



2020/0349(COD)

16.3.2021

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
Proposal for a Regulation of the European Parliament and of the Council
amending Regulation (EU) 2016/794, as regards Europol's cooperation with
private parties, the processing of personal data by Europol in support of
criminal investigations, and Europol's role on research and innovation
(COM(2020)0796 – C9-0401/2020 – 2020/0349(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Javier Zarzalejos

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/794, as regards Europol's cooperation with private parties, the processing of personal data by Europol in support of criminal investigations, and Europol's role on research and innovation (COM(2020)0796 – C9-0401/2020 – 2020/0349(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0791),
 - having regard to Article 294(2) and Article 88 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0401/2020),
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2021),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Europe faces a security landscape in flux, with evolving and increasingly complex security threats. Criminals and terrorists exploit the advantages that the digital transformation and new technologies bring about, including the inter-connectivity and blurring of the boundaries between the physical and digital world. The COVID-19 crisis has added to this, as criminals have quickly seized opportunities to exploit the crisis by adapting their modes of operation or developing new criminal activities. Terrorism remains a significant threat to the freedom and way of life of the Union and its citizens.

Amendment

(2) Europe faces a security landscape in flux, with evolving and increasingly complex security threats. Criminals and terrorists exploit the advantages that the digital transformation and new technologies bring about, including the inter-connectivity and blurring of the boundaries between the physical and digital world ***and the possibility to conceal their crimes and their identity through the deployment of privacy-enhancing technologies***. The COVID-19 crisis has added to this, as criminals have quickly seized opportunities to exploit the crisis by adapting their modes of operation or developing new criminal activities. Terrorism remains a significant threat to the freedom and way of life of the Union and its citizens.

Or. en

Amendment 2

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) These threats spread across borders, cutting across a variety of crimes that they facilitate, and manifest themselves in poly-criminal organised crime groups that engage in a wide range of criminal activities. As action at national level ***alone does*** not suffice to address these transnational security challenges, Member States' law enforcement authorities have increasingly made use of the support and expertise that Europol offers to counter

Amendment

(3) These threats spread across borders, cutting across a variety of crimes that they facilitate, and manifest themselves in poly-criminal organised crime groups that engage in a wide range of criminal activities. As action at national level ***and cross-border cooperation do*** not suffice to address these transnational security challenges, Member States' law enforcement authorities have increasingly made use of the support and expertise that

serious crime and terrorism. Since Regulation (EU) 2016/794 became applicable, the operational importance of Europol's tasks has **changed** substantially. The new threat environment also changes the support Member States need and expect from Europol to keep citizens safe.

Europol offers to **prevent and** counter serious crime and terrorism. Since Regulation (EU) 2016/794 became applicable, the operational importance of Europol's tasks has **increased** substantially. The new threat environment also changes the **scope and type of** support Member States need and expect from Europol to keep citizens safe.

Or. en

Amendment 3

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) As Europe faces increasing threats from organised crime groups and terrorist attacks, an effective law enforcement response must include the availability of well-trained interoperable special intervention units specialised in the control of crisis situations. In the Union, **the** law enforcement units of the Member State cooperate on the basis of Council Decision 2008/617.⁵³ Europol should be able to provide support to these special intervention units, including by providing operational, technical and financial support.

⁵³ Council Decision 2008/617/JHA of 23 June 2008 on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations (OJ L 210, 6.8.2008).

Amendment

(4) As Europe faces increasing threats from organised crime groups and terrorist attacks, an effective law enforcement response must include the availability of well-trained interoperable special intervention units specialised in the control of **man-made** crisis situations **presenting a serious direct physical threat to persons, property, infrastructure or institutions, in particular hostage taking, hijacking and similar events**. In the Union, **those** law enforcement units of the Member State cooperate on the basis of Council Decision 2008/617.⁵³ Europol should be able to provide support to these special intervention units, including by providing operational, technical and financial support.

⁵³ Council Decision 2008/617/JHA of 23 June 2008 on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations (OJ L 210, 6.8.2008, **p. 73**).

Or. en

Amendment 4

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) In recent years large scale cyber attacks targeted public and private entities alike across many jurisdictions in the Union and beyond, affecting various sectors including transport, health and financial services. Cybercrime and cybersecurity cannot be separated in an interconnected environment. The prevention, investigation and prosecution of such activities is supported by coordination and cooperation between relevant actors, including the European Union Agency for Cybersecurity ('ENISA'), competent authorities for the security of network and information systems ('NIS authorities') as defined by Directive (EU) 2016/1148⁵⁴, law enforcement authorities and private parties. In order to ensure the effective cooperation between all relevant actors at Union and national level on cyber attacks and **security** threats, Europol should cooperate with the ENISA through the exchange of information and by providing analytical support.

⁵⁴ Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. **1–30**).

Amendment

(5) In recent years large scale cyber attacks targeted public and private entities alike across many jurisdictions in the Union and beyond, affecting various sectors including transport, health and financial services. Cybercrime and cybersecurity cannot be separated in an interconnected environment. The prevention, **detection**, investigation and prosecution of such activities is supported by coordination and cooperation between relevant actors, including the European Union Agency for Cybersecurity (ENISA), competent authorities for the security of network and information systems (NIS authorities) as defined by Directive (EU) 2016/1148⁵⁴, law enforcement authorities and private parties. In order to ensure the effective cooperation between all relevant actors at Union and national level on cyber attacks and **cybersecurity** threats, Europol should cooperate with the ENISA through the exchange of information and by providing analytical support.

⁵⁴ Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. **1**).

Or. en

Amendment 5

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) The threats posed by serious crime require a coordinated, coherent, multi-disciplinary and multi-agency response. Europol should be able to facilitate and support such intelligence-led **security** initiatives driven by Member States to identify, prioritize and address serious crime threats, such as the European Multidisciplinary Platform Against Criminal Threats. Europol should be able to provide administrative, logistical, financial and operational support to such activities, supporting the identification of cross-cutting priorities and the implementation of horizontal strategic goals in countering serious crime.

Amendment

(7) The threats posed by serious crime require a coordinated, coherent, multi-disciplinary and multi-agency response. Europol should be able to facilitate and support such intelligence-led **operational and strategic** initiatives driven by Member States to identify, prioritize and address serious crime threats, such as the European Multidisciplinary Platform Against Criminal Threats. Europol should be able to provide administrative, logistical, financial and operational support to such activities, supporting the identification of cross-cutting priorities and the implementation of horizontal strategic goals in countering serious crime.

Or. en

Amendment 6

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) The Schengen Information System (SIS), established in the field of police cooperation and judicial cooperation in criminal matters by Regulation (EU) 2018/1862 of the European Parliament and of the Council^{55 56}, is an essential tool for maintaining a high level of security within the area of freedom, security and justice. Europol, as a hub for information exchange in the Union, receives and holds valuable information from third countries and international organisations on persons suspected to be involved in crimes falling within the scope of Europol's mandate.

Amendment

(8) The Schengen Information System (SIS), established in the field of police cooperation and judicial cooperation in criminal matters by Regulation (EU) 2018/1862 of the European Parliament and of the Council⁵⁵, is an essential tool for maintaining a high level of security within the area of freedom, security and justice. Europol, as a hub for information exchange in the Union, receives and holds valuable information from third countries and international organisations on persons suspected to be involved in crimes falling within the scope of Europol's mandate.

Following consultation with the Member States, Europol should be able to enter *data* on these persons in *the* SIS in order to make *it* available directly and in real-time to SIS end-users.

Following consultation with the Member States, Europol should be able to enter *alerts* on these persons *into* SIS, *provided that they are third country nationals*, in order to make *them* available directly and in real-time to SIS end-users *at the frontline, such as border guards or police officers, who do not have access to the Europol information system and the ETIAS watchlist, through which such information is also shared.*

⁵⁵ Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56–106).

⁵⁵ Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56).

⁵⁶ *Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56–106).*

Or. en

Amendment 7

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) Europol has an important role to play in support of the evaluation and monitoring mechanism to verify the application of the Schengen acquis as established by Council Regulation (EU) No 1053/2013. Given the need to reinforce the Union's internal security, Europol should contribute with its expertise, **analysis**, reports and other relevant information to the entire evaluation and monitoring process, from programming to on-site visits and the follow-up. Europol should also assist in developing and updating the evaluation and monitoring tools.

Amendment

(9) Europol has an important role to play in support of the evaluation and monitoring mechanism to verify the application of the Schengen acquis as established by Council Regulation (EU) No 1053/2013. Given the need to reinforce the Union's internal security, Europol should contribute with its expertise, **analyses**, reports and other relevant information to the entire evaluation and monitoring process, from programming to on-site visits and the follow-up. Europol should also assist in developing and updating the evaluation and monitoring tools.

Or. en

Amendment 8

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) In order to help EU funding for security research to develop its full potential and address the needs of law enforcement, Europol should assist the Commission in identifying key research themes, drawing up and implementing the Union framework programmes for research and innovation that are relevant to Europol's objectives. ***When Europol assists the Commission in identifying key research themes, drawing up and implementing a Union framework programme, it*** should not receive funding from that programme in accordance with the conflict of interest principle.

Amendment

(11) In order to help EU funding for security research to develop its full potential and address the needs of law enforcement, Europol should assist the Commission in identifying key research themes, drawing up and implementing the Union framework programmes for research and innovation that are relevant to Europol's objectives. ***In that regard,*** Europol should not receive funding from that programme in accordance with the conflict of interest principle.

