

DECISION OF THE COLLEGE OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE OF 9 APRIL 2025

ON THE RETENTION OF OPERATIONAL PERSONAL DATA IN ACCORDANCE WITH ARTICLE 50 OF THE EPPO REGULATION

The College of the European Public Prosecutor's Office,

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 ('the EPPO')¹, hereinafter referred to as 'the EPPO Regulation', and in particular Articles 9 and 50 thereof,

Having regard to the Internal Rules of Procedure of the EPPO, hereinafter referred to as 'the IRP', adopted by the College of the EPPO on 12 October 2020 in its Decision 003/2020,² as amended,

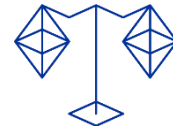
Having regard to the Rules concerning the processing of personal data by the European Public Prosecutor's Office, adopted by the College on 28 October 2020 in its Decision 009/2020, and in particular Article 18 thereof,

Whereas:

- (1) According to Article 45(2) of the EPPO Regulation, the case file should be managed by the handling European Delegated Prosecutors in accordance with the law of their Member State. This means that the handling European Delegated Prosecutor may have limited discretion as regards to the content of the case file or what to dispose of it prior to the final conclusion of the case, whatever the latter is under national law.
- (2) According to Article 45(3) and Recital 47 of the EPPO Regulation, the Case Management System of the EPPO ('CMS') includes all information and evidence from the case files that may be stored electronically, in order to ensure that the EPPO operates as a single office. The handling European Delegated Prosecutors shall ensure that the content of information in the CMS reflects at all times the case file.

¹ OJ L 283, 31.10.2017, p. 1.

² OJ C 22, 21.1.2021, p. 3.



- (3) According to Article 50(1) of the EPPO Regulation, the EPPO should review periodically the need for the storage of the operational personal data processed not later than 3 years after the operational personal data were first processed and then every 3 years;
- (4) According to Article 50(3) of the EPPO Regulation, before one of the deadlines referred to in Article 50(2) expires, the EPPO should review the need for the continued storage of the operational personal data where and as long this is necessary to perform its tasks. Article 50(2) provides that operational personal data processed by the EPPO should not be stored beyond 5 years after an acquitting decision in respect of the case has become final; in case the accused was found guilty the time limits should be extended until the penalty that has been imposed, is enforced or can no longer be enforced under the law of the sentencing Member State.
- (5) The EPPO must comply with its obligations concerning time limits for the storage of operational personal data processed, including in its register of information and its case files.
- (6) According to Recital 93 of the EPPO Regulation, the rules of the EPPO Regulation on the protection of personal data should be interpreted and applied in accordance with the interpretation and application of Directive (EU) 2016/680³, and in particular Article 5 thereof. At the same time, the implementation of the rules of the EPPO Regulation on the protection of personal data should take into account the unique and highly specialised mandate of the EPPO. The EPPO may need to process data collected in the context of investigations and prosecution of specific criminal offences beyond that context, in particular to develop an understanding of criminal activities and trends and to establish links between different criminal offences and/or criminal organisations.
- (7) The EPPO Regulation provides for a system of oversight, monitoring, directing and supervision of the investigations and prosecutions by the European Delegated Prosecutors through the involvement of the Permanent Chambers and the European Prosecutors. This contributes to a constant review of the continued necessity of storage of operational personal data in the case file.

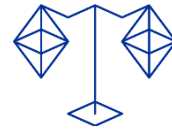
HAS ADOPTED THIS DECISION:

Article 1

Scope

This Decision applies to the operational personal data stored:

³ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119, 4.5.2016, p. 89.



- (a) in the case files of the European Delegated Prosecutors, including during the verification and
- (b) the corresponding copies thereof in the CMS in accordance with Article 45 of the EPPO Regulation.

Article 2

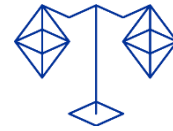
General principles

1. Subject to the principles relating to processing of personal data under Article 47 of the EPPO Regulation, in particular data minimisation, and in accordance with Article 50 of the EPPO Regulation, the EPPO shall store operational personal data only for as long as needed to fulfil the purpose for which the personal data are processed.
2. The EPPO shall review periodically the need for the storage of the operational personal data processed within the scope of this Decision in accordance with Article 1. Reviews shall be carried out not later than 3 years after the operational personal data were first processed and every 3 years thereafter. The reviews may take place at shorter intervals.

Article 3

Grounds for continued storage of operational personal data

1. As long as the EPPO has not completed registration and verification of information provided to the EPPO, the continued need for the storage of the operational personal data is presumed, without prejudice to the possibility of an earlier review pursuant to paragraph 5.
2. Where the EPPO has decided to open an investigation or exercise the right of evocation and the case has not yet been finally disposed of, the continued need for the storage of the operational personal data is presumed, without prejudice to the possibility of an earlier review pursuant to paragraph 5.
3. Where a case has been finally disposed of, has been closed for other reasons or the EPPO has decided not to open a case, the decision to continue the storage of operational personal data shall be documented. When conducting the review assessing the need for such continued storage, the handling European Delegated Prosecutor, the supervising European Prosecutor or the European Chief Prosecutor, if respectively allocated the review in accordance with Article 4 below, shall record the grounds for their decision, such as in particular one or more of the following:
 - (a) the operational needs and interest of the EPPO functioning as a single office;
 - (b) corresponding national provisions;
 - (c) obligations under national criminal procedural law;
 - (d) related cases or proceedings, including proceedings concerning assets;
 - (e) the gravity of the crime;



- (f) time-limits for judicial review, including legal remedies, as applicable in the case;
- (g) the statute of limitations applicable in the case;
- (h) other relevant grounds, depending on the circumstances of the case.

