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Subject: Written contribution to the Seventh JPSG meeting of 28-29 September 2020

Dear Mr López Aguilar,

Dear Ms Mittag,

Dear Mr Pistorius,

I am pleased to share with you a written contribution on behalf of the Europol Cooperation Board (ECB), which last met on 16 June 2020. Despite the special circumstances we are all experiencing at the time being, national data protection authorities and the EDPS have continued to ensure the coordinated supervision of Europol personal data processing activities, under the unique model foreseen by the Europol Regulation.

The “special focus on the COVID-19 crisis” chosen for this discussion certainly resonates with the daily preoccupation of most organisations and institutions. We all had to adapt our operations, in very short time frames, to this unprecedented situation in modern times. Europol’s activities have also been impacted by the crisis, from both organisational and law enforcement points of view. We have followed with interest the regular COVID-19 updates published by Europol, which provide relevant insight on new law enforcement challenges exacerbated by this particular crisis and its detrimental effects to the functioning of our society, notably through the heightened risks for its most vulnerable communities. We consider that Europol’s reactivity to these events may also be a demonstration that it operates within a framework which is fit for purpose, including when it comes to data protection.

As stated by European data protection authorities, which have been particularly solicited in the past months, data protection rules do not hinder measures taken in the fight against the novel coronavirus pandemic. Their continuous application is consistent with other major objectives of public interest such as public health or security, and such exercise can only be possible through dialogue among all stakeholders, including data protection authorities and policy makers. We therefore very much welcome this new opportunity to exchange with the Europol JPSG, and remain available should there be any particular data protection challenge identified by Europol that would be specifically attributable to the COVID-19 crisis.

Data protection authorities have faced concrete organisational challenges in the completion of their tasks, in particular concerning the carrying out of audits and inspections. We had to adapt our methods and processes. Most of our coordinated supervision activities are currently carried out exclusively on-line. In the past months, we have resorted to written exchanges with authorities rather than on-site inspections. For instance, we have recently addressed a written questionnaire on data protection compliance to all of our respective Europol National Units, which may serve as a basis for future common recommendations. Such changes have indeed impacted our established supervision processes, but we are confident that, by using adequate communication tools, we can collectively maintain a high level of regulatory and enforcement cooperation.

I would also like to take the opportunity of this written contribution to provide the JPSG with some thoughts on the Europol Draft Multi-annual Programming Document 2021-2023. On the basis of the available draft, the ECB understands that one of the foreseen strategic priorities aims at establishing Europol as the “EU criminal information hub”, referring to an evolution “from collecting to connecting information”. Beyond slogan, such direction would certainly entail new types of personal data processing activities, which would need to be assessed in the light of the Europol data protection regime and key principles of the EU *acquis* in the field of data protection.

Connecting information, including databases, is one of the main consequence of the adoption and current implementation of the EU ‘interoperability’ framework, on which the ECB has already shared with you its concerns and recommendations, in my previous written contribution. It is therefore of utmost importance that data protection requirements and procedures are duly considered from the start in any envisioned process related to the legitimate objective of enhancing information flows.

We also noted that the implementation of the Europol External Strategy forms an important part of the draft programming document. I would like to reiterate here the message passed on in my previous contribution, recalling that the ECB pays particular attention to the review of Europol cooperation agreements with third countries. The ECB has notably reiterated its call to

the European Commission for a swift and meaningful review, by 2021, of all agreements concluded by Europol with third countries under the previous regime, as mandated by the new Europol Regulation, and stressed the importance of the definition of a standard document aiming at ensuring a consistent level of data protection among all agreements. We consider these elements as an essential step for the further development of the Europol External Strategy.

Another focus of the programming document, related to law enforcement innovation and research, would certainly be of great interest for ECB members. We stand ready to assist in ensuring the integration of the principles of data protection and privacy by design and by default within this objective.

Finally, I would like to conclude with a hope that, in the near future, we will be able to hold a live debate on the many issues which demand a concrete dialogue between data protection authorities and policy-makers, be it by means of digital tools. The upcoming revision of the Europol Regulation is certainly one of these issues for which I would like to highlight the availability of the ECB to provide assistance, in order to ensure consistency with the EU *acquis* in the field of data protection when debating and devising the future of Europol.

Yours sincerely,

François Pellegrini

Chair of the Europol Cooperation Board

A handwritten signature in black ink, consisting of several overlapping horizontal and vertical strokes, appearing to be a stylized 'F' or similar character.