Or. en

Amendment 9

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) It is possible for the Union and the Member States to adopt restrictive measures relating to foreign direct investment on the grounds of security or public order. To that end, Regulation (EU) 2019/452 of the European Parliament and of the Council⁵⁷ establishes a framework for the screening of foreign direct investments into the Union that provides Member States and the Commission with the means to address risks to security or public order in a comprehensive manner. ***As part of the assessment of expected implications for security or public order, Europol should support the screening of specific cases of foreign direct investments into the Union that concern undertakings providing technologies used or being developed by Europol or by Member States for the prevention and investigation of crimes.***

Amendment

(12) It is possible for the Union and the Member States to adopt restrictive measures relating to foreign direct investment on the grounds of security or public order. To that end, Regulation (EU) 2019/452 of the European Parliament and of the Council⁵⁷ establishes a framework for the screening of foreign direct investments into the Union that provides Member States and the Commission with the means to address risks to security or public order in a comprehensive manner. ***Foreign direct investments in emerging technologies deserve particular attention as they can have far-reaching implications for security and public order, in particular when such technologies are deployed by law enforcement authorities. Given its role in monitoring emerging technologies and the utility of those technologies for law enforcement and its active involvement in developing new ways of using those technologies for law enforcement purposes, notably through its Innovation Lab and Innovation Hub, Europol has extensive knowledge regarding the opportunities offered by such technologies as well as the risks associated to their use. Europol should therefore support Member States and the Commission in the screening of foreign direct investments into the Union that concern undertakings providing technologies, including software, used by Europol or by Member States for the prevention and investigation of crimes, covered by Europol's objectives. In this context, Europol's expertise should support the assessment of the foreign direct investments and the related risks to security. Particular account should be taken of whether the foreign investor has***

already been involved in activities affecting security in a Member State, whether there is a serious risk that the foreign investor engages in illegal or criminal activities, or whether the foreign investor is controlled directly or indirectly by the government of a third country, including through subsidies.

⁵⁷ Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I , 21.3.2019, p. 1–14).

⁵⁷ Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I , 21.3.2019, p. 1).

Or. en

Amendment 10

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) Publishing the identity and certain personal data of suspects or convicted individuals, who are wanted based on a Member State's judicial decision, increases the chances of locating and arresting such individuals. To support Member States in this task, Europol should be able to publish on its website information on Europe's most wanted fugitives for criminal offences in respect of which Europol is competent, and facilitate the provision of information by the public on these individuals.

Amendment

(15) Publishing the identity and certain personal data of suspects or convicted individuals, who are wanted based on a Member State's judicial decision, increases the chances of locating and arresting such individuals. To support Member States in this task, Europol should be able to publish on its website information on Europe's most wanted fugitives for criminal offences in respect of which Europol is competent, and facilitate the provision of information by the public on these individuals ***to Europol or the competent national authorities.***

Or. en

Amendment 11

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) To ensure that processing of personal data by Europol is limited to the categories of data subjects whose data may be processed under this Regulation, Europol should be able to verify if personal data received in the context of preventing and countering crimes falling within the scope of Europol's objectives corresponds to one of those categories of data subjects. To that end, Europol should be able to carry out a pre-analysis of personal data received with the sole purpose of determining whether such data falls into those categories of data subjects. To this end, Europol should be able to **filter** the data by checking it against data already held by Europol. Such pre-analysis should take place prior to Europol's data processing for cross-checking, strategic analysis, operational analysis or exchange of information. ***If the pre-analysis indicates that personal data does not fall into the categories of data subjects whose data may be processed under this Regulation, Europol should delete that data.***

Amendment

(16) To ensure that processing of personal data by Europol is limited to the categories of data subjects whose data may be processed under this Regulation, Europol should be able to verify if personal data received in the context of preventing and countering crimes falling within the scope of Europol's objectives corresponds to one of those categories of data subjects. To that end, Europol should be able to carry out a pre-analysis of personal data received with the sole purpose of determining whether such data falls into those categories of data subjects. To this end, Europol should be able to **process** the data by checking it against data already held by Europol. Such pre-analysis should take place prior to Europol's data processing for cross-checking, strategic analysis, operational analysis or exchange of information ***and after Europol has established that the data is relevant and necessary for the performance of its tasks.***

Or. en

Amendment 12

Proposal for a regulation Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) As a result of new available information in the context of investigations, for example regarding additional suspects, the categorisation of

personal data in a given dataset may change over time. For this reason, Europol should be allowed to process personal data for the purpose of determining the categories of data subjects for a maximum period of one year. Europol should be able to extend the maximum processing period in duly justified cases and provided that such an extension is necessary and proportionate. The European Data Protection Supervisor should be informed of the extension. Where the processing of personal data for the purpose of determining the categories of data subjects is no longer necessary and justified, and in any case after the end of the maximum processing period, Europol should delete the relevant data.

Or. en

Amendment 13

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) Data collected in criminal investigations have been increasing in size and have become more complex. Member States submit large and complex datasets to Europol, requesting Europol's operational analysis to detect links to other crimes and criminals in other Member States and outside the Union. Member States cannot detect such cross-border links through their own analysis of the data. Europol should be able to support Member States' criminal investigations by processing large and complex datasets to detect such cross-border links where the strict requirements set out in this Regulation are fulfilled. Where necessary to support effectively a specific criminal investigation in a Member State, Europol should be able to process those data sets that national authorities

Amendment

(17) Data collected in criminal investigations have been increasing in size and have become more complex. Member States submit large and complex datasets to Europol, requesting Europol's operational analysis to detect links to other crimes and criminals in other Member States and outside the Union. Member States cannot detect such cross-border links through their own analysis of the data. Europol should be able to support Member States' criminal investigations by processing large and complex datasets to detect such cross-border links where the strict requirements set out in this Regulation are fulfilled. Where necessary to support effectively a specific criminal investigation in a Member State, Europol should be able to process those data sets that national authorities

have acquired in the context of that criminal investigation in accordance with procedural requirements and safeguards applicable under their national criminal law and subsequently submitted to Europol. Where a Member State *provides* Europol with an investigative case file requesting Europol's support for a specific criminal investigation, Europol should be able to process all data contained in that file for as long as it supports that specific criminal investigation. ***Europol should also be able to process personal data that is necessary for its support to a specific criminal investigation in a Member State if that data originates from a third country, provided that the third country is subject to a Commission decision finding that the country ensures an adequate level of data protection ('adequacy decision'), or, in the absence of an adequacy decision, an international agreement concluded by the Union pursuant to Article 218 TFEU, or a cooperation agreement allowing for the exchange of personal data concluded between Europol and the third country prior to the entry into force of Regulation (EU) 2016/794, and provided that the third country acquired the data in the context of a criminal investigation in accordance with procedural requirements and safeguards applicable under its national criminal law.***

have acquired in the context of that criminal investigation in accordance with procedural requirements and safeguards applicable under their national criminal law and subsequently submitted to Europol. Where a Member State, ***the European Public Prosecutor's Office ('the EPPO') or Eurojust provide*** Europol with an investigative case file requesting Europol's support for a specific criminal investigation, ***within the mandate of Europol for operational analysis***, Europol should be able to process all data contained in that file for as long as it supports that specific criminal investigation.

Or. en

Justification

The deleted part has been moved to recital 18a(new)

Amendment 14

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) To ensure that any data processing is necessary and proportionate, Member States should ensure compliance with national and Union law when they submit an investigative case file to Europol. Europol should verify whether, in order to support a specific criminal investigation, it is necessary and proportionate to process personal data that may not fall into the categories of data subjects whose data may **generally** be processed under Annex II of Regulation (EU) 2016/794. Europol should document that assessment. Europol should store such data with functional separation from other data and should only process it where necessary for its support to the specific criminal investigation, such as in case of a new lead.

Amendment

(18) To ensure that any **personal** data processing **by Europol** is necessary and proportionate, Member States should ensure compliance with national and Union law when they submit an investigative case file to Europol. Europol should verify whether, in order to support a specific criminal investigation, it is necessary and proportionate to process personal data that may not fall into the categories of data subjects whose data may be processed under Annex II of Regulation (EU) 2016/794. Europol should document that assessment. Europol should store such data with functional separation from other data and should only process it where necessary for its support to the specific criminal investigation, such as in case of a new lead.

Or. en

Amendment 15

Proposal for a regulation
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) Europol should also be able to process personal data that is necessary for its support to a specific criminal investigation in one or more Member States if that data originates from a third country, provided that the third country is the subject of a Commission decision finding that the country ensures an adequate level of data protection ('adequacy decision'), an international agreement concluded by the Union pursuant to Article 218 TFEU, or a cooperation agreement allowing for the exchange of personal data concluded between Europol and the third country prior to the entry into force of Regulation

(EU) 2016/794, and provided that the third country acquired the data in the context of a criminal investigation in accordance with procedural requirements and safeguards applicable under its national criminal law. Where an investigative case file is provided to Europol by a third country, Europol should verify that the amount of personal data is not manifestly disproportionate in relation to the specific investigation in a Member State that Europol supports, and that there are no objective elements indicating that the case file has been obtained by the third country in manifest violation of fundamental rights. If Europol reaches the conclusion that those conditions are not met, it should not process the data. The EDPS should be informed of the processing and should be provided the investigative case file, the justification for the necessity of the processing by Europol, and a general description of the categories of data.

Or. en

Amendment 16

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) To ensure that a Member State can use Europol's analytical reports as part of judicial proceedings following a criminal investigation, Europol should be able to store the related investigative case file upon request of that Member State for the purpose of ensuring the veracity, reliability and traceability of the criminal intelligence process. Europol should store such data separately and only for as long as the judicial proceedings related to that criminal investigation are on-going in the Member State. There is a need to ensure access of

Amendment

(19) To ensure that a Member State can use Europol's analytical reports as part of judicial proceedings following a criminal investigation, Europol should be able to store the related investigative case file upon request of that Member State, **the EPPO or Eurojust** for the purpose of ensuring the veracity, reliability and traceability of the criminal intelligence process. Europol should store such data separately and only for as long as the judicial proceedings related to that criminal investigation are on-going in the Member

competent judicial authorities as well as the rights of defence, in particular the right of suspects or accused persons or their lawyers of access to the materials of the case.

State. There is a need to ensure access of competent judicial authorities as well as the rights of defence, in particular the right of suspects or accused persons or their lawyers of access to the materials of the case.

Or. en

Amendment 17

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) Cross-border cases of serious crime or terrorism require close collaboration between the law enforcement authorities of the Member States concerned. Europol provides tools to support such cooperation in investigations, notably through the exchange of information. To further enhance such **cooperation** in specific investigations by way of joint operational analysis, Member States should be able to allow other Member States to access directly the information they provided to Europol, without prejudice to any restrictions they put on access to that information. Any processing of personal data by Member States in joint operational analysis should take place in accordance with the rules and safeguards set out in this Regulation.

