



**2021/0411(COD)**

23.6.2022

# **AMENDMENTS**

## **25 - 42**

**Draft opinion**

**Caterina Chinnici**

(PE732.691v01-00)

Information exchange between law enforcement authorities of Member States,  
repealing Council Framework Decision 2006/960/JHA

Proposal for a directive

(COM(2021)0782 – C9-0457/2021 – 2021/0411(COD))



**Amendment 25**  
**Petri Sarvamaa**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) Transnational threats involving criminal activities call for a coordinated, targeted and adapted response. While national authorities operating on the ground are on the frontline in the fight against organised crime and terrorism, action at Union level is paramount to ensure efficient and effective cooperation, including as regards the exchange of information. Furthermore, organised crime and terrorism, in particular, are emblematic of the link between internal and external security. Those threats spread across borders and manifest themselves in organised crime and terrorist groups that engage in a wide range of criminal activities.

*Amendment*

(1) Transnational threats involving criminal activities call for a coordinated, targeted and adapted response. While national authorities operating on the ground are on the frontline in the fight against organised crime and terrorism, action at Union level is paramount to ensure efficient and effective cooperation, including as regards the exchange of information. ***In that respect it is vital that the Member States are instructed to make more effective and regular use of the European Union's blacklist and to share information in a transparent manner in order to protect the Union's financial interests and budgetary resources more effectively against fraud.*** Furthermore, organised crime and terrorism, in particular, are emblematic of the link between internal and external security. Those threats spread across borders and manifest themselves in organised crime and terrorist groups that engage in a wide range of criminal activities.

Or. en

**Amendment 26**  
**Petri Sarvamaa**

**Proposal for a directive**  
**Recital 2**

*Text proposed by the Commission*

(2) In an area without internal border controls, police officers in one Member State should have, within the framework of

*Amendment*

(2) In an area without internal border controls, police officers in one Member State should have, within the framework of

the applicable Union and national law, the possibility to obtain equivalent access to the information available to their colleagues in another Member State. In this regard, law enforcement authorities should cooperate effectively and by default across the Union. Therefore, an essential component of the measures that underpin public security in an interdependent area without internal border controls is police cooperation on the exchange of relevant information for law enforcement purposes. Exchange of information on crime and criminal activities, including terrorism, serves the overall objective of protecting the security of natural persons.

the applicable Union and national law, the possibility to obtain equivalent access to the information available to their colleagues in another Member State. In this regard, law enforcement authorities should cooperate effectively and by default across the Union. Therefore, an essential component of the measures that underpin public security in an interdependent area without internal border controls is police cooperation on the exchange of relevant information for law enforcement purposes. Exchange of information on crime and criminal activities, including terrorism, serves the overall objective of protecting the security of natural persons. ***Effective exchange of information also contributes to the fight against the grey economy, financial crime, fraud and money laundering.***

Or. en

## **Amendment 27**

**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

### **Proposal for a directive**

#### **Recital 11**

##### *Text proposed by the Commission*

(11) Whilst the Single Points of Contact of each Member State should in any event have the possibility to submit requests for information to the Single Point of Contact of another Member State, in the interest of flexibility, Member States should be allowed to decide that, in addition, their law enforcement authorities may also submit such requests. In order for Single Points of Contact to be able to perform their coordinating functions under this Directive, it is however necessary that, where a Member State takes such a decision, its Single Point of Contact is made aware of all such outgoing requests, as well as of any communications relating

##### *Amendment*

(11) Whilst the Single Points of Contact of each Member State should in any event have the possibility to submit requests for information to the Single Point of Contact of another Member State, in the interest of flexibility, Member States should be allowed to decide that, in addition, their law enforcement authorities may also submit such requests ***in accordance with the procedure laid down in a specific national legal framework.*** In order for Single Points of Contact to be able to perform their coordinating functions under this Directive, it is however necessary that, where a Member State takes such a decision, its Single Point of Contact is made aware of all such outgoing requests,

thereto, by always being put in copy.

as well as of any communications relating thereto, by always being put in copy.

