

# EPPO and EU Law

(Jean Monnet Centre of Excellence - STEPPO)





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# Judicial Cooperation between the EPPO and authorities from non- participating Member States and third countries

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## **OUTLINE:**

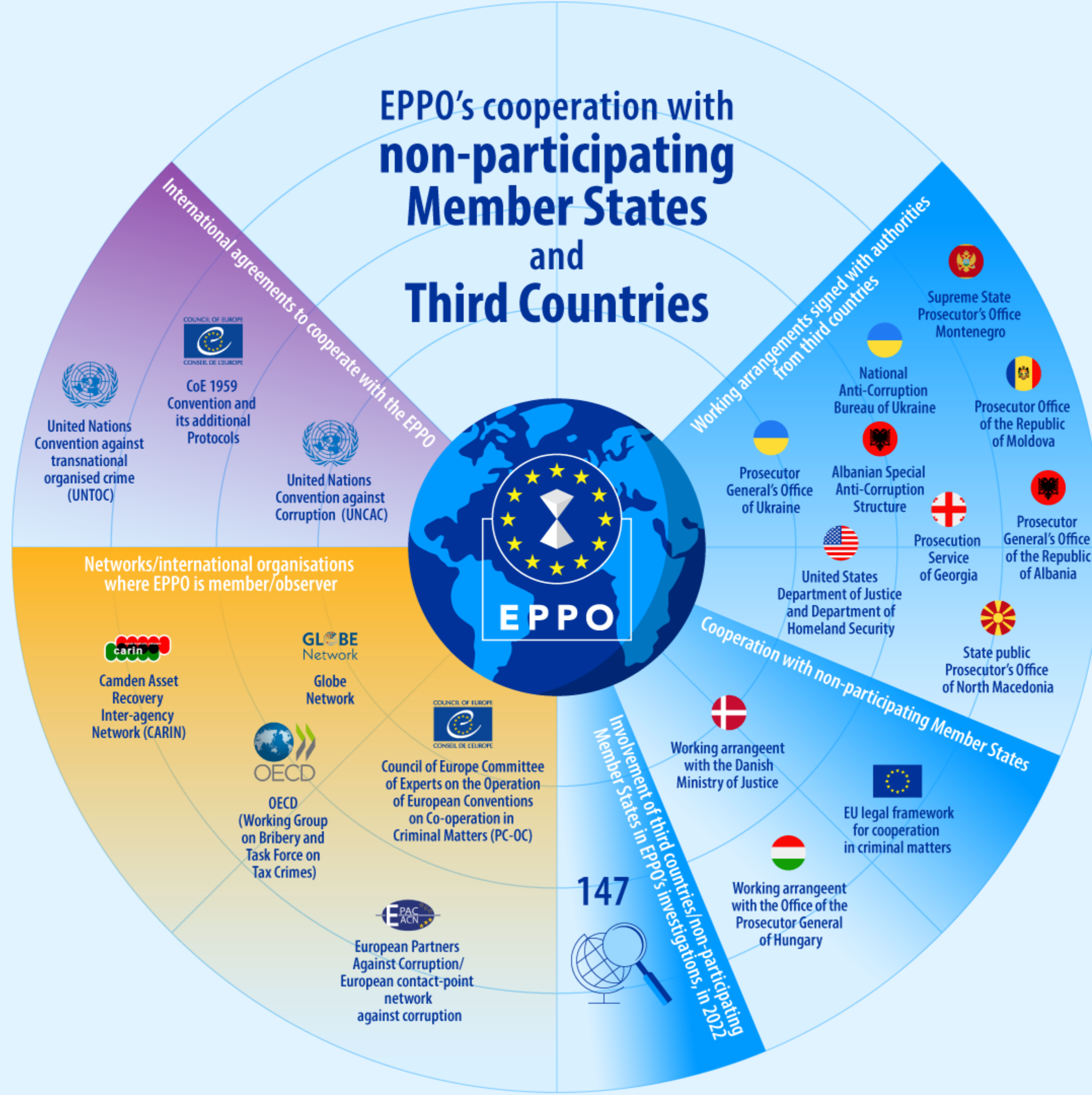
### ***I. Cooperation with non-participating Member States***

- *Binding legal framework as foreseen in the EPPPO Regulation*
- *Principle of sincere cooperation*
- *Working arrangements*

### ***II. Cooperation with third countries***

- *Binding legal framework as foreseen in the EPPPO Regulation*
- *The impact of the EPPPO's unique organisational model*
- *Working arrangements*