Amendment

(20) Cross-border cases of serious crime or terrorism require close collaboration between the law enforcement authorities of the Member States concerned. Europol provides tools to support such cooperation in investigations, notably through the exchange of information. To further enhance such **collaboration** in specific investigations by way of joint operational analysis, Member States should be able to allow other Member States to access directly the information they provided to Europol, without prejudice to any **general or specific** restrictions they put on access to that information. Any processing of personal data by Member States in joint operational analysis should take place in accordance with the rules and safeguards set out in this Regulation.

Or. en

Amendment 18

Proposal for a regulation Recital 21

Text proposed by the Commission

(21) Europol provides operational support to the criminal investigations of the competent authorities of the Member States, especially by providing operational and forensic analysis. Member States should be able to make the results of these activities available to their relevant other authorities, including prosecutors and criminal courts, throughout the whole lifecycle of criminal proceedings]. To that end, Europol staff should be enabled to give evidence, which came to their knowledge in the performance of their duties or the exercise of their activities, in criminal proceedings, without prejudice to the applicable use restrictions and national **criminal** procedural law.

Amendment

(21) Europol provides operational support to the criminal investigations of the competent authorities of the Member States, especially by providing operational and forensic analysis. Member States should be able to make the results of these activities available to their relevant other authorities, including prosecutors and criminal courts, throughout the whole lifecycle of criminal proceedings. To that end, Europol staff **which has been authorised by the Executive Director** should be enabled to give evidence, which came to their knowledge in the performance of their duties or the exercise of their activities, in criminal proceedings, without prejudice to the applicable use restrictions and national procedural law.

Or. en

Amendment 19

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) Europol and the **European Public Prosecutor's Office** ('EPPO') established by Council Regulation (EU) 2017/1939⁵⁸, should put necessary arrangements in place to optimise their operational cooperation, taking due account of their respective tasks and mandates. Europol should work closely with the EPPO and actively support the investigations **and prosecutions** of the EPPO upon its request, including by providing analytical support and exchanging relevant information, as well as cooperate with it, from the moment a suspected offence is reported to the EPPO until the moment it determines whether to prosecute or otherwise dispose of the case.

Amendment

(22) Europol and the **EPPO** established by Council Regulation (EU) 2017/1939⁵⁸, should put necessary arrangements in place to optimise their operational cooperation, taking due account of their respective tasks and mandates. Europol should work closely with the EPPO and actively support the investigations of the EPPO upon its request, including by providing analytical support and exchanging relevant information, as well as cooperate with it, from the moment a suspected offence is reported to the EPPO until the moment it determines whether to prosecute or otherwise dispose of the case. Europol should, without undue delay, report to the

Europol should, without undue delay, report to the EPPO any criminal conduct in respect of which the EPPO could exercise its competence. To enhance operational cooperation between Europol and the EPPO, Europol should enable the EPPO to have access, on the basis of a hit/no hit system, to data *available at* Europol, in accordance with the safeguards and data protection guarantees provided for in this Regulation. The rules on the transmission to Union bodies set out in this Regulation should apply to Europol's cooperation with the EPPO. ***Europol should also be able to support criminal investigations by the EPPO by way of analysis of large and complex datasets.***

⁵⁸ 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 L 283, 31.10.2017, p. ***1-71***).

EPPO any criminal conduct in respect of which the EPPO could exercise its competence. To enhance operational cooperation between Europol and the EPPO, Europol should enable the EPPO to have access, on the basis of a hit/no hit system, to data ***provided to*** Europol ***for strategic or operational analysis or cross-checking***, in accordance with the safeguards and data protection guarantees provided for in this Regulation. The rules on the transmission to Union bodies set out in this Regulation should apply to Europol's cooperation with the EPPO.

⁵⁸ 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 L 283, 31.10.2017, p. ***1***).

Or. en

Amendment 20

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) Serious crime and terrorism often have links beyond the territory of the Union. Europol can exchange personal data with third countries while safeguarding the protection of privacy and fundamental rights and freedoms of the data subjects. To reinforce cooperation with third countries in preventing and countering crimes falling within the scope of Europol's objectives, the Executive Director of Europol should be allowed to authorise categories of transfers of personal data to third countries in specific situations

Amendment

(24) Serious crime and terrorism often have links beyond the territory of the Union. Europol can exchange personal data with third countries while safeguarding the protection of privacy and fundamental rights and freedoms of the data subjects. To reinforce cooperation with third countries in preventing and countering crimes falling within the scope of Europol's objectives, the Executive Director of Europol should be allowed to authorise categories of transfers of personal data to third countries in specific situations

and on a case-by-case basis, where such **a group** of transfers related to a specific situation are necessary and meet all the requirements of this Regulation.

and on a case-by-case basis, where such **categories** of transfers related to a specific situation are necessary and meet all the requirements of this Regulation.

Or. en

Amendment 21

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) To support Member States in cooperating with private parties **providing cross-border services** where those private parties hold information relevant for preventing and combatting crime, Europol should be able to receive, and in specific circumstances, exchange personal data with private parties.

Amendment

(25) To support Member States in cooperating with private parties where those private parties hold information relevant for preventing and combatting **serious crime and terrorism**, Europol should be able to receive, and in specific circumstances, exchange personal data with private parties.

Or. en

Amendment 22

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) Criminals increasingly use **cross-border** services **of** private parties to communicate and carry out illegal activities. Sex offenders abuse children and share pictures and videos world-wide **using** online platforms **on the internet**. Terrorists abuse **cross-border** services by online service providers to recruit volunteers, plan and coordinate attacks, and disseminate propaganda. Cyber criminals profit from the digitalisation of our societies using phishing and social engineering to commit other types of cybercrime such as online

Amendment

(26) Criminals increasingly use **the** services **offered by** private parties to communicate and carry out illegal activities. Sex offenders abuse children and share pictures and videos **constituting child sexual abuse material** world-wide **on** online platforms **or with peers via number-independent interpersonal communications services**. Terrorists abuse **the** services **offered** by online service providers to recruit volunteers, plan and coordinate attacks, and disseminate propaganda. Cyber criminals profit from

scams, ransomware attacks or payment fraud. As a result from the increased use of online services by criminals, private parties hold increasing amounts of personal data that may be relevant for criminal investigations.

the digitalisation of our societies using phishing and social engineering to commit other types of cybercrime such as online scams, ransomware attacks or payment fraud. As a result from the increased use of online services by criminals, private parties hold increasing amounts of personal data, **including subscriber, traffic and content data**, that may be relevant for criminal investigations.

Or. en

Amendment 23

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) Given the borderless nature of the internet, these services can often be provided from anywhere in the world. As a result, victims, perpetrators, and the digital infrastructure in which the personal data is stored **and the service provider providing the service** may all be subject to different national jurisdictions, within the Union and beyond. Private parties may therefore hold **data sets** relevant for law enforcement which contain personal data with links to multiple jurisdictions as well as personal data which cannot easily be attributed to any specific jurisdiction. National authorities find it difficult to effectively analyse such multi-jurisdictional or non-attributable **data sets** through national solutions. When private parties decide to lawfully and voluntarily share the data with law enforcement authorities, they do currently not have a single point of contact with which they can share such **data sets** at **Union-level. Moreover, private parties face difficulties when receiving multiple requests from law enforcement authorities of different countries.**

Amendment

(27) Given the borderless nature of the internet, these services can often be provided from anywhere in the world. As a result, victims, perpetrators, **the online service provider** and the digital infrastructure in which the personal data is stored may all be subject to different national jurisdictions, within the Union and beyond. Private parties may therefore hold **datasets** relevant for law enforcement which contain personal data with links to multiple jurisdictions as well as personal data which cannot easily be attributed to any specific jurisdiction. National authorities find it difficult to effectively analyse such multi-jurisdictional or non-attributable **datasets** through national solutions. When private parties decide to lawfully and voluntarily share the data with law enforcement authorities, they do currently not have a single point of contact with which they can share such **datasets** at **Union level.**

Amendment 24**Proposal for a regulation****Recital 28***Text proposed by the Commission*

(28) To ensure that private parties have a point of contact at Union level to lawfully **share** multi-jurisdictional **data sets or data sets that could not** be easily attributed so far to one or several specific jurisdictions, Europol should be able to receive personal data directly from private parties.

Amendment

(28) To ensure that private parties have a point of contact at Union level to lawfully **provide** multi-jurisdictional **datasets or datasets that cannot** be easily attributed so far to one or several specific jurisdictions, Europol should be able to receive personal data directly from private parties.

Amendment 25**Proposal for a regulation****Recital 29***Text proposed by the Commission*

(29) To ensure that Member States **receive** quickly the **relevant** information necessary to initiate investigations to prevent and combat serious crime and terrorism, Europol should be able to process and analyse such **data sets** in order to identify the relevant Member States and forward to the national **law enforcement authorities** concerned **the information and analysis necessary to investigate these crimes under their respective jurisdictions**.

Amendment

(29) To ensure that Member States quickly **receive** the information necessary to initiate investigations to prevent and combat serious crime and terrorism, Europol should be able to process and analyse such **datasets** in order to identify the relevant Member States and forward **the personal data and any results relevant to establish jurisdiction** to the national **units** concerned. **Europol should also be able to forward the personal data and results relevant to establish jurisdiction to contact points, international organisations and third countries concerned with which Europol has concluded a cooperation agreement allowing for the exchange of personal data, or with which the Union has**

concluded an international agreement pursuant to Article 218 TFEU providing for appropriate safeguards, or which is the subject of an adequacy decision by the Commission under Directive (EU) 2016/680 of the European Parliament and of the Council^{1a}. Where the third country concerned is not subject to such an agreement or decision, Europol should be able to transfer the result of its analysis and verification of such data to the third country concerned where the conditions laid down in this Regulation are fulfilled.

