

DECISION OF THE COLLEGE OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE OF 4 OCTOBER

ON THE ADOPTION OF THE PROCEDURE FOR PROCESSING CRIME REPORTS SUBMITTED TO THE EPPO BY PRIVATE PARTIES

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

Having regard to Council Regulation (EU) 1939/2017 of 12 October 2017¹, implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('EPPO'), hereinafter "the constituent act", and in particular Recital 49 and Article 49(4) thereof,

Having regard to College Decision 003/2020 on adopting the Internal Rules of Procedure of the European Public Prosecutor's Office, and in particular Article 38(7) thereof,

Having regard to College Decision 009/2020 and 037/2023 on adopting the Rules concerning the Processing of Personal Data, and in particular Article 17 thereof,

Whereas:

The EPPO may receive or gather information from private parties about offences in respect of which it could exercise its competence.

Information reported by private parties that manifestly does not refer to a criminal conduct in respect of which the EPPO may exercise its competence shall be referred by a European Delegated Prosecutor or a European Prosecutor to the competent national authorities without undue delay, in line with Article 24(8) of the Regulation or returned to the reporting party and / or deleted.

The EPPO can temporarily process operational personal data from the private parties prior to inserting it into the Case Management System for the purposes of determining whether such data are relevant to the EPPO's mandate. Where the personal data is found to be manifestly outside of the competence, the personal data shall not be inserted into the CMS, but transmitted to the respectively competent authority if identifiable, or if not, deleted.

¹ OJ L 283, 31.10.2017, p. 1–71.

The College, acting on a proposal from the European Chief Prosecutor and after consulting the European Data Protection Supervisor, shall further specify the conditions relating to the processing of operational personal data processed temporarily, in particular with respect to access to and the use of the data, as well as time limits for the storage and deletion of the data.

Article 1

Scope

1. The aim of the procedure is to establish the workflows related to the processing and assessment of information reported by private parties to the EPPO about offences in respect of which it could exercise its competence.
2. Crime reports submitted by competent national authorities and institutions, bodies, offices and agencies of the European Union in accordance with Article 24 of the EPPO Regulation, as well as acquired by the EPPO ex officio fall outside the scope of the procedure.
3. The procedure will be applied in relation to private parties reports received either by the Central Office of the EPPO or by the decentralised offices in the Member States.
4. These rules shall apply without prejudice to the national law of the Member States concerned.

Article 2

Definitions

1. The Private Parties team is a specialised team within the Central Office of the EPPO whose members are authorised to process private parties' reports received by the Central Office and assess them in order to support the competent European Prosecutor in the process of determining if the information is manifestly outside of EPPO's competence or not.
2. The Private Parties team may also support the competent European Delegated Prosecutor namely for the purpose of article 5 of this decision.
3. The Private Parties Dossier (PP Dossier) is an application used for registering information submitted by private parties and assessed as manifestly outside of EPPO's competence.

Article 3

Private parties reporting channels

1. Reports submitted via the web form "Report a Crime"

1. The EPPO shall make available a dedicated form on its webpage, allowing private parties to report information on potential offences in a structured manner.
2. The web form shall request private parties to provide their personal details and shall inform them that the information provided will be processed in accordance with

the EPPO's data protection provisions, including by transmitting it to other institutions, bodies, offices and agencies of the European Union or to respectively competent authorities.

3. Private parties who submit a report via the web form shall receive an automatic acknowledgement of the receipt.

II. Reports submitted via post or other institutional communication channels

1. Reports received by the EPPO via post or one of the communication channels used by the organisation (functional mailboxes, generic web forms, systems for sharing documents with other public institutions) shall be processed either at the central or decentralised level of the EPPO, depending on where they have been received.
2. Reports received via post at the central office shall be stored in a secure room, where it would be accessible only by authorised staff for the purposes of assessment. A chain of custody register shall be kept for every item received via post.
3. Electronic attachments from unknown sources received at central office shall only be opened by duly trained personnel after a security screening.

III. Reports submitted to individual members of staff

Unsolicited emails containing information on potential offences transmitted by private parties directly to individual members of staff shall be forwarded by the recipient staff member to a functional mailbox managed by the Private Parties team. The recipient staff member shall delete the original message immediately after forwarding it to the Private Party team.

Article 4

Assessment of information

1. Information reported by private parties shall be assessed in order to establish whether it falls manifestly outside of EPPO's competence.
2. A preliminary analysis of information reported by private parties via the web form or via post or other institutional communication channels to the Central Office shall be performed by the Private Parties team. If the conclusion is that the information is manifestly outside EPPO's competence, a report with a proposal shall be submitted to the competent European Prosecutor for assessment and decision.
3. The assessment of information received by a decentralised office shall be performed by a European Delegated Prosecutor, in accordance with an allocation system adopted by the supervising European Prosecutor. The competent EDP may delegate the preliminary analysis to the national support staff, in accordance with the national law.
4. As part of the preliminary analysis, the information may be crosschecked in the Case Management System and in the PP Dossier in order to identify potential links.

5. The assessment that a report is manifestly outside EPPO's competence can only be reviewed if relevant additional information that was not known at the time of the assessment is submitted to the EPPO and when the national legislation allows for such review.

