EUROPEAN
COMMISSION

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COMMISSION IMPLEMENTING DECISION (EU) …/…

of XXX

determining the date on which the European Public Prosecutor's Office assumes its investigative and prosecutorial tasks

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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], and in particular Article 120(2), second subparagraph thereof,

Whereas:

(1) In accordance with Article 120(2), second subparagraph, of Regulation (EU) 2017/1939, the EPPO is to assume the investigative and prosecutorial tasks conferred on it by that Regulation on a date set by a decision of the Commission on a proposal of the European Chief Prosecutor once the EPPO is set up.

(2) On 7 April 2021, the European Chief Prosecutor proposed to the Commission that the EPPO should assume its investigative and prosecutorial tasks on 1 June 2021.

(3) The EPPO is an indivisible Union body operating as one single Office with a decentralised structure. Its central level consists of the College, the Permanent Chambers, the European Chief Prosecutor, the Deputy European Chief Prosecutors, the European Prosecutors and the Administrative Director. The European Chief Prosecutor, the European Prosecutors, the Deputy European Chief Prosecutors, and the Administrative Director of the EPPO were appointed with decisions adopted, respectively, on 23 October 2019[2], 27 July 2020[3], 11 November 2020[4], and 20 January 2021[5]. The College was constituted on 28 September 2020. In accordance with Article 21(2) of Regulation (EU) 2017/1939, the College adopted the internal rules of procedure of the EPPO on 12 October 2020. The College adopted, pursuant to Article 10(1), first subparagraph, of Regulation (EU) 2017/1939, the rules on the Permanent Chambers on 25 November 2020. The staff of the EPPO as defined in Article 2(4) of Regulation (EU) 2017/1939 is in place.

(4) The decentralised level of the EPPO consists of the European Delegated Prosecutors located in the Member States that participate in the enhanced cooperation on the establishment of the EPPO ('Member States'). The College adopted, pursuant to Article 114(c) of Regulation (EU) 2017/1939, the rules on conditions of employment of the European Delegated Prosecutors on 29 September 2020. At least two European Delegated Prosecutors should be appointed for each Member State before 1 June 2021. On the date of adoption of this Decision, the EPPO had already appointed at least two

[1] OJ L 283, 31.10.2017, p. 1.
[2] OJ L 274 28.10.2019, p. 1.
[3] OJ L 244, 29.7.2020, p. 18.
[4] Decisions 010/2020 and 011/2020 of the College of the European Public Prosecutor's Office of 11 November 2020.
[5] Decision 003/2021 of the College of the European Public Prosecutor's Office of 20 January 2021.

European Delegated Prosecutors per Member State, with the exception of Finland and Slovenia[6]. The reasonable period for the Member States to nominate their candidates for the post of European Delegated Prosecutor has already expired. This situation should not prevent the effective start of operations of the EPPO, taking into account the possibility for the European Prosecutor of the Member States concerned to conduct the investigation personally in those Member States, with all the powers, responsibilities and obligations of a European Delegated Prosecutor, in accordance with Article 28(4) of Regulation (EU) 2017/1939.

(5) The EPPO has been granted an autonomous budget in accordance with the Multiannual Financial Framework for the years 2021 to 2027 ([7]) guaranteeing its full autonomy and independence.

(6) In accordance with Article 44(1) of Regulation (EU) 2017/1939, the EPPO's Case Management System is established and functions at central and decentralised levels. The Annex to that Regulation, introduced by Commission Delegated Regulation (EU) 2020/2153[8], lists the categories of operational personal data and the categories of data subjects whose operational personal data may be processed in the index of case files by the EPPO.

(7) In accordance with Article 78(5) of Regulation (EU) 2017/1939, the College adopted the rules concerning the Data Protection Officer of the EPPO on 21 October 2020. The