^{1a} 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).

Or. en

Amendment 26

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) To ensure that it can identify all relevant national **law enforcement authorities** concerned, Europol should be able to inform private parties when the information received from them is insufficient to enable Europol to identify the **law enforcement authorities** concerned. This would enable private parties which have shared information with

Amendment

(30) To ensure that it can identify all relevant national **units** concerned, Europol should be able to inform private parties when the information received from them is insufficient to enable Europol to identify the **national units** concerned. This would enable private parties which have shared information with Europol to decide whether it is in their interest to share

Europol to decide whether it is in their interest to share additional information with Europol and whether they can lawfully do so. To this end, Europol *can* inform private parties of missing information, as far as this is strictly necessary for the identification of the **relevant law enforcement authorities**. Special safeguards should apply to such transfers **in particular when** the private party concerned is not established within the Union or in a third country with which Europol has a cooperation agreement allowing for the exchange of personal data, or with which the Union has concluded an international agreement pursuant to Article 218 TFEU providing for appropriate safeguards, or which is the subject of an adequacy decision by the Commission, finding that the third country in question ensures an adequate level of data protection.

additional information with Europol and whether they can lawfully do so. To this end, Europol **should be able to** inform private parties of missing information, as far as this is strictly necessary for the identification of the **national units concerned**. Special safeguards should apply to such transfers **where** the private party concerned is not established within the Union or in a third country with which Europol has a cooperation agreement allowing for the exchange of personal data, or with which the Union has concluded an international agreement pursuant to Article 218 TFEU providing for appropriate safeguards, or which is the subject of an adequacy decision by the Commission, finding that the third country in question ensures an adequate level of data protection **compared to the level of protection provided under Directive (EU) 2016/680**.

Or. en

Amendment 27

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) Member States, third countries, international **organisation**, including the International Criminal Police Organisation (Interpol), or private parties may share multi-jurisdictional data sets or data sets that cannot be attributed to one or several specific jurisdictions with Europol, where those **data sets** contain links to personal data held by private parties. Where it is necessary to obtain additional information from such private parties to identify all relevant Member States concerned, Europol should be able to ask Member States, via their national units, to **request** private parties which are established or

Amendment

(31) Member States, third countries, international **organisations**, including the International Criminal Police Organisation (Interpol), or private parties may share multi-jurisdictional data sets or data sets that cannot be attributed to one or several specific jurisdictions with Europol, where those **datasets** contain links to personal data held by private parties. Where it is necessary to obtain additional information from such private parties to identify all relevant Member States concerned, Europol should be able to ask Member States, via their national units, to **provide it with the necessary personal data from**

have a legal representative in their territory to *share* personal data *with* Europol in accordance with those Member States' applicable laws. In many cases, these Member States may not be able to establish a link to their jurisdiction other than the fact that the private party holding the relevant data is established under their jurisdiction. Irrespective of their jurisdiction with regard the specific criminal activity subject to the request, Member States should therefore ensure that their competent national authorities can obtain personal data from private parties for the purpose of supplying Europol with the information necessary for it to fulfil its objectives, in full compliance with procedural guarantees under their national laws.

private parties which are established or have a legal representative in their territory to *identify the national units concerned*. *The relevant* personal data *should be provided to* Europol in accordance with those Member States' applicable laws. In many cases, these Member States may not be able to establish a link to their jurisdiction other than the fact that the private party holding the relevant data is established under *or legally represented in* their jurisdiction. Irrespective of their jurisdiction with regard *to* the specific criminal activity subject to the request, Member States should therefore ensure that their competent national authorities can obtain personal data from private parties for the purpose of supplying Europol with the information necessary for it to fulfil its objectives, in full compliance with procedural guarantees under their national laws.

Or. en

Amendment 28

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) To ensure that Europol does not keep the data longer than necessary to identify the Member States concerned, time limits for the storage of personal data by Europol should apply. Once Europol has exhausted all means at its disposal to identify all *Member States* concerned, and cannot reasonably expect to identify further *Member States* concerned, the storage of this personal data is no longer necessary and proportionate for identifying the Member States concerned. Europol should erase the personal data within four months after the last transmission has taken place, unless a national unit, contact point or

Amendment

(32) To ensure that Europol does not keep the *personal* data longer than necessary to identify the Member States concerned, time limits for the storage of personal data by Europol should apply. Once Europol has exhausted all means at its disposal to identify all *national units* concerned, and cannot reasonably expect to identify further *national units* concerned, the storage of this personal data is no longer necessary and proportionate for identifying the Member States concerned. Europol should erase the personal data within four months after the last transmission *or transfer* has taken place,

authority concerned resubmits the personal data as their data to Europol within this period. If the resubmitted personal data has been part of a larger set of personal data, Europol should only keep *the* personal data *if and in so far as it has* been resubmitted by a national unit, contact point or authority concerned.

unless a national unit, contact point or authority concerned resubmits the personal data as their data to Europol within this period. If the resubmitted personal data has been part of a larger set of personal data, Europol should only keep *those* personal data *which have* been resubmitted by a national unit, contact point or authority concerned.

Or. en

Amendment 29

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) Any cooperation of Europol with private parties should neither duplicate nor interfere with the activities of the Financial Intelligence Units (*'FIUs'*), and should only concern information that is not already to be provided to FIUs in accordance with Directive 2015/849 of the European Parliament and of the Council⁵⁹. Europol should continue to cooperate with FIUs in particular via the national units.

⁵⁹ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

Amendment

(33) Any cooperation of Europol with private parties should neither duplicate nor interfere with the activities of the Financial Intelligence Units (*FIUs*), and should only concern information that is not already to be provided to FIUs in accordance with Directive 2015/849 of the European Parliament and of the Council⁵⁹. Europol should continue to cooperate with FIUs in particular via the national units.

⁵⁹ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

Or. en

Amendment 30

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) Europol should be able to provide the necessary support for national law enforcement authorities to interact with private parties, in particular by providing the necessary infrastructure for such interaction, for example, when national authorities refer terrorist content online to online service providers or exchange information with private parties in the context of cyber attacks. Where Member States use the Europol infrastructure for exchanges of personal data on crimes falling outside the scope of the objectives of Europol, Europol should not have access to that data.

Amendment

(34) Europol should be able to provide the necessary support for national law enforcement authorities to interact with private parties, in particular by providing the necessary infrastructure for such interaction, for example, when national authorities refer terrorist content online ***or send removal orders concerning such content on the basis of Regulation (EU) [2021/XXX] of the European Parliament and of the Council^{1a}*** to online service providers or ***when they*** exchange information with private parties in the context of cyber attacks. Where Member States use the Europol infrastructure for exchanges of personal data on crimes falling outside the scope of the objectives of Europol, Europol should not have access to that data.

^{1a}Regulation (EU) [2021/XXX] of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online (OJ...).

Or. en

Amendment 31

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) Terrorist attacks trigger the large scale dissemination of terrorist content via online platforms ***depicting harm to life or physical integrity, or calling for imminent***

Amendment

(35) Terrorist attacks trigger the large scale dissemination of terrorist content via online platforms ***thereby allowing terrorists to glorify and train terrorist***

harm to life or physical integrity. To ensure that Member States can effectively prevent the dissemination of *such content in the context of such crisis situations stemming from ongoing or recent real-world events*, Europol should be able to exchange personal data with private parties, including hashes, IP addresses or URLs related to such content, necessary in order to support Member States in preventing the dissemination of such content, in particular where *this content aims at or has the effect of seriously intimidating a population, and where* there is an anticipated potential for exponential multiplication and virality across multiple online service providers.

activity, mock victims, and eventually radicalise and recruit others. Moreover, paedophiles and sex offenders increasingly use the internet to record or share images or videos constituting child sexual abuse material, which perpetuates the harm for the victims as the material can easily be multiplied and circulated to anyone, including friends or relatives of the victims. To ensure that Member States can effectively prevent the dissemination of *terrorist content, and child sexual abuse material and support actions by online service providers inline with their obligations under Union law as well as voluntary actions*, Europol should be able to exchange personal data with private parties, including hashes, IP addresses or URLs related to such content, necessary in order to support Member States in preventing the dissemination of such content, in particular where there is an anticipated potential for exponential multiplication and virality across multiple online service providers.

Or. en

Amendment 32

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) Regulation (EU) 2018/1725 of the European Parliament and of the Council⁶⁰ ⁶¹ sets out rules on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies **but it did not apply** to Europol. To ensure uniform and consistent protection of natural persons with regard to the processing of personal data, Regulation (EU) 2018/1725 should be made applicable **le** to Europol in accordance with Article 2(2) of that

Amendment

(36) Regulation (EU) 2018/1725 of the European Parliament and of the Council⁶⁰ sets out rules on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies. **While Regulation (EU) 2018/1725 has been applicable to the processing of administrative personal data by Europol that are unrelated to criminal investigations, such as staff data, Article 3(2) and Chapter IX of that Regulation,**

Regulation, and should be complemented by specific provisions for the specific processing operations that Europol should perform to accomplish its tasks.

which regulate the processing of operational personal data, have so far not applied to Europol. To ensure uniform and consistent protection of natural persons with regard to the processing of personal data, Regulation (EU) 2018/1725 should be made applicable to Europol in accordance with Article 2(2) of that Regulation, and should be complemented by specific provisions for the specific processing operations that Europol should perform to accomplish its tasks.