Or. en

## **Amendment 28**

**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

### **Proposal for a directive**

#### **Recital 16**

##### *Text proposed by the Commission*

(16) It is particularly important that the protection of personal data, in accordance with Union law, is ensured in connection to all exchanges of information under this Directive. To that aim, the rules of this Directive should be aligned with Directive (EU) 2016/680 of the European Parliament and of the Council<sup>60</sup>. In particular, it should be specified that any personal data exchanged by Single Points of Contacts and law enforcement authorities is to remain limited to the categories of data listed in Section B point 2, of Annex II to Regulation (EU) 2016/794 of the European Parliament and of the Council<sup>61</sup>. Furthermore, as far as possible, any such personal data should be distinguished according to their degree of accuracy and reliability, whereby facts should be distinguished from personal assessments, in order to ensure both the protection of individuals and the quality and reliability of the information exchanged. If it appears that the personal data are incorrect, they should be rectified or erased without delay. Such rectification or erasure, as well as any other processing of personal data in connection to the activities under this Directive, should be carried out in compliance with the applicable rules of Union law, in particular Directive (EU) 2016/680 **and Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>62</sup>**, which rules this Directive

##### *Amendment*

(16) It is particularly important that the protection of personal data, in accordance with Union law, is ensured in connection to all exchanges of information under this Directive. To that aim, the rules of this Directive should be aligned with Directive (EU) 2016/680 of the European Parliament and of the Council<sup>60</sup>. In particular, it should be specified that any personal data exchanged by Single Points of Contacts and law enforcement authorities is to remain limited to the categories of data listed in Section B point 2, of Annex II to Regulation (EU) 2016/794 of the European Parliament and of the Council<sup>61</sup>. Furthermore, as far as possible, any such personal data should be distinguished according to their degree of accuracy and reliability, whereby facts should be distinguished from personal assessments, in order to ensure both the protection of individuals and the quality and reliability of the information exchanged. If it appears that the personal data are incorrect, they should be rectified or erased without delay. Such rectification or erasure, as well as any other processing of personal data in connection to the activities under this Directive, should be carried out in compliance with the applicable rules of Union law, in particular Directive (EU) 2016/680, which rules this Directive leaves unaffected.

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<sup>60</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119 4.5.2016, p. 89).

<sup>61</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

***<sup>62</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119 4.5.2016, p. 1).***

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<sup>60</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119 4.5.2016, p. 89).

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Or. en

#### *Justification*

*GDPR reference not relevant for personal data processing envisaged by this Proposal, see also EDPS opinion.*

**Amendment 29**  
**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

**Proposal for a directive**  
**Recital 18**

*Text proposed by the Commission*

(18) The further development of the European Union Agency for Law Enforcement Cooperation (Europol) as the Union's criminal information hub is a priority. That is why, when information or any related communications are exchanged, irrespective of whether that is done pursuant to a request for information submitted to a Single Point of Contact or law enforcement authority, or on their own-initiative, a copy should be sent to Europol, however only insofar as it concerns offences falling within the scope of the objectives of Europol. In practice, this *can* be done through the ticking by default of the corresponding SIENA box.

*Amendment*

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Or. en

**Amendment 30**  
**Petri Sarvamaa**

**Proposal for a directive**  
**Recital 19**

*Text proposed by the Commission*

(19) The proliferation of communication channels used for the transmission of law enforcement information between Member States and of communications relating thereto should be remedied, as it hinders the adequate and rapid exchange of such information. Therefore, the use of the secure information exchange network application called SIENA, managed by Europol in accordance with Regulation (EU) 2016/794, *should be made* mandatory for all such transmissions and communications under this Directive, including the sending of requests for information submitted to Single Points of Contact and directly to law enforcement authorities, the provision of information upon such requests and on their own initiative, communications on refusals and

