



# DECISION OF THE COLLEGE OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE OF 24 JANUARY 2024

## AMENDING COLLEGE DECISION 023/2020 OF 2 DECEMBER 2020 LAYING DOWN GUIDELINES ON SIMPLIFIED PROCEDURES

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,

Has adopted the following decision:

### Sole article

1. The Guidelines of the College of the EPPO on criteria for the application of simplified prosecution procedures are amended as laid down in the Annex I, which forms an integral part of this Decision.
2. This decision shall enter into force on the date of its adoption.

Done at Luxembourg on 24 January 2024.

On behalf of the College,

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

## 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 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, including after a decision to prosecute was taken under Article 36 EPPO Regulation, 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) where relevant, confirmation that the suspected or accused person has repaired the damage, or an 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 subparagraph 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.
4. Where proposed after a decision to prosecute taken by the Permanent Chamber, the handling European Delegated Prosecutor shall inform the Permanent Chamber in accordance with Article 60(2) IRP, explaining the reasons for using such procedure and the elements indicated in Section II, paragraph 2, above.
5. The agreement of the Permanent Chamber shall be recorded in the minutes. A formal decision from the Permanent Chamber will be issued only where the national law so requires.
6. Where, in the cases under paragraph (4), the Permanent Chamber does not give instructions under Article 10(5) of the EPPO Regulation within [21] days of being informed), or where it is not possible for the handling European Delegated Prosecutor to await those instructions because of specific conditions under national law, they may proceed with the disposal of the case on the basis of terms agreed with the defendant. They shall inform the Permanent Chamber without undue delay, stating the reasons why it was not possible to await instructions.