⁶⁰ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁶⁰ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁶¹ *Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).*

Or. en

Amendment 33

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) Given the challenges *that the use* of new technologies by criminals *pose to the Union's security*, law enforcement

Amendment

(37) Given the challenges *posed to the Union's security by the rapid technological development and the*

authorities are required to strengthen their technological capacities. **To that end**, Europol should support Member States in the use of emerging technologies **in preventing and countering crimes falling within the scope of Europol's objectives**. **To explore** new approaches and **develop** common technological solutions for Member States to prevent and counter crimes falling within the scope of Europol's objectives, Europol should be able to conduct research and innovation activities regarding matters covered by this Regulation, including **with** the processing of personal data where necessary and whilst ensuring full respect for fundamental rights. The provisions on the development of new tools by Europol should not constitute a legal basis for their deployment at Union or national level.

exploitation of new technologies by criminals, law enforcement authorities are required to strengthen their technological capacities **to identify, secure and analyse the data needed to investigate crimes**. Europol should **be able to** support Member States in the use of emerging technologies **and in exploring** new approaches and **developing** common technological solutions for Member States to **better** prevent and counter crimes falling within the scope of Europol's objectives. **To that end**, Europol should be able to conduct research and innovation activities regarding matters covered by this Regulation, including the processing of personal data where necessary and whilst ensuring full respect for fundamental rights, **notably non-discrimination**. **Given the sensitivity of such processing, the research and innovation activities of Europol should be subject to specific safeguards**. **In order to effectively mitigate bias in algorithmic decision-making it is crucial to train the technology with representative datasets**. **For this reason, Europol should be allowed to process personal data outside the categories of data subjects that may be processed under Annex II of Regulation (EU) 2016/794 in exceptional and duly justified cases where the processing of such data is strictly necessary to prevent bias**. The provisions on the development of new tools by Europol should not constitute a legal basis for their deployment at Union or national level.

Or. en

Amendment 34

Proposal for a regulation Recital 38

Text proposed by the Commission

(38) Europol should play a key role in assisting Member States to develop new technological solutions based on artificial intelligence, which *would* benefit national law enforcement authorities throughout the Union. Europol should play a key role in promoting ethical, trustworthy and human centric artificial intelligence subject to robust safeguards in terms of security, safety and fundamental rights.

Amendment

(38) Europol should play a key role in assisting Member States to develop new technological solutions based on artificial intelligence ***relevant to achieve Europol's objectives***, which benefit national law enforcement authorities throughout the Union ***in full respect for fundamental rights***. Europol should play a key role in promoting ***the development and deployment of*** ethical, trustworthy and human centric artificial intelligence subject to robust safeguards in terms of security, safety, ***transparency*** and fundamental rights.

Or. en

Amendment 35

Proposal for a regulation

Recital 40

Text proposed by the Commission

(40) Providing Europol with additional tools and capabilities requires reinforcing the democratic oversight and accountability of Europol. Joint parliamentary scrutiny constitutes an important element of political monitoring of Europol's activities. To enable effective political monitoring of the way Europol applies additional tools and capabilities, Europol should provide the Joint Parliamentary Scrutiny Group with annual information on the use of these tools and capabilities and the result thereof.

Amendment

(40) Providing Europol with additional tools and capabilities requires reinforcing the democratic oversight and accountability of Europol. Joint parliamentary scrutiny constitutes an important element of political monitoring of Europol's activities. To enable effective political monitoring of the way Europol applies additional tools and capabilities ***provided to it by this Regulation***, Europol should provide the Joint Parliamentary Scrutiny Group (***JPSG***) with annual information on the use of these tools and capabilities and the result thereof. ***Moreover, two representatives of the JPSG, one for the European Parliament and one for the national parliaments to reflect the dual constituency of the JPSG, should be invited to the Management Board meetings to address the Board on***

Amendment 36

Proposal for a regulation Recital 45

Text proposed by the Commission

(45) The European Data Protection Supervisor was consulted, in accordance with Article 41(2) of Regulation (EU) 2018/1725 of the European Parliament and the Council, and has delivered an opinion on [...].

Amendment

(45) The European Data Protection Supervisor was consulted, in accordance with Article 41(2) of Regulation (EU) 2018/1725 of the European Parliament and the Council, and has delivered an opinion on **8 March 2021^{1a}**.

^{1a} **OJ C 143, 23.4.2021, p. 6**

Amendment 37

Proposal for a regulation Article 1 – paragraph 1 – point 1 – point b Regulation (EU) 2016/749 Article 2 – paragraph 1 – point p

Text proposed by the Commission

(p) ‘administrative personal data’ means all personal data processed by Europol apart from operational data;;

Amendment

(p) ‘administrative personal data’ means all personal data processed by Europol apart from operational **personal** data;

Amendment 38

Proposal for a regulation Article 1 – paragraph 1 – point 1 – point c

Regulation (EU) 2016/795
Article 2 – paragraph 1 – point q

Text proposed by the Commission

(q) ‘investigative case file’ means a dataset or multiple datasets that a Member State, the EPPO or a third country **acquired** in the context of an on-going criminal investigation, in accordance with procedural requirements and safeguards under the applicable **national criminal law, and submitted** to Europol in support of that criminal investigation.

Amendment

(q) ‘investigative case file’ means a dataset or multiple datasets that a Member State, the EPPO, **Eurojust** or a third country **acquires** in the context of an on-going criminal investigation, in accordance with procedural requirements and safeguards under the applicable law **and submits** to Europol in support of that criminal investigation.

Or. en

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c a (new)

Regulation (EU) 2016/795

Article 2 – paragraph 1 – point q a (new)

Text proposed by the Commission

Amendment

(ca) the following point is added:

“(qa) ‘terrorist content’ means materials as defined in Article 2(7) of Regulation (EU) [2021/XXX] of the European Parliament and of the Council*;

*** Regulation (EU) [2021/XXX] of the European Parliament and of the Council of 29 April 2029 on addressing the dissemination of terrorist content online (OJ ...)”**

Or. en

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c b (new)

Regulation (EU) 2016/795
Article 2 – paragraph 1 – point q b (new)

Text proposed by the Commission

Amendment

(cb) the following point is added:
“(qb) ‘child sexual abuse material’ means material constituting child pornography as defined in point (c) of Article 2 of Directive 2011/93/EU of the European Parliament and of the Council* or pornographic performance as defined in point (e) of Article 2 of that Directive;

*** Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).”**

Or. en

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a – point ii

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point j

Text proposed by the Commission

Amendment

(j) cooperate with the Union bodies established on the basis of Title V of the TFEU **and with** OLAF and ENISA, in particular through exchanges of information and by providing them with analytical support in the areas that fall within their competence;;

(j) cooperate with the Union bodies established on the basis of Title V of the TFEU, **including** OLAF and ENISA, in particular through exchanges of information and by providing them with analytical support in the areas that fall within their competence;

Or. en

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a – point iii

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point m

Text proposed by the Commission

(m) support Member States' actions in preventing and combating forms of crime listed in Annex I which are facilitated, promoted or committed using the internet, including, in cooperation with Member States, the coordination of law enforcement authorities' response to cyberattacks, the taking down of terrorist content online, and the making of referrals of internet content, by which such forms of crime are facilitated, promoted or committed, to the online service providers concerned for their voluntary consideration of the compatibility of the referred internet content with their own terms and conditions;

Amendment

(m) support Member States' actions in preventing and combating forms of crime listed in Annex I which are facilitated, promoted or committed using the internet, including, in cooperation with Member States, the coordination of law enforcement authorities' response to cyberattacks, the taking down of terrorist content online, ***including content related to violent extremism, and child sexual abuse material***, and the making of referrals of internet content, by which such forms of crime are facilitated, promoted or committed, to the online service providers concerned for their voluntary consideration of the compatibility of the referred internet content with their own terms and conditions;

Or. en

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a – point iv

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point r

Text proposed by the Commission

(r) enter ***data*** into the Schengen Information System, in accordance with Regulation (EU) 2018/1862 of the European Parliament and of the Council*, following consultation with the Member States in accordance with Article 7 of this Regulation, and under authorisation by the Europol Executive Director, on the

Amendment

(r) enter ***alerts*** into the Schengen Information System, in accordance with Regulation (EU) 2018/1862 of the European Parliament and of the Council*, following consultation with the Member States in accordance with Article 7 of this Regulation, ***which did not result in a reasoned objection by a Member State or***

suspected involvement of a third country national in an offence in respect of which Europol is competent and of which it is aware on the basis of information received from third countries or international organisations within the meaning of Article 17(1)(b);

in a Member State expressing its intention to enter an alert on its own behalf and under authorisation by the Europol Executive Director, on the suspected involvement of a third country national in an offence in respect of which Europol is competent and of which it is aware on the basis of information received from third countries or international organisations within the meaning of Article 17(1)(b);

Or. en

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a – point iv

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point t

Text proposed by the Commission

(t) proactively monitor and contribute to research and innovation activities relevant to achieve the objectives set out in Article 3, **support** related activities of Member States, and **implement** its research and innovation activities regarding matters covered by this Regulation, including the development, training, testing and validation of algorithms for the development of tools.

Amendment

(t) proactively monitor and contribute to research and innovation activities relevant to achieve the objectives set out in Article 3 **by supporting** related activities of Member States, and **implementing** its research and innovation activities regarding matters covered by this Regulation, including the development, training, testing and validation of algorithms for the development of tools **for law enforcement**.

Or. en

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a – point iv

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point u

Text proposed by the Commission

(u) support Member States' actions in preventing the dissemination of online content related to ***terrorism or violent extremism in crisis situations, which stems from an ongoing or recent real-world event, depicts harm to life or physical integrity or calls for imminent harm to life or physical integrity, and aims at or has the effect of seriously intimidating a population, and*** where there is an anticipated potential for exponential multiplication and virality across multiple online service providers.

Amendment

(u) support Member States' actions in preventing the dissemination of ***terrorist content*** online, ***including*** content related to violent extremism where there is an anticipated potential for exponential multiplication and virality across multiple online service providers.

Or. en

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point a – point iv

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point u a (new)

Text proposed by the Commission

Amendment

(ua) support Member States' actions in preventing the online dissemination of child sexual abuse material.

Or. en

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point d

Regulation (EU) 2016/794

Article 4 – paragraph 4 a

Text proposed by the Commission

Amendment

4a. Europol shall assist the Commission in identifying key research

4a. Europol shall assist the Commission in identifying key research

themes, drawing up and implementing the Union framework programmes for research and innovation activities that are relevant to achieve the objectives set out in Article 3. ***When*** Europol ***assists the Commission in identifying key research themes, drawing up and implementing a Union framework programme, the Agency*** shall not receive funding from ***that programme***.

themes, drawing up and implementing the Union framework programmes for research and innovation activities that are relevant to achieve the objectives set out in Article 3. ***In that regard***, Europol shall not receive funding from ***those programmes***.