# EPP0's cooperation with non-participating Member States and Third Countries





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# Part I

## Cooperation with non-participating Member States





# Who are the non-participating Member States («NPMS»)?

- On 13 March 2024, there are 5 NPMS, but there will be only 4 as of 19 March 2024, as Poland joins the enhanced cooperation (appointment of the PL European Prosecutor and European Delegated Prosecutors will follow in summer 2024)\*.
- *Denmark cannot participate (Protocol no. 22 to TFEU);*
- *Ireland has an opt in/out in AFSJ (Protocol no. 21 to TFEU);*
- *Hungary;*
- ❖ *Poland: \*Commission Decision (EU)2024/807 of 29.02.2024.*
- ❖ *Sweden: already expressed the intention to join in the near future.*

# Binding legal framework on cooperation with non-participating Member States

- ❖ EU acts for which the EPPO is notified as the competent authority pursuant to Article 105(3) of the EPPO Regulation, such as:
  - ▶ Directive 2014/41/EU (**European Investigation Order**): HU, PL, SE / 2000 Convention on MLA between MS: DK
  - ▶ Regulation (EU) 2018/1805 (**freezing**/confiscation order) – HU, PL, SE / Framework Decision 2003/587/JHA (for DK)
  - ▶ Framework Decision 2002/584/JHA on the **European Arrest Warrant** (EAW);
  - ▶ **Joint Investigation Teams**: FD 2002/465/JHA
  - ▶ FD 2009/829/JHA ("**European Supervision Order**")
- ❖ **Unilateral recognition basis: IE**

# Working Arrangements with NPMS's authorities

## ❑ Situation as of 13.03.2024:

- Office of the Prosecutor General of **Hungary**, entered into force on 6 April 2021;
- Ministry of Justice of **Denmark**, entered into force on 31 August 2023.

## Nota bene:

The working arrangements concluded by the EPPO do not represent, per se, the legal basis for cooperation in criminal matters. Their aim is to facilitate this cooperation, which is always based on the applicable binding legal instrument (EU law or international agreement, respectively).





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# Part II

## Cooperation with Third Countries



# Binding legal framework for cooperation with Third Countries

## ➤ Mutual legal assistance (MLA) - Alternative “legal avenues”

### 1) International agreements on cooperation in criminal matters with the EPPO concluded by the Union or to which the Union has acceded (Art. 104 para. 3 EPPO Reg.)

- ✓ e.g. EU-UK Trade and Cooperation Agreement of 30 December 2020, for which the EPPO has been notified as competent authority.
- ✓ United Nations Conventions: The Union is a Party to the United Nations Convention against Corruption (UNCAC) and the United Nations Convention against transnational organised crime (UNTOC) and has notified the EPPO as competent authority on 13 October 2022.

### 2) International agreements (mainly multilateral conventions) to which the participating Member States are Parties (Art. 104 para. 4 EPPO Reg.)

- ✓ CoE Conventions. The participating MS have notified the EPPO as competent authority for the CoE 1959 Convention and its Additional Protocols.

### 3) In absence of 1) or 2):

- ✓ the European Delegated Prosecutor may have recourse to his/her powers as national prosecutor (i.e. bilateral treaty);
- ✓ the EPPO may also request legal assistance in criminal matters from authorities of third countries in a particular case and within the limits of its material competence, relying on reciprocity or international courtesy.

- **Extradition:** the handling European Delegated Prosecutor has to request the competent national authority of his/her Member State to issue an extradition request in accordance with applicable treaties/national law.



# Working Arrangements with third countries' authorities

## □ Situation as of 13 March 2024:

- Prosecutor General's Office (**Ukraine**) (18 March 2022)
- Prosecutor General's Office of the Republic of **Albania** (4 July 2022)
- Prosecutor General's Office of the Republic of **Moldova** (13 July 2022)
- **United States** Department of Justice and Department of Homeland Security (26 July 2022)
- Supreme State Prosecutor's Office **Montenegro** (22 September 2022)
- Prosecution service of **Georgia** (28 September 2022)
- State public prosecutor's office of **North Macedonia** (24 October 2022)
- Special Anti-Corruption and Organised Crime Structure of the Republic of **Albania** (29 June 2023)
- National Anti-Corruption Bureau of **Ukraine** (3 July 2023)
- Prosecution Office of **Bosnia and Herzegovina** (21 November 2023)

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Q & A

