

Research Investments and Others

v

EPPO

Order of the General Court (Sixth Chamber) of 6 June 2025

(Enhanced cooperation on the establishment of the European Public Prosecutor's Office – Letters from the European Delegated Prosecutor – Article 42(1) to (3) of Regulation (EU) 2017/1939 – Lack of jurisdiction)

1. Action for annulment – Jurisdiction of the EU judiciary – Scope – Power of the General Court to hear and determine procedural acts of the European Public Prosecutor's Office – Precluded – Exception – Decisions to dismiss a case – Scope

(Art. 86(3) and 263 TFEU; Council Regulation 2017/1939, recital 88 and Art. 39 and 42(1), (2), (3) and (8))

(see paragraphs 15-21)

2. EU law – Interpretation – Methods – Prohibition of the contra legem interpretation of EU law

(see paragraphs 23, 24)

3. Action for annulment – Jurisdiction of the EU judiciary – Claim for a declaratory judgment – Inadmissibility

(Art. 263 TFEU)

(see paragraph 26)

Résumé

By its order, the General Court dismisses for lack of jurisdiction the action ([1](#)) introduced by Research Investments s. r. o., Areál Zákolany s. r. o. and Simon Cihelník. The applicants requested the annulment of three letters of the Czech European Delegated Prosecutor ('the contested letters'), by which the Czech European Delegated Prosecutor responded to the letters that the applicants had sent to the EPPO. Under the rules on the division of jurisdiction between the EU judiciary and the national courts concerning the judicial review of procedural acts of the EPPO, set out in Regulation 2017/1939 ([2](#)) and providing for the jurisdiction of the EU judiciary, pursuant to Article 263 TFEU, only in respect of decisions of the EPPO to dismiss a case, ([3](#)) the Court found that the contested letters could not be considered as such and that, consequently, it has no jurisdiction in respect of the action against the EPPO.

Following an investigation conducted by the EPPO into alleged offences of subsidy fraud, harm to the financial interests of the European Union and money laundering, the applicants were charged in June 2022 by decision of the Czech European Delegated Prosecutor, and referred to the Czech court having territorial jurisdiction. In August 2024, the applicants sent the EPPO three letters, in which they argued, inter alia, that the EPPO was not competent to prosecute the abovementioned case. In addition, the applicants requested that the EPPO act in accordance with Regulation 2017/1939, ([4](#)) by adopting a decision to dismiss the case or to suspend the proceedings, in the absence of which they would be obliged to bring an action before the Court pursuant to Article 265 TFEU or Article 263 TFEU.

By the contested letters, the Czech European Delegated Prosecutor informed the applicants that he regarded their letters as part of their defence in the criminal proceedings pending before the Czech court and that they would be sent to that court. Moreover, the prosecutor stated that Articles 265 and 263

TFEU were not applicable in the present case, because of the rules applicable to the judicial review of procedural measures taken by the EPPO.

In that context, the applicants request the annulment of the contested letters claiming that they amount to ‘*sui generis* decisions to dismiss a case’ the legality of which is to be reviewed by the Court, in accordance with a ‘broad’ interpretation of Article 42(3) of Regulation 2017/1939.

Findings of the Court

As a preliminary point, the Court notes that under Article 86(3) TFEU, the regulation establishing the EPPO lays down, inter alia, the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions. In that regard, the mechanism provided for by the legislature to ensure the review of procedural acts of the EPPO, provided for in Article 42 of Regulation 2017/1939, is a *sui generis* mechanism, which is intended to ensure effective remedies, in accordance with the second subparagraph of Article 19(1) TEU.

Consequently, it is unambiguously apparent from paragraphs 1 and 2 of Article 42 that the exclusive jurisdiction to hear and determine procedural acts of the EPPO intended to produce legal effects vis-à-vis third parties is conferred on national courts, (¹) apart from the exceptions laid down in Article 42(3) and (8), of that regulation, and that it is only by way of preliminary ruling that the Court of Justice of the European Union is called upon to rule on (i) the validity of those acts in the light of provisions of EU law and (ii) the interpretation or validity of provisions of Regulation 2017/1939. (²)

As regards the exceptions to the exclusive competence of national courts, laid down in Article 42(1) of Regulation 2017/1939, paragraph 3 of that article expressly provides for the jurisdiction of the EU judicature, under Article 263 TFEU, only in respect of decisions of the EPPO to dismiss a case, in so far as they are contested directly on the basis of EU law. (³)

In the present case, however, the contested letters cannot be regarded, even implicitly, as decisions to dismiss the case. (⁴) Consequently, the Court does not have jurisdiction to review their legality under Article 42(3) of Regulation 2017/1939.

That conclusion is not called into question by the applicants’ arguments relating to a broad interpretation of the latter provision, according to which the contested letters constitute ‘*sui generis* decisions to dismiss a case’.

Recourse to a broad interpretation is possible only in so far as it is compatible with the wording of the provision at issue and even the principle of interpretation in conformity with a rule of superior binding force cannot serve as the basis for an interpretation that is *contra legem*. Even if the contested letters were equivalent to *sui generis* decisions to dismiss a case, which has not been demonstrated in the present case, the ‘broad’ interpretation of Article 42(3) of Regulation 2017/1939 would result in acts which do not fall within the scope of the cases referred to in Article 39 of that regulation being classified as a ‘*sui generis* decision to dismiss a case’, which would undermine the system of judicial review provided for in Article 42 of that regulation.

(¹) Action for annulment brought on the basis of Article 263 TFEU.

(²) Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office (‘the EPPO’) ([OJ 2017 L 283, p. 1](#)).

(³) In so far as they are contested directly on the basis of EU law (Article 42(3) of Regulation 2017/1939).

(⁴) The applicants refer, in that regard, to Article 22(1) and (3), to Article 25(3)(a) and to Article 39 of Regulation 2017/1939.

(⁵) Article 42(1) of Regulation 2017/1939 provides, inter alia, that procedural acts of the EPPO that are intended to produce legal effects vis-à-vis third parties are subject to review by the competent national courts in accordance with the requirements and procedures laid down by national law.

(⁶) Article 42(2) of Regulation 2017/1939 states that the Court of Justice of the European Union has jurisdiction, in accordance with Article 267 TFEU, to give preliminary rulings (i) concerning the validity of procedural acts of the EPPO, in so far as such a question of validity is raised before any court or tribunal of a Member State directly on the basis of EU law, (ii) concerning the interpretation or validity of provisions of EU law, including Regulation

2017/1939, and (iii) concerning the interpretation of Articles 22 and 25 of that regulation in relation to any conflict of competence between the EPPO and the competent national authorities.

([7](#)) Furthermore, Article 42(8) of Regulation 2017/1939 provides for the judicial review by the Court of Justice of the European Union in accordance with Article 263 TFEU of decisions of the EPPO that affect the data subjects' rights under Chapter VIII of that regulation and of decisions of the EPPO which are not procedural acts, such as decisions of the EPPO concerning the right of public access to documents, or decisions dismissing European Delegated Prosecutors adopted pursuant to Article 17(3) of that regulation, or any other administrative decisions.

([8](#)) Within the meaning of Article 39 of Regulation 2017/1939.