Or. en

Amendment 48

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point d

Regulation (EU) 2016/794

Article 4 – paragraph 4 b

Text proposed by the Commission

4b. Europol shall support the screening of specific cases of foreign direct investments into the Union under Regulation (EU) 2019/452 of the European Parliament and of the Council* that concern undertakings providing technologies used ***or being developed*** by Europol or by Member States for the prevention and investigation of crimes covered by Article 3 on the expected implications for security.

Amendment

4b. Europol shall support ***the Commission and Member States in*** the screening of specific cases of foreign direct investments into the Union under Regulation (EU) 2019/452 of the European Parliament and of the Council* that concern undertakings providing technologies, ***including software***, used by Europol or by Member States for the prevention and investigation of crimes covered by Article 3 on the expected implications for security.

Or. en

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – introductory part

Regulation (EU) 2016/794

Article 6

Text proposed by the Commission

Amendment

(3) *in Article 6, paragraph 1 is replaced by the following:*

(3) *Article 6 is amended as follows:*

Or. en

Amendment 50

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. In specific cases where Europol considers that a criminal investigation should be initiated into a crime falling within the scope of its objectives, it shall request the competent authorities of the Member State or Member States concerned via the national units to initiate, conduct or coordinate such a criminal investigation.

deleted

Or. en

Justification

Article 6(1) should stay as it was. A new paragraph 1a is added to cover the situations in which Europol should be allowed to request the initiation of an investigation.

Amendment 51

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point i (new)

Regulation (EU) 2016/794

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

i) the following paragraph is inserted:

“1a. Without prejudice to paragraph 1 and regardless of whether a crime has a cross-border nature, where Europol considers that a criminal investigation should be initiated into a specific crime and that the specific crime affects a common interest covered by a Union policy, it shall request the competent authorities of the Member State concerned via the national units to initiate, conduct or coordinate such criminal investigation.”

Or. en

Amendment 52

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point ii (new)

Regulation (EU) 2016/794

Article 6 – paragraph 2

Present text

2. The national units shall inform Europol without delay of the decision of the competent authorities of the Member States concerning any request made pursuant to paragraph 1.

Amendment

ii) paragraph 2 is replaced by the following:

“2. The national units shall inform Europol without delay of the decision of the competent authorities of the Member States concerning any request made pursuant to ***paragraphs 1 and 1a.***”

Or. en

Amendment 53

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point iii (new)

Regulation (EU) 2016/794

Article 6 – paragraph 3 – introductory part

Present text

Amendment

iii) the introductory part of paragraph

3. If the competent authorities of a Member State decide not to accede to a request made by Europol pursuant to paragraph 1, they shall inform Europol of the reasons for their decision without undue delay, preferably within one month of receipt of the request. However, the reasons may be withheld if providing them would:

3 is replaced by the following:

"3. If the competent authorities of a Member State decide not to accede to a request made by Europol pursuant to **paragraphs 1 and 1a**, they shall inform Europol of the reasons for their decision without undue delay, preferably within one month of receipt of the request. However, the reasons may be withheld if providing them would:"

Or. en

Amendment 54

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point iv (new)

Regulation (EU) 2016/794

Article 6 – paragraph 4

Present text

4. Europol shall immediately inform Eurojust of any request made pursuant to paragraph 1 and of any decision of a competent authority of a Member State pursuant to paragraph 2.

Amendment

iv) paragraph 4 is replaced by the following:

"4. Europol shall immediately inform Eurojust of any request made pursuant to **paragraphs 1 and 1a** and of any decision of a competent authority of a Member State pursuant to paragraph 2;"

Or. en

Amendment 55

Proposal for a regulation

Article 1 – paragraph 1 – point 4 a (new)

Regulation (EU) 2016/794

Article 11 – paragraph 1 – point a

Present text

(a) adopt each year, by a majority of

Amendment

(4a) In Article 11(1), point (a) is replaced by the following:

"(a) adopt each year, by a majority of

two-thirds of its members and in accordance with Article 12, a document containing Europol's multiannual programming and its annual work programme for the following year;

two-thirds of its members and in accordance with Article 12, a **single programming** document **in accordance with Article 32 of the Commission Delegated Regulation (EU) 2019/715* and the related Commission guidelines for the single programming document** containing Europol's multiannual programming and its annual work programme for the following year.

***Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1)."**

Or. en

Justification

To bring the Europol regulation into line with the provisions of the relevant Commission Delegated Regulation and other basic acts governing the decentralised agencies.

Amendment 56

Proposal for a regulation

Article 1 – paragraph 1 – point 4 b (new)

Regulation (EU) 2016/794

Article 12 – paragraph 1

Present text

1. The Management Board shall, by 30 November each year, adopt a document containing Europol's multiannual programming and annual work programme, based on a draft put forward by the Executive Director, taking into account the opinion of the Commission and, as regards

Amendment

(4b) In Article 12, paragraph 1 is replaced by the following:

“1. The Management Board shall, by 30 November each year, adopt a **single programming** document containing Europol's multiannual programming and annual work programme, based on a draft put forward by the Executive Director, taking into account the opinion of the

the multiannual programming, after having consulted the JPSG. The Management Board shall forward *that* document to the Council, the Commission and the JPSG.

Commission and, as regards the multiannual programming, after having consulted the JPSG. ***If the Management Board decides not to take into account elements of the opinion of the Commission, it shall provide a thorough justification. The same obligation shall apply to the elements raised by the JPSG in accordance with point (c) of Article 51(2).*** The Management Board shall forward ***the final single programming*** document to the Council, the Commission and the JPSG."

Or. en

Justification

As is the case for Frontex, the Europol Management Board should provide a justification where it decides not to take into account elements of the Commission opinion. The same shall apply to input of the JPSG to the multiannual programming.

Amendment 57

Proposal for a regulation

Article 1 – paragraph 1 – point 4 c (new)

Regulation (EU) 2016/794

Article 14 – paragraph 4

Present text

4. The Management Board may invite any person whose opinion may be relevant for the discussion, ***including, where appropriate, a representative of the JPSG,*** to attend its meeting as a non-voting observer.

Amendment

(4c) In Article 14, paragraph 4 is replaced by the following:

"2. The Management Board may invite any person whose opinion may be relevant for the discussion to attend its meeting as a non-voting observer. ***Two representatives of the JPSG shall be invited to all meetings of the Management Board as a non-voting observer.***"

Or. en

Justification

Due to its dual constituency, the JPSG should be allowed to send one representative for the national parliaments and one representative for the European Parliament.

Amendment 58

Proposal for a regulation

Article 1 – paragraph 1 – point 4 d (new)

Regulation (EU) 2016/794

Article 16 – paragraph 5 – point d

Present text

(d) preparing the draft multiannual programming and annual work programmes and submitting **them** to the Management Board, after having consulted the Commission;

Amendment

(4d) In Article 16(5), point (d) is replaced by the following:

“(d) preparing the draft **single programming document containing the** multiannual programming and annual work programmes and submitting **it** to the Management Board, after having consulted the Commission;”

Or. en

Justification

Aligned with the Commission Delegated Regulation on decentralised agencies and other basic acts

Amendment 59

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point c

Regulation (EU) 2016/794

Article 18 – paragraph 5

Text proposed by the Commission

5. Without prejudice to Article 8(4) and Article 18a, categories of personal data and categories of data subjects whose data may be collected and processed for each purpose referred to in paragraph 2 are listed in Annex II.

Amendment

5. Without prejudice to Article 8(4), **Article 18(2)(e)** and Article 18a, categories of personal data and categories of data subjects whose data may be collected and processed for each purpose referred to in paragraph 2 are listed in Annex II.

Or. en

Justification

When developing algorithms for law enforcement purposes, it is crucial to mitigate the risk of bias. Therefore, Europol should be allowed to process data categories outside Annex II for narrowly defined purposes (see art. 33a).

Amendment 60

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point c a (new)

Regulation (EU) 2016/794

Article 18 – paragraph 6

Present text

6. Europol may temporarily process data for the purpose of determining whether such data are relevant to its tasks and, if so, for which of the purposes referred to in paragraph 2. The Management Board, acting on a proposal from the Executive Director and after consulting the EDPS, shall further specify the conditions relating to the processing of such data, in particular with respect to access to and use of the data, as well as time limits for the storage and deletion of the data, which may not exceed six months, having due regard to the principles referred to in *Article 28*.

Amendment

(ca) paragraph 6 is replaced by the following:

“6. Europol may temporarily process data for the purpose of determining whether such data are relevant to its tasks and, if so, for which of the purposes referred to in paragraph 2. The Management Board, acting on a proposal from the Executive Director and after consulting the EDPS, shall further specify the conditions relating to the processing of such data, in particular with respect to access to and use of the data, as well as time limits for the storage and deletion of the data, which may not exceed six months, having due regard to the principles referred to in *Article 71 of Regulation (EU) 2018/1725* .”

Or. en

Justification

Justification : Necessary adaptation of the reference at the end of the paragraph resulting from the deletion of Art. 28

Amendment 61

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point d

Text proposed by the Commission

(d) the following paragraph **5a** is inserted:

5a. Prior to the processing of data under paragraph 2 of this Article, Europol may temporarily process personal data received pursuant to Article 17(1) and (2) for the purpose of determining whether such data comply with the requirements of paragraph 5 of this Article, including by checking the data against all data that Europol already processes in accordance with paragraph 5.

Amendment

(d) the following paragraph **6a** is inserted:

6a. Prior to the processing of data under paragraph 2 of this Article, Europol may temporarily process personal data received pursuant to Article 17(1) and (2) for the purpose of determining whether such data comply with the requirements of paragraph 5 of this Article, including by checking the data against all data that Europol already processes in accordance with paragraph 5.

Or. en

Justification

The proposed paragraph 5a should be moved after paragraph 6 as Europol should first establish the relevance of data for its tasks before making use of temporary analysis under this paragraph.

