of this participating Member State.
- If the requested EPPO participating Member State is unknown, the Contact Points at Eurojust and the EPPO will liaise between each other and make contact with the EPPO's Operations unit to identify the competent European Delegated Prosecutor to handle the case on EPPO's side.
- Such a case will also be opened at Eurojust as a national desk case (not as a College case). Only the desk that opened the case, the Eurojust Contact Point and the requested desk will know about its contents.

c) Cases opened at Eurojust by a Liaison Prosecutor from a third country posted at Eurojust involving the EPPO

- Liaison Prosecutors at Eurojust, when they wish to open a case towards a Member State, they open a temporary work file in the Eurojust's Case Management System and ask the relevant National Member about his or her involvement in the case. Before opening the case, approval is therefore required from the side of the requested National Member. In cases involving the EPPO (e.g. the UK Liaison Prosecutor wishes to open a case towards a French European Delegated Prosecutor), the French National Member at Eurojust, before accepting or not opening the case, will seek the agreement of the French European Delegated Prosecutor and will only accept opening the case at Eurojust if the French European Delegated Prosecutor gives his or her consent beforehand.

- Such a case will also be opened at Eurojust as a national desk case (not as a College case). Only the desk that accepted opening the case at the request of a Liaison Prosecutor posted at Eurojust and the latter, will know about its contents.

d) Cases opened at Eurojust by national desks of Member States, at the proposal/request of third countries without a Liaison Prosecutor posted at Eurojust and involving the EPPO

- Cases opened at Eurojust at the request of a third country without a Liaison Prosecutor or without a cooperation agreement with Eurojust in place require the involvement of the College of Eurojust, as the latter needs to assess whether there is an essential interest justifying the opening of the case at Eurojust. In this type of cases, the requested National Member is required to give a very brief and general presentation to the College about the type of assistance required (e.g. facilitation of the execution of a MLA request), criminal offences concerned and whether there is operational personal data to be transmitted. The other members of the College are not provided access to the case file.
- In cases involving the EPPO, before College consideration of the case, the requested National Member of the concerned EDP will seek the consent from the latter. In other words, the case will be brought forward for College consideration only if the concerned European Delegated Prosecutor has given his consent beforehand to the National Member of his or her Member State.