*Amendment*

(19) The proliferation of communication channels used for the transmission of law enforcement information between Member States and of communications relating thereto should be remedied, as it hinders the adequate and rapid exchange of such information. Therefore, *it is justified to make* the use of the secure information exchange network application called SIENA, managed by Europol in accordance with Regulation (EU) 2016/794, *the main channel for exchange of information and* mandatory for all such transmissions and communications under this Directive, including the sending of requests for information submitted to Single Points of Contact and directly to law enforcement authorities, the provision of information upon such requests and on

clarifications, as well as copies to Single Points of Contact and Europol. To that aim, all Single Points of Contact, as well as all law enforcement authorities that may be involved in such exchanges, should be directly connected to SIENA. In this regard, a transition period should be provided for, however, in order to allow for the full roll-out of SIENA.

their own initiative, communications on refusals and clarifications, as well as copies to Single Points of Contact and Europol. To that aim, all Single Points of Contact, as well as all law enforcement authorities that may be involved in such exchanges, should be directly connected to SIENA. In this regard, a transition period should be provided for, however, in order to allow for the full roll-out of SIENA ***as the full roll-out of SIENA entails a significant change in current practices in some Member States and requires extensive national information system reforms and training of personnel, which in turn requires additional resources.***

Or. en

### **Amendment 31** **Petri Sarvamaa**

#### **Proposal for a directive** **Recital 20**

##### *Text proposed by the Commission*

(20) In order to simplify, facilitate and better manage information flows, Member States should each establish or designate one Single Point of Contact competent for coordinating information exchanges under this Directive. The Single Points of Contact should, in particular, contribute to mitigating the fragmentation of the law enforcement authorities' landscape, specifically in relation to information flows, in response to the growing need to jointly tackle cross-border crime, such as drug trafficking and terrorism. For the Single Points of Contact to be able to effectively fulfil their coordinating functions in respect of the cross-border exchange of information for law enforcement purposes under this Directive, they should be assigned a number of specific, minimum tasks and also have

##### *Amendment*

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certain minimum capabilities.

*important to produce an assessment of the costs of the Single Points of Contact at an early stage, with the greatest possible accuracy, in order to be able to prepare comprehensively for the impacts and implementation of the proposed reforms. In that respect it is appropriate that the financing of needed ICT-reforms be fully secured from the Internal Security Fund while respecting sound financial management and safeguarding the economic interests of the Union.*

Or. en

### **Amendment 32**

**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

#### **Proposal for a directive**

#### **Article 2 – paragraph 1 – point 6**

*Text proposed by the Commission*

(6) ‘personal data’ means personal data as defined in Article 4, point (1) of **Regulation (EU) 2016/679**.

*Amendment*

(6) ‘personal data’ means personal data as defined in Article 3, point (1) of **Directive (EU) 2016/680**.

Or. en

*Justification*

*Not the GDPR reference, but the LED reference is relevant for personal data processing envisaged by this Proposal.*

### **Amendment 33**

**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

#### **Proposal for a directive**

#### **Article 4 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. Member States shall ensure that their Single Point of Contact and, where they have so decided, their law enforcement authorities submit requests for

*Amendment*

1. Member States shall ensure that their Single Point of Contact and, where they have so decided **and laid down in a specific national legal framework**, their

information to the Single Points of Contact of other Member States in accordance with the conditions set out in paragraphs 2 to 5.

law enforcement authorities submit requests for information to the Single Points of Contact of other Member States in accordance with the conditions set out in paragraphs 2 to 5.

Or. en

#### **Amendment 34**

**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

#### **Proposal for a directive**

#### **Article 4 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

Where a Member State has **decided** that, in addition to its Single Point of Contact, its law enforcement authorities may also submit requests for information to the Single Points of Contact of other Member States, it shall ensure that those authorities send, at the same time as submitting such requests, a copy of those requests, and of any other communication relating thereto, to the Single Point of Contact of that Member State.

##### *Amendment*

Where a Member State has **laid down in a specific national legal framework** that, in addition to its Single Point of Contact, its law enforcement authorities may also submit requests for information to the Single Points of Contact of other Member States, it shall ensure that those authorities send, at the same time as submitting such requests, a copy of those requests, and of any other communication relating thereto, to the Single Point of Contact of that Member State.