Amendment 62

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point d

Regulation (EU) 2016/794

Article 18 – paragraph 6a – subparagraph 3

Text proposed by the Commission

Europol may only process personal data pursuant to this paragraph for a maximum period of one year, or in justified cases for a longer period **with the prior authorisation of the EDPS**, where necessary for the purpose of this Article. Where the **result of the processing indicates that** personal data **do** not comply with the requirements of paragraph 5 of this Article, **Europol shall delete that data** and inform the provider of the data

Amendment

Europol may only process personal data pursuant to this paragraph for a maximum period of one year, or in **duly** justified cases for a longer period where necessary **and proportionate** for the purpose of this Article. **The EDPS shall be informed of the extension of the maximum processing period.** Where the **temporary processing is no longer necessary and proportionate for the purpose of this Article, and in any case after the end of the maximum processing period, Europol shall delete**

accordingly.

the personal data *that does* not comply with the requirements of paragraph 5 of this Article and inform the provider of the data accordingly

Or. en

Amendment 63

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 1 – point a

Text proposed by the Commission

(a) a Member State or the EPPO provides an investigative case file to Europol pursuant to *point (a)* of Article 17(1) *for the purpose of operational analysis in* support of that specific criminal investigation within the mandate of Europol pursuant to point (c) of Article 18(2); and

Amendment

(a) a Member State or the EPPO *or Eurojust* provides an investigative case file to Europol pursuant to *points (a) and (b)* of Article 17(1) *requesting Europol to* support of that specific criminal investigation within the mandate of Europol pursuant to point (c) of Article 18(2); and

Or. en

Amendment 64

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Europol may process personal data contained in an investigative case for as long as it supports the on-going specific criminal investigation for which the investigative case file was provided by a Member State *or* the EPPO in accordance with paragraph 1, and only for the purpose of supporting that investigation.

Amendment

Europol may process personal data contained in an investigative case *file* for as long as it supports the on-going specific criminal investigation for which the investigative case file was provided by a Member State, the EPPO *or Eurojust* in accordance with paragraph 1, and only for the purpose of supporting that investigation.

Amendment 65

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

The Management Board, acting on a proposal from the Executive Director and after consulting the EDPS, shall further specify the conditions relating to the processing of such data.

deleted

Or. en

Justification

This sentence has been merged with the last sentence of paragraph 3 in new paragraph 3a

Amendment 66

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Without prejudice to the processing of personal data under Article 18(5a), personal data outside the categories of data subjects listed in Annex II shall be functionally separated from other data and may only be accessed where necessary for the support of the specific criminal investigation for which they were provided.

deleted

Or. en

Justification

*This sentence has been merged with the last sentence of paragraph 3 in new paragraph 3a
3a This sentence has been merged with the last sentence of paragraph 3 in new paragraph 3a*

Amendment 67

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Upon request of the Member State **or the EPPO** that provided an investigative case file to Europol pursuant to paragraph 1, Europol may store that investigative case file and the outcome of its operational analysis beyond the **storage** period set out in paragraph 2, for the sole purpose of ensuring the veracity, reliability and traceability of the criminal intelligence process, and only for as long as the judicial proceedings related to that criminal investigation are on-going in that Member State.

Amendment

3. Upon request of the Member State that provided an investigative case file to Europol pursuant to paragraph 1, **or upon request of Eurojust or the EPPO, as appropriate**, Europol may store that investigative case file and the outcome of its operational analysis beyond the **processing** period set out in paragraph 2, for the sole purpose of ensuring the veracity, reliability and traceability of the criminal intelligence process, and only for as long as the judicial proceedings related to that criminal investigation are on-going in that Member State **or within the EPPO or Eurojust**.

Or. en

Amendment 68

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 3 – subparagraph 2

Text proposed by the Commission

That Member State may also request Europol to store the investigative case file and the outcome of its operational analysis beyond the storage period set out in paragraph 2 for the purpose of ensuring the

Amendment

That Member State, **the EPPO or Eurojust** may also request Europol to store the investigative case file and the outcome of its operational analysis beyond the storage period set out in paragraph 2 for the

veracity, reliability and traceability of the criminal intelligence process, and only for as long as judicial proceedings following a related criminal investigation are on-going in another Member State.

purpose of ensuring the veracity, reliability and traceability of the criminal intelligence process, and only for as long as judicial proceedings following a related criminal investigation are on-going in another Member State.

Or. en

Amendment 69

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 3 – subparagraph 3a (new)

Text proposed by the Commission

The Management Board, acting on a proposal from the Executive Director and after consulting the EDPS, shall further specify the conditions relating to the processing of *such data*. Such personal data shall be functionally separated from other data *and may only* be accessed where necessary for the purpose of ensuring the veracity, reliability and traceability of the criminal intelligence process.

Amendment

3a. The Management Board, acting on a proposal from the Executive Director and after consulting the EDPS, shall further specify the conditions relating to the processing of *personal data in accordance with paragraphs 2 and 3 of this Article*. Such personal data shall be functionally separated from other data. *Data processed in accordance with paragraph 2 shall* be accessed *only* where necessary *for the specific criminal investigation for which they were provided and* for the purpose of ensuring the veracity, reliability and traceability of the criminal intelligence process *and shall be kept in accordance with paragraph 3*.

Or. en

Justification

Merged with second part of paragraph 2 above

Amendment 70

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Text proposed by the Commission

4. Paragraphs 1 *to* 3 shall also apply *where Europol receives* personal data *from* a third country *with which there is an agreement concluded either on the basis of Article 23 of Decision 2009/371/JHA in accordance with point (c) of Article 25(1) of this Regulation or on the basis of Article 218 TFEU in accordance with point (b) of Article 25(1) of this Regulation, or which is the subject of an adequacy decision* as referred to in *point (a) of Article 25(1) of this Regulation, and such third country provides an investigative case file to Europol* for operational analysis that supports *the* specific criminal investigation in *a Member State or in* Member States that Europol supports. Where a third country provides an investigative case file to Europol, the EDPS shall be informed. Europol shall verify that the amount of personal data is not manifestly disproportionate in relation to the specific investigation in a Member State that Europol supports, and that there are no objective elements indicating that the case file has been obtained by the third country in manifest violation of fundamental rights. Where Europol, *or the EDPS*, reaches the conclusion that there are preliminary indications that such data is disproportionate or collected in violation of fundamental rights, Europol shall not process it. Data processed pursuant to this paragraph may only be accessed by Europol where necessary for the support of the specific criminal investigation in *a Member State or in* Member States. It shall be shared only within the Union.;

Amendment

4. Paragraphs 1, 2, 3 *and 3a* shall also apply *to* personal data *contained in an investigative case file provided to Europol by* a third country as referred to in *points (a), (b) and (c)* of Article 25(1) for operational analysis that supports *a* specific criminal investigation in *one or more* Member States that Europol supports. Where a third country provides an investigative case file to Europol, the EDPS shall be informed. Europol shall verify that the amount of personal data is not manifestly disproportionate in relation to the specific investigation in a Member State that Europol supports, and that there are no objective elements indicating that the case file has been obtained by the third country in manifest violation of fundamental rights. Where Europol reaches the conclusion that there are preliminary indications that such data is disproportionate or collected in violation of fundamental rights, Europol shall not process it. *Personal* data processed pursuant to this paragraph may only be accessed by Europol where necessary for the support of the specific criminal investigation in *one or more* Member States *for which it was provided*. It shall be shared only within the Union *or, where necessary, with international organisations as referred to in points (b) and (c) of Article 25(1)*.

Or. en

Amendment 71

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point c

Regulation (EU) 2016/794

Article 20 – paragraph 5

Text proposed by the Commission

5. When national law allows for Europol staff to provide evidence which came to their knowledge in the performance of their duties or the exercise of their activities, only Europol staff authorised by the Executive Director to do so shall be able to give such evidence in **judicial** proceedings in the Member States.;

Amendment

5. When national **procedural** law allows for Europol staff to provide evidence which came to their knowledge in the performance of their duties or the exercise of their activities, only Europol staff authorised by the Executive Director to do so shall be able to give such evidence in **criminal** proceedings in the Member States.;

Or. en

Amendment 72

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EU) 2016/794

Article 20a – paragraph 2

Text proposed by the Commission

2. Europol shall actively support the investigations **and prosecutions** of the EPPO and cooperate with it, in particular through exchanges of information and by providing analytical support.

Amendment

2. Europol shall actively support the investigations of the EPPO and cooperate with it, in particular through exchanges of information and by providing analytical support, **until the moment it determines whether to prosecute or otherwise dispose of the case.**

Or. en

Justification

As a body responsible for police cooperation, Europol has no role in prosecutions.

Amendment 73

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EU) 2016/794

Article 20a – paragraph 3

Text proposed by the Commission

3. Europol shall take all appropriate measures to enable the EPPO to have indirect access to information provided for the purposes of points (a), (b) and (c) of Article 18(2) on the basis of a hit/no hit system. Article 21 shall apply mutatis mutandis with the exception of its **paragraph 2**.

Amendment

3. Europol shall take all appropriate measures to enable the EPPO to have indirect access to information provided for the purposes of points (a), (b) and (c) of Article 18(2) on the basis of a hit/no hit system. Article 21 shall apply mutatis mutandis with the exception of its **paragraphs 2 and 8**.

Or. en

Amendment 74

Proposal for a regulation

Article 1 – paragraph 1 – point 9

Regulation (EU) 2016/794

Article 21 – paragraph 8

Text proposed by the Commission

8. If during information-processing activities in respect of **an individual** investigation or **specific** project Europol identifies information relevant to possible illegal activity affecting the financial interest of the Union, Europol shall **on its own initiative** without undue delay provide OLAF with that information.

Amendment

8. If during information-processing activities in respect of **a specific** investigation or project Europol identifies information relevant to possible illegal activity affecting the financial interest of the Union, Europol shall without undue delay provide OLAF with that information.

Or. en

Amendment 75

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Text proposed by the Commission

Where the operational personal data are transmitted following a request from another Union institution, body, office or agency, both the controller and the recipient shall bear the responsibility for the lawfulness of that transmission.