Article 5

Registration of information

1. If the information reported by the private party is considered as potentially falling under the competence of the EPPO, it shall be recorded in the Case Management System in accordance with Article 38 of the Internal Rules of Procedure and shall be verified in accordance with Article 40 of the Internal Rules of Procedure.
2. If the information is considered as manifestly outside of EPPO's competence, the report shall be registered in the PP Dossier.
3. If the information relates to an ongoing or closed case in the Case Management System or the PP Dossier, the document will be recorded to the respective case.
4. If the private party is sending multiple reports and repeating the same facts, such repetitive reports would not trigger the opening of a new case and new reply to the private party but would be registered under the respective case.
5. When the information registered in the Case Management System or the PP Dossier contains special categories of personal data as defined and foreseen in Article 55 of the Regulation, the Data Protection Officer shall be notified accordingly.
6. If the report qualifies as a whistle-blower submission as per Directive (EU) 2019/1937 and withholding of the identity of the private party is appropriate, the protection measures foreseen by Articles 38(2) and 61(3) of the Internal Rules of Procedure may be applied.

Article 6

Decision by the competent European Prosecutor

1. The proposal of the Private Parties' Team that a report is manifestly outside EPPO's competence shall be submitted to the assessment of the European Prosecutor from the Member State where the focus of criminal activity reported by the private party is. When the competent European Prosecutor disagrees with the proposal of the Private Parties' Team, he/she shall decide the registration of the information in the Case Management System.
2. If the competent European Prosecutor considers that another European Prosecutor is better placed to assess the proposal, they shall consult and decide together on who is competent. In case no agreement is reached, the European Chief Prosecutor shall make the decision.
3. If a European Delegated Prosecutor receives a report that is relevant to another participating Member State, the assessment shall be assigned to the competent European Prosecutor.

4. If the information contains no link to a participating Member State, the assessment shall be conducted by one of the European Prosecutors on duty in accordance with a rotation principle to be established by Decision of the European Chief Prosecutor.
5. If the competent European Prosecutor is in a potential conflict of interest, the European Chief Prosecutor shall re-assign the assessment and decision to another European Prosecutor.
6. By exception to the rule, if the report is incomprehensible or illegible, it shall not be submitted to the assessment of a European Prosecutor, but deleted.

Article 7

Disposal of information manifestly outside of EPPO's competence

1. When the competent European Prosecutor, or the European Delegated Prosecutor conclude that the information is manifestly outside of EPPO's competence, they shall decide:
 - a) referring the information to a competent national authority if it concerns a crime outside of EPPO's competence;
 - b) referring the information to OLAF if it concerns an administrative irregularity falling under its mandate;
 - c) returning the report and attached original official documents to the sender if the submission was done via post and the referral to a national authority or OLAF is not appropriate;
 - d) deleting / destroying the report and the attached documents if a referral is not appropriate and returning them to the sender is not necessary.
2. The decision in relation to the disposal of information shall be registered in the PP Dossier and a log shall be kept for audit and compliance purposes containing the name of the private party who reported the information and a record of the action taken, any transfer of personal data and the name of the European Delegated Prosecutor or European Prosecutor having made or validated the assessment. The log shall be kept for three years.
3. In case of a transfer of personal data, a copy thereof shall be kept in the PP Dossier.

Article 8

Referral of information to National Authorities

1. The referral of information to a national authority in a participating Member State shall be handled by a European Delegated Prosecutor designated in accordance with the rule established by the supervising European Prosecutor, irrespective of how the information was received by the EPPO.
2. The referral of information to a national authority in a non-participating Member State shall be handled by the competent European Prosecutor with the support of the Private

Party Team or by the European Delegated Prosecutor who undertook the assessment, depending on whether the information was received by the Central Office or the decentralised office.

3. If the report concerns a crime outside of EPPO's competence for which a national authority of a third country could be competent, the private party shall be advised to address it directly to the respective authorities. In exceptional circumstances, a referral of information to a national authority in a third country may be considered after having consulted the Data Protection Officer.

Article 9

Referral of information to OLAF

The referral of information to OLAF shall be handled by the Private Parties Team or by the European Delegated Prosecutor who undertook the assessment, depending on whether the information was received by the Central Office or by the decentralised office.

Article 10

Return, deletion and destruction of reports

1. The return, deletion and destruction of reports shall be handled by the central office or by the decentralised office, depending on which office received the information.
2. The return, deletion and destruction of reports received by the decentralised offices is subject to the applicable domestic law.

Article 11

Notification to the Private Party

1. The private party who submitted the report shall be informed that their report has been assessed as manifestly outside of EPPO's competence, noting whether the information was referred to the national authorities or to OLAF, or the documents were returned or deleted/destroyed.
2. The signed notification shall be undertaken by a European Delegated Prosecutor or a European Prosecutor, depending on where the information was received and in accordance with the applicable national law.
3. The private party shall be notified in their national language and a copy of the document of notification shall be recorded in the PP Dossier.
4. If the notification is not possible because the private party did not provide relevant information, the report was incomprehensible or illegible, or if the notification could not be delivered, this will be recorded in the Private Party Dossier.

Article 12



Data retention

The assessment, validation, disposal and eventual transfer of reports received by the EPPO from private parties shall be done in no more than 6 months after their receipt.

After the process was concluded, personal data related to the information assessed as manifestly outside of EPPO's competence shall be kept in the PP Dossier in accordance with Article 17(3) of the College Decision 037/2023 adopting the Rules Concerning the Processing of Personal Data.

Article 13

Other provisions

Decision 005/2021 of the European Chief Prosecutor on the operational procedure for processing crime reports submitted to the Central Office of the EPPO by private parties shall be repealed.

Article 14

Entry into force

This decision shall enter into force on 9 October 2023.

Done at Luxembourg on 4 October 2023.

For the College,

Andrés RITTER

Deputy European Chief Prosecutor