Or. en

#### **Amendment 35**

**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

#### **Proposal for a directive**

#### **Article 5 – paragraph 1 – point c**

##### *Text proposed by the Commission*

(c) **seven** calendar days, for all requests that are not urgent.

##### *Amendment*

(c) **five** calendar days, for all requests that are not urgent.

Or. en

**Amendment 36**  
**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

**Proposal for a directive**  
**Article -9 (new)**

*Text proposed by the Commission*

*Amendment*

**Article -9**

***Information exchange and procedures  
under Article 7 of the Treaty on European  
Union***

***Authorities of a Member State which is  
subject to a procedure referred to in  
Article 7(1) or 7(2) of the Treaty on  
European Union wishing to request  
information from another Member State  
via the Single Point of Contact shall  
submit their requests to Europol for  
assessment before it can be addressed to  
the Single Point of Contact of the other  
Member State.***

Or. en

**Amendment 37**  
**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

**Proposal for a directive**  
**Article 13 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that, where their Single Point of Contact or their law enforcement authorities send requests for information, provide information pursuant to such requests, provide information on their own initiative or send other communications relating thereto under Chapters II and III or under Article 12, they do so through SIENA.

1. Member States shall ensure that, where their Single Point of Contact or their law enforcement authorities send requests for information, provide information pursuant to such requests, provide information on their own initiative or send other communications relating thereto under Chapters II and III or under Article 12, they do so **only** through SIENA.

Or. en

**Amendment 38**  
**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

**Proposal for a directive**  
**Article 14 – paragraph 3 – point c**

*Text proposed by the Commission*

(c) their Single Point of Contact is provided with the staff, resources and capabilities, including for translation, necessary *to carry out its tasks in an* adequate and rapid *manner* in accordance with this Directive and in particular the time limits set out in Article 5(1);

*Amendment*

(c) their Single Point of Contact is provided with the staff, *financial and technical* resources, *premises, infrastructure* and capabilities, including for translation, necessary *for the effective, adequate and rapid performance of its* tasks in accordance with this Directive and in particular the time limits set out in Article 5(1);

Or. en

**Amendment 39**  
**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

**Proposal for a directive**  
**Article 17 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall provide the Commission with statistics on the exchanges of information with other Member States under this Directive, by 1 March of each year.

*Amendment*

1. Member States shall provide the Commission with statistics on the exchanges of information with other Member States under this Directive, by 1 March of each year. *The statistics as submitted by the Member States shall be made available to the European Parliament.*

Or. en

**Amendment 40**  
**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

**Proposal for a directive**  
**Article 17 – paragraph 2 a (new)**

**2 a. The Commission shall compile the statistics and use them for the reporting obligation laid down in Article 18. The compiled statistics shall be made available to the European Parliament.**

Or. en

#### **Amendment 41**

**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

#### **Proposal for a directive**

#### **Article 18 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The Commission shall, by [date of entry into force + 3 years], submit a report to the European Parliament and to the Council, assessing the implementation of this Directive.

1. The Commission shall, by [date of entry into force + 3 years], submit a report to the European Parliament and to the Council, assessing the implementation of this Directive. ***The report shall contain detailed information on the implementation of this Directive per Member State.***

Or. en

#### **Amendment 42**

**Sophia in 't Veld, Olivier Chastel, Michal Wiezik**

#### **Proposal for a directive**

#### **Article 18 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The Commission shall, by [date of entry into force + 5 years], submit a report to the European Parliament and to the Council assessing the effectivity and effectiveness of this Directive. The Commission shall take into account the information provided by Member States and any other relevant information related to the transposition and implementation of

2. The Commission shall, by [date of entry into force + 5 years], submit a report to the European Parliament and to the Council assessing the effectivity and effectiveness of this Directive. The Commission shall take into account the information provided by Member States and any other relevant information related to the transposition and implementation of

this Directive. On the basis of this evaluation, the Commission shall decide on appropriate follow-up actions, including, if necessary, a legislative proposal.

this Directive, *with specific regard to the obligations laid down in Article 14(3), point (c)*. On the basis of this evaluation, the Commission shall decide on appropriate follow-up actions, including, if necessary, a legislative proposal.

Or. en