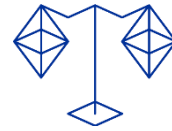
Where the case contains special categories of operational personal data, this shall be taken into account for taking the decision.

4. Where the outcome of a case is a final acquitting decision, or when the accused was found guilty and the penalty that has been imposed is enforced or can no longer be enforced under the law of the sentencing Member State, any need for the continued storage of the operational personal data after 5 years must also be necessary for the performance of the tasks of the EPPO.
5. Where a case has not been finally disposed of, not opened or closed for other reasons, and no activity in that case has been recorded within a period of 6 months, the handling European Delegated Prosecutor shall review the need of continued storage. If they establish no further need of continued storage, he/she shall accordingly inform the Permanent Chamber to provide instructions.

Article 4

Responsibilities of the European Delegated Prosecutors and the European Prosecutors

1. The handling European Delegated Prosecutor shall continuously review the need for the storage of the operational personal data processed in their case(s), in compliance with the EPPO Regulation and the rules laid down in this Decision, as well as, if applicable, in compliance with the national criminal procedural rules governing the content of the national case file.
2. Where the European Delegated Prosecutor cannot carry out a review in accordance with Article 3 of this Decision, the supervising European Prosecutor shall perform the review after being notified in accordance with Article 5(3) of this Decision.
3. If neither the European Prosecutor nor the European Delegated Prosecutor carry out a review within the time-limits provided under Article 3 of this Decision, the European Chief Prosecutor shall carry out the review.
4. Where data is continued to be stored after a review carried out under paragraphs (3) to (5) of Article 3 of this Decision, respectively the European Delegated Prosecutor, the European Prosecutor or the European Chief Prosecutor acting in accordance with this Article, shall record the date of the review and its result in the CMS, including the reasons for the continued storage.
5. The Data Protection Officer shall be able to easily identify all personal data stored beyond 5 years, including any special categories of personal data stored.



Article 5

Implementation in the CMS

1. The CMS shall automatically notify the European Delegated Prosecutor to whom a case has been assigned or allocated to carry out a review prior to the lapse of the time-limits provided in Article 3 of this Decision.
2. Where the European Delegated Prosecutor does not record the review and its result within 14 days of receipt of the CMS notification, the CMS shall automatically notify the supervising European Prosecutor to carry out the review. In case the European Prosecutor does not perform the review within 14 days, the CMS shall automatically notify the European Chief Prosecutor to perform the review within 14 days.
3. The functionality of the CMS shall assist the European Delegated Prosecutor and, where applicable, the European Prosecutors and the European Chief Prosecutor in the implementation of this Decision.

Article 6

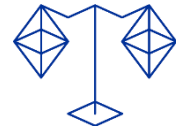
Deletion in the CMS

To the extent that the European Delegated Prosecutor or the European Prosecutor records in the CMS that the continued storage of operational personal data is not needed, or there has been no review carried out within the cascade of time-limits provided under Article 3 of this Decision, the CMS shall delete the operational personal data. The deletion shall be logged in the CMS. The handling European Delegated Prosecutor shall be informed accordingly.

Article 7

Implementation at the decentralised level

1. In order to comply with Article 6(1) of this Decision, the handling European Delegated Prosecutor shall ensure the deletion of the operational personal data stored in the case file also at the decentralised level. Transmission of the case file to the competent national authority is equivalent to deletion where the latter national authority becomes a sole controller in accordance with applicable national law.
2. The European Delegated Prosecutor shall also ensure removal of operational personal data from any IT environment or physical copies, including compliance with any other requirements provided under national law in similar circumstances.
3. The handling European Delegated Prosecutor shall record in the CMS how the operational personal data of the case file at national level has been deleted, including indications whether the file has been destroyed or fully transferred to a national authority, or in any other manner the processing has permanently ceased by the EPPO.



4. Where there is no handling European Delegated Prosecutor, or they cannot perform the task under this Article, they shall be replaced by the supervising European Prosecutor.

Article 8

Evaluation clause

1. No later than 2 years after the entry in to force of this Decision, the European Chief Prosecutor shall conduct an evaluation to assess its implementation and report the findings, including possible proposals for amendments to this Decision, to the College.
2. The staff of the EPPO shall assist the European Chief Prosecutor in this evaluation. Representatives of the Operations Unit and of the Legal Service shall participate in the evaluation process. The Data Protection Officer of the EPPO as well as representatives of the European Delegated Prosecutors and of the European Prosecutors may be invited to inform and advise the European Chief Prosecutor and the staff carrying out the evaluation.

Article 9

Entry into force

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

Done at Luxembourg on 9 April 2025.

On behalf of the College,

Laura Codruța KÖVESI

European Chief Prosecutor