



2026/1701

13.7.2026

COMMISSION DECISION (EU) 2026/1701

of 10 July 2026

confirming the participation of Hungary in the enhanced cooperation on the establishment of the European Public Prosecutor's Office

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 328(1) and 331(1) thereof,

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⁾,

Having regard to the notification by Hungary of its intention to participate in the enhanced cooperation on the establishment of the EPPO by letter dated 27 May 2026 and received by the Commission on 29 May 2026,

Whereas:

- (1) On 3 April 2017, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Germany, Greece, Lithuania, Luxembourg, Portugal, Romania, Slovakia, Slovenia and Spain notified the European Parliament, the Council and the Commission that they wished to establish an enhanced cooperation regarding the setting up of the EPPO. In addition, by letters of 19 April 2017, 1 June 2017, 9 June 2017 and 22 June 2017 respectively, Latvia, Estonia, Austria and Italy indicated their wish to participate in the establishment of that enhanced cooperation.
- (2) On 3 April 2017, the authorisation to proceed with an enhanced cooperation referred to in Article 20(2) of the Treaty on European Union (TEU) and Article 329(1) of the Treaty on the Functioning of the European Union (TFEU) was deemed to be granted in accordance with the third subparagraph of Article 86(1) TFEU.
- (3) On 12 October 2017, the Council adopted Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the EPPO.
- (4) On 20 November 2017, Regulation (EU) 2017/1939 entered into force.
- (5) Commission Decision (EU) 2018/1094 ⁽²⁾ confirmed the participation of the Netherlands in the enhanced cooperation on the establishment of the EPPO.
- (6) Commission Decision (EU) 2018/1103 ⁽³⁾ confirmed the participation of Malta in the enhanced cooperation on the establishment of the EPPO.
- (7) In accordance with Article 1 of Commission Implementing Decision (EU) 2021/856 ⁽⁴⁾, the EPPO assumed its investigative and prosecutorial tasks on 1 June 2021.
- (8) Commission Decision (EU) 2024/807 ⁽⁵⁾ confirmed the participation of Poland in the enhanced cooperation on the establishment of the EPPO.

⁽¹⁾ OJ L 283, 31.10.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/1939/oj>.

⁽²⁾ Commission Decision (EU) 2018/1094 of 1 August 2018 confirming the participation of the Netherlands in the enhanced cooperation on the establishment of the European Public Prosecutor's Office (OJ L 196, 2.8.2018, p. 1, ELI: <http://data.europa.eu/eli/dec/2018/1094/oj>).

⁽³⁾ Commission Decision (EU) 2018/1103 of 7 August 2018 confirming the participation of Malta in the enhanced cooperation on the establishment of the European Public Prosecutor's Office (OJ L 201, 8.8.2018, p. 2, ELI: <http://data.europa.eu/eli/dec/2018/1103/oj>).

⁽⁴⁾ Commission Implementing Decision (EU) 2021/856 of 26 May 2021 determining the date on which the European Public Prosecutor's Office assumes its investigative and prosecutorial tasks (OJ L 188, 28.5.2021, p. 100, ELI: http://data.europa.eu/eli/dec_impl/2021/856/oj).

⁽⁵⁾ Commission Decision (EU) 2024/807 of 29 February 2024 confirming the participation of Poland in the enhanced cooperation on the establishment of the European Public Prosecutor's Office (OJ L, 2024/807, 29.2.2024, ELI: <http://data.europa.eu/eli/dec/2024/807/oj>).

- (9) Commission Decision (EU) 2024/1952 ⁽⁶⁾ confirmed the participation of Sweden in the enhanced cooperation on the establishment of the EPPO.
- (10) On 29 May 2026, Hungary notified the Commission of its intention to participate in the enhanced cooperation on the establishment of the EPPO.
- (11) Regulation (EU) 2017/1939 does not prescribe any particular conditions of participation in the enhanced cooperation on the establishment of the EPPO.
- (12) In accordance with the first subparagraph of Article 120(2) of Regulation (EU) 2017/1939, the EPPO is to exercise its competence with regard to any offence within its competence committed after the date on which Regulation (EU) 2017/1939 entered into force. In accordance with the fourth subparagraph of Article 120(2) of Regulation (EU) 2017/1939, for those Member States which participate in enhanced cooperation by virtue of a decision adopted in accordance with the second or third subparagraph of Article 331(1) TFEU, Regulation (EU) 2017/1939 shall apply as from the date indicated in the decision concerned.
- (13) In accordance with Article 331 TFEU, the Commission, when confirming the participation of a Member State in an enhanced cooperation, should adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of that enhanced cooperation.
- (14) In the letter by which Hungary notified the Commission of its intention to join the enhanced cooperation on the establishment of the EPPO, Hungary requested that Regulation (EU) 2017/1939 apply in Hungary as from 1 June 2021, the date on which the EPPO assumed its investigative and prosecutorial tasks, to demonstrate its commitment to protect the financial interests of the Union.
- (15) As underlined in the case-law of the Court of Justice, although in general the principle of legal certainty precludes a Union measure from taking effect from a point in time before its publication, it may be exceptionally otherwise where the purpose to be achieved so demands and where the legitimate expectations of those concerned are duly respected.
- (16) The effective protection of the Union's financial interests pursuant to Article 325 TFEU and the enhancement of the fight against criminal offences affecting the Union's financial interests, which is the main objective of Regulation (EU) 2017/1939, are best achieved if Regulation (EU) 2017/1939 applies in Hungary as from 1 June 2021, especially taking into account the previous adoption by the Council of measures pursuant to Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council ⁽⁷⁾ on a general regime of conditionality for the protection of the Union budget, in view of serious risks for the Union budget resulting from the breaches of the principles of the rule of law in Hungary ⁽⁸⁾.
- (17) The application of Regulation (EU) 2017/1939 in Hungary as from 1 June 2021 would mean that the EPPO would be able to exercise its competence in Hungary and consider initiating or evoking investigations with regard to offences committed after that date, if the conditions for doing so are met. In addition, it will ensure an effective start of the operations of the EPPO in Hungary, since the EPPO will immediately be in a position to investigate and prosecute offences affecting the Union's financial interests committed in Hungary.