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6 Decisions of the College of the European Public Prosecutor's Office: 19/2020 of 25 November 2020 (appointment of ten European Delegated Prosecutors in the Federal Republic of Germany); 020/2020 of 25 November 2020 (appointment of four European Delegated Prosecutors in the Slovak Republic); 021/2020 of 2 December 2020 (appointment of two European Delegated Prosecutors in the Republic of Estonia); 22/2020 of 2 December 2020 (appointment of one European Delegated Prosecutor in the Federal Republic of Germany); 024/2020 of 9 December 2020 (appointment of a European Delegated Prosecutor in the Slovak Republic); 007/2021 of 3 February 2021 (appointment of three European Delegated Prosecutors in the Republic of Lithuania); 008/2021 of 5 February 2021 (appointment of three European Delegated Prosecutors in the Czech Republic); 009/2021 of 10 February 2021 (appointment of six European Delegated Prosecutors in Romania); 010/2021 of 10 February 2021 (appointment of two European Delegated Prosecutors in the Kingdom of the Netherlands); 016/2021 of 17 March 2021 (appointment of one European Delegated Prosecutor in the Kingdom of Belgium); 022/2021 of 7 April 2021 (appointment of three European Delegated Prosecutors in the Republic of Bulgaria); 024/2021 of 7 April 2021 (appointment of two European Delegated Prosecutors in the Republic of Croatia); 025/2021 of 7 April 2021 (appointment of two European Delegated Prosecutors in the Czech Republic); 026/2021 of 21 April 2021 (appointment of four European Delegated Prosecutors in the French Republic); 027/2021 of 21 April 2021 (appointment of four European Delegated Prosecutors in the Republic of Latvia); 031/2021 of 28 April 2021 (appointment of seven European Delegated Prosecutors in the Kingdom of Spain); 032/2021 of 28 April 2021 (appointment of one European Delegated Prosecutor in the Republic of Malta); 034/2021 of 3 May 2021 (appointment of fifteen European Delegated Prosecutors in the Italian Republic); 035/2021 of 3 May 2021 (appointment of four European Delegated Prosecutors in the Portuguese Republic); 037/2021 of 6 May 2021 (appointment of one European Delegated Prosecutor in the Republic of Bulgaria); 041/2021 of 12 May 2021 (appointment of one European Delegated Prosecutor in the Republic of Malta); 045/2021 of 17 May 2021 (appointment of one European Delegated Prosecutor in the Kingdom of Belgium); 046/2021 of 17 May 2021 (appointment of two European Delegated Prosecutors in the Republic of Austria); 047/2021 of 17 May 2021 (appointment of five European Delegated Prosecutors in the Hellenic Republic); 048/2021 of 19 May 2021 (appointment of two European Delegated Prosecutors in the Republic of Cyprus); 059/2021 of 19 May 2021 (appointment of two European Delegated Prosecutors in the Grand Duchy of Luxembourg).

7 OJ L 433I, 22.12.2020, p. 11.

8 Commission Delegated Regulation (EU) 2020/2153 of 14 October 2020 amending Council Regulation (EU) 2017/1939 as regards the categories of operational personal data and the categories of data subjects whose operational personal data may be processed in the index of case files by the European Public Prosecutor's Office (OJ L 431, 21.12.2020, p. 1).

College adopted the rules concerning the processing of personal data by the EPPO on 28 October 2020. In accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council[9], the College adopted the internal rules concerning restrictions of certain data-subject rights in relation to the processing of administrative personal data in the framework of activities carried out by the EPPO on 21 October 2020.

(8) In accordance with Article 95 of Regulation (EU) 2017/1939, the College adopted the financial rules applicable to the EPPO on 13 January 2021.

(9) In accordance with Article 106(2) of Regulation (EU) 2017/1939, the EPPO and the Grand Duchy of Luxembourg concluded a Headquarters Agreement on 27 November 2020. The premises of the Central Office in Luxembourg have been made available to the EPPO.

(10) In accordance with Article 107(2) of Regulation (EU) 2017/1939, the College adopted the internal language arrangements of the EPPO on 30 September 2020.

(11) In accordance with Article 109(2) of Regulation (EU) 2017/1939, the College adopted the rules on public access to documents of the EPPO on 21 October 2020.

(12) All Member States notified the Commission of the adoption of the measures for the transposition into national law of Directive (EU) 2017/1371 of the European Parliament and the Council[10] and have generally put in place other appropriate measures to ensure that the EPPO can start its operational work.

(13) The conditions laid down in Article 120(2), second subparagraph, of Regulation (EU) 2017/1939 thus being fulfilled, the EPPO is set up and ready to assume its investigative and prosecutorial tasks. It is therefore necessary to determine the date on which the EPPO is to assume those tasks.

(14) In accordance with Article 120(2), third subparagraph, of Regulation (EU) 2017/1939 that date should not be earlier than three years after the date of entry into force of that Regulation. As Regulation (EU) 2017/1939 entered into force on 20 November 2017, that date should not be before 20 November 2020.

(15) In accordance with Article 120(2), first and fourth subparagraphs, of Regulation (EU) 2017/1939, the EPPO is to exercise its competence with regard to any offence within its competence committed after 20 November 2017 or, for the Member States that joined the enhanced cooperation by virtue of a decision adopted in accordance with Article 331(1) TFEU, the date indicated in the decision concerned.

HAS ADOPTED THIS DECISION:

Article 1

The European Public Prosecutor's Office shall assume the investigative and prosecutorial tasks conferred on it by Regulation (EU) 2017/1939 on 1 June 2021.

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9 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

10 Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Commission
Ursula VON DER LEYEN
The President