⁽⁶⁾ Commission Decision (EU) 2024/1952 of 16 July 2024 confirming the participation of Sweden in the enhanced cooperation on the establishment of the European Public Prosecutor's Office (OJ L, 2024/1952, 18.7.2024, ELI: <http://data.europa.eu/eli/dec/2024/1952/oj>).

⁽⁷⁾ Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433 I, 22.12.2020, p. 1, ELI: <http://data.europa.eu/eli/reg/2020/2092/oj>).

⁽⁸⁾ Council Implementing Decision (EU) 2022/2506 of 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary (OJ L 325, 20.12.2022, p. 94, ELI: http://data.europa.eu/eli/dec_impl/2022/2506/oj).

- (18) For offences referred to in Articles 22 and 23 of Regulation (EU) 2017/1939 that are not already subject to the competence of the EPPO since the initial entry into force of that Regulation, the EPPO should therefore be able to exercise its competence in Hungary, provided that these offences have been committed after 1 June 2021. This date represents a clear and appropriate starting point for the exercise of the competence of the EPPO in Hungary and ensures legal certainty.
- (19) The exercise of the competence of the EPPO in Hungary for criminal offences affecting the Union's financial interests committed after 1 June 2021 is subject to the relevant provisions of Regulation (EU) 2017/1939, including Article 26 on the initiation of investigations and Article 27 on the right of evocation.
- (20) In principle, judicial decisions that have acquired the force of *res judicata*, including those adopted because of the expiry of the limitation periods, should not be affected by that competence, unless the applicable national law allows to reopen closed cases and investigations in specific circumstances.
- (21) This Decision respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and in the Charter of Fundamental Rights of the European Union, in particular Article 49 thereof. As underlined in the case-law of the Court of Justice, the principle that offences and penalties must be defined by law requires provisions of criminal law to ensure accessibility and foreseeability as regards both the definition of the offence and the determination of the penalty. In addition, the law should clearly define offences and the penalties which they attract. However, the rules in accordance with which the prosecution services investigate, prosecute and bring cases to judgment are rules of procedural nature that concern the organisation of these bodies and the relevant proceedings, and do not concern the definition of offences and penalties. They therefore fall outside the scope of Article 49 of the Charter. The relevant substantive rules of criminal law, contained in Directive (EU) 2017/1371 of the European Parliament and of the Council⁽⁹⁾, as transposed in Hungarian law, remain unchanged and are not affected by this Decision.
- (22) The Hungarian authorities, the Council and the EPPO should have sufficient time to finalise the preparatory work that is necessary to enable the EPPO to operate effectively in Hungary. In particular, the EPPO should be able to swiftly start its operational activities in Hungary, including in the context of cross-border investigations, notably by initiating investigations, if need be upon reporting from institutions, bodies, offices and agencies of the Union and the competent authorities of the Member States in accordance with Article 24(1) of Regulation (EU) 2017/1939, or by exercising its right of evocation. This requires at least the appointment of the European Prosecutor from Hungary, who could, in exceptional cases, take a reasoned decision to conduct the investigation personally, in accordance with Article 28(4) of Regulation (EU) 2017/1939. To avoid that notifications are made to the EPPO while it is not able to deal with them or that time limits elapse, Articles 24 to 27 and 31 of Regulation (EU) 2017/1939 should apply in Hungary as from the twentieth day of the appointment of the European Prosecutor from Hungary in accordance with Article 16 of that Regulation. In addition, the EPPO and the competent authorities of Hungary may agree on specific modalities, such as scattered notifications, for the fulfilment of the obligation to inform the EPPO without undue delay when the national judicial or law enforcement authorities initiated investigations into criminal offences that may fall within the EPPO's competence and were committed before the entry into force of this Decision, to allow the EPPO to effectively exercise its right of evocation within the time limit provided for by Article 27(1) of Regulation (EU) 2017/1939.
- (23) With the entry into force of this Decision, the only Member States that will not participate in the enhanced cooperation established by Regulation (EU) 2017/1939 are those that do not take part in measures adopted pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union by virtue of primary law. As a consequence, Regulation (EU) 2017/1939 will cease to be an act adopted within the framework of enhanced cooperation and will become an ordinary act of Union law, and thus part of the *acquis*,

⁽⁹⁾ 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, ELI: <http://data.europa.eu/eli/dir/2017/1371/oj>).

HAS ADOPTED THIS DECISION:

Article 1

The participation of Hungary in the enhanced cooperation on the establishment of the EPPO is confirmed.

Article 2

1. Regulation (EU) 2017/1939 shall apply in Hungary with regard to any offence within the competence of the EPPO committed after 1 June 2021.
2. Articles 24 to 27 and 31 of Regulation (EU) 2017/1939 shall apply in Hungary as from the twentieth day of the appointment of the European Prosecutor from Hungary in accordance with Article 16 of that Regulation.
3. To ensure an effective exercise of the right of evocation in accordance with Article 27 of Regulation (EU) 2017/1939, the EPPO and the competent authorities of Hungary may agree on specific modalities for the notifications pursuant to Article 24(2) of Regulation (EU) 2017/1939, as regards offences committed before the entry into force of this Decision.

Article 3

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

Done at Brussels, 10 July 2026.

For the Commission
The President
Ursula VON DER LEYEN