Europol shall verify the competence of the other Union institution, body, office or agency. If doubts arise as to this necessity of the transmission of the personal data, Europol shall seek further information from the recipient.

Amendment

Following a request for the transmission of operational personal data from another Union institution, body, office or agency, Europol shall verify the competence of the other Union institution, body, office or agency. If doubts arise as to this necessity of the transmission of the personal data, Europol shall seek further information from the recipient.

Or. en

Justification

The responsibility for personal data transfers following a request is covered by Article 38(6)

Amendment 76

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point -a (new)

Regulation (EU) 2016/794

Article 25 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(-a) the following paragraph is inserted:

"4a. In the absence of an adequacy decision, Europol may transfer operational personal data to a third country or an international organisation where:

(a) appropriate safeguards with regard to the protection of operational personal data are provided for in a legally

binding instrument; or

(b) Europol has assessed all the circumstances surrounding the transfer of operational personal data and has concluded that appropriate safeguards exist with regard to the protection of operational personal data.

Europol shall inform the EDPS about categories of transfers under point (b) of paragraph 1.

When a transfer is based on point (b) of this paragraph, such a transfer shall be documented and the documentation shall be made available to the EDPS on request. The documentation shall include a record of the date and time of the transfer and information about the receiving competent authority, the justification for the transfer and the operational personal data transferred.”

Or. en

Amendment 77

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point b

Regulation (EU) 2016/794

Article 25 – paragraph 8

Text proposed by the Commission

(b) *In* paragraph 8, the following *sentence is deleted*:

Where a transfer is based on paragraph 5, such a transfer shall be documented and the documentation shall be made available to the EDPS on request. The documentation shall include a record of the date and time of the transfer, and information about the receiving competent authority, about the justification for the transfer and about the operational personal data transferred.

Amendment

(b) paragraph 8 *is replaced by* the following:

Where a transfer is based on paragraph *4a or* 5, such a transfer shall be documented and the documentation shall be made available to the EDPS on request. The documentation shall include a record of the date and time of the transfer, and information about the receiving competent authority, about the justification for the transfer and about the operational personal data transferred.

Amendment 78**Proposal for a regulation****Article 1 – paragraph 1 – point 12 – point a**

Regulation (EU) 2016/794

Article 26 – paragraph 2

Text proposed by the Commission

2. Europol may receive personal data directly from private parties and process those personal data in accordance with Article 18 in order to identify all national units concerned, as referred to in point (a) of paragraph 1. Europol shall forward the personal data and any relevant results from the processing of that data necessary for the purpose of establishing jurisdiction immediately to the national units concerned. Europol may forward the personal data and relevant results from the processing of that data necessary for the purpose of establishing jurisdiction in accordance with Article 25 to contact points and authorities concerned as referred to in points (b) and (c) of paragraph 1. Once Europol has identified and forwarded the relevant personal data to all the respective national units concerned, or it is not possible to identify further national units concerned, it shall erase the data, unless a national unit, contact point or authority concerned resubmits the personal data to Europol in accordance with Article 19(1) within four months after the transfer takes place.

Amendment

2. Europol may receive personal data directly from private parties and process those personal data in accordance with Article 18 in order to identify all national units concerned, as referred to in point (a) of paragraph 1. Europol shall forward the personal data and any relevant results from the processing of that data necessary for the purpose of establishing jurisdiction immediately to the national units concerned. Europol may forward the personal data and relevant results from the processing of that data necessary for the purpose of establishing jurisdiction in accordance with Article 25 to contact points and authorities concerned as referred to in points (b) and (c) of paragraph 1. Once Europol has identified and forwarded the relevant personal data to all the respective national units concerned, or it is not possible to identify further national units concerned, it shall erase the data, unless a national unit, contact point or authority concerned resubmits the personal data to Europol in accordance with Article 19(1) within four months after the *transmission or* transfer takes place.

Amendment 79**Proposal for a regulation****Article 1 – paragraph 1 – point 12 – point b**

Text proposed by the Commission

4. If Europol receives personal data from a private party in a third country, Europol may forward those data only to a Member State, **or to a** third country concerned with which an agreement on the basis of Article 23 of Decision 2009/371/JHA or on the basis of Article 218 TFEU has been concluded or which is the subject of an adequacy decision as referred to in point (a) of Article 25(1) of this Regulation. Where the conditions set out under paragraphs 5 and 6 of Article 25 are fulfilled, Europol may transfer the result of its analysis and verification of such data **with** the third country concerned.

Amendment

4. If Europol receives personal data from a private party in a third country, Europol may forward those data **and the result of its analysis and verification** only to a Member State, third country **or international organisation** concerned with which an agreement on the basis of Article 23 of Decision 2009/371/JHA or on the basis of Article 218 TFEU has been concluded or which is the subject of an adequacy decision as referred to in point (a) of Article 25(1) of this Regulation. Where the conditions set out under paragraphs 5 and 6 of Article 25 are fulfilled, Europol may transfer the result of its analysis and verification of such data **to** the third country concerned.

Or. en

Amendment 80

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point c

Regulation (EU) 2016/794

Art 26 – paragraph 5 – introductory part

Text proposed by the Commission

5. Europol may transmit or transfer personal data to private parties on a case-by-case basis, where it is strictly necessary, and subject to any possible restrictions stipulated pursuant to Article 19(2) or (3) and without prejudice to Article 67, in the following cases:

Amendment

5. Europol may transmit or transfer personal data to private parties on a case-by-case basis, where it is strictly necessary **to identify all national units concerned**, and subject to any possible restrictions stipulated pursuant to Article 19(2) or (3) and without prejudice to Article 67, in the following cases:

Or. en

Amendment 81

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point d

Regulation (EU) 2016/794

Art 26 – paragraph 6a – subparagraph 1

Text proposed by the Commission

Europol may request Member States, **via their national units, to obtain** personal data from private parties, which are established or have a legal representative in their territory, **under their applicable laws, for the purpose of sharing it with** Europol, **on the condition that the requested** personal data **is** strictly limited to what is necessary for Europol with a view to identifying the national units concerned.

Amendment

Europol may request Member States **to provide it with** personal data from private parties, which are established or have a legal representative in their territory. Europol **shall make such requests via Member States' national units. Such** personal data **shall be** strictly limited to what is necessary for Europol with a view to identifying the national units concerned.

Or. en

Amendment 82

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point d

Regulation (EU) 2016/794

Article 26 – paragraph 6a – subparagraph 2

Text proposed by the Commission

Irrespective of their jurisdiction over the specific crime in relation to which Europol seeks to identify the national units concerned, Member States shall ensure that their competent national authorities can **lawfully** process such requests in accordance with their national laws for the purpose of supplying Europol with the information necessary for it to fulfil its objectives.

Amendment

Irrespective of their jurisdiction over the specific crime in relation to which Europol seeks to identify the national units concerned, Member States shall ensure that their competent national authorities can process such requests in accordance with their national laws for the purpose of supplying Europol with the information necessary for it to fulfil its objectives.

Or. en

Amendment 83

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EU) 2016/794

Article 26a – title

Text proposed by the Commission

Exchanges of personal data with private parties *in crisis situations*

Amendment

Exchanges of personal data with private parties

Or. en

Amendment 84

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EU) 2016/794

Article 26a – paragraph 1

Text proposed by the Commission

1. Europol may receive personal data directly from private parties and process those personal data in accordance with Article 18 to prevent the dissemination of *online* content related to *terrorism or violent extremism in crisis situations* as set out in point (u) of Article 4(1).

Amendment

1. Europol may receive personal data directly from private parties and process those personal data in accordance with Article 18 to prevent the *online* dissemination of *terrorist* content related to violent extremism, as set out in point (u) of Article 4(1), *and of child sexual abuse material, as set out in point (ua) of Article 4(1)*.

Or. en

Amendment 85

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EU) 2016/794

Article 26a – paragraph 2

Text proposed by the Commission

2. If Europol receives personal data

Amendment

2. If Europol receives personal data

from a private party in a third country, Europol may forward those data only to a Member State, or to a third country concerned with which an agreement on the basis of Article 23 of Decision 2009/371/JHA or on the basis of Article 218 TFEU has been concluded or which is the subject of an adequacy decision as referred to in point (a) of Article 25(1) of this Regulation. Where the conditions set out under paragraphs 5 and 6 of Article 25 are fulfilled, Europol may transfer the result of its analysis and verification of such data *with* the third country concerned.

from a private party in a third country, Europol may forward those data only to a Member State, or to a third country concerned with which an agreement on the basis of Article 23 of Decision 2009/371/JHA or on the basis of Article 218 TFEU has been concluded or which is the subject of an adequacy decision as referred to in point (a) of Article 25(1) of this Regulation. Where the conditions set out under paragraphs 5 and 6 of Article 25 are fulfilled, Europol may transfer the result of its analysis and verification of such data *to* the third country concerned.

Or. en

Amendment 86

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EU) 2016/794

Article 26a – paragraph 3

Text proposed by the Commission

3. Europol may transmit or transfer personal data to private parties, on a case-by-case basis, subject to any possible restrictions stipulated pursuant to Article 19(2) or (3) and without prejudice to Article 67, where the transmission or transfer of such data is strictly necessary for preventing the dissemination of *online* content *related to terrorism or* violent extremism as set out in point (u) of Article 4(1), and no fundamental rights and freedoms of the data subjects concerned override the public interest necessitating the transmission or transfer in the case at hand.

Amendment

3. Europol may transmit or transfer personal data to private parties, on a case-by-case basis, subject to any possible restrictions stipulated pursuant to Article 19(2) or (3) and without prejudice to Article 67, where the transmission or transfer of such data is strictly necessary for preventing the *online* dissemination of *terrorist content, including* content *relating to* violent extremism, as set out in point (u) *of Article 4(1), or child sexual abuse material as set out in point (ua)* of Article 4(1), and no fundamental rights and freedoms of the data subjects concerned override the public interest necessitating the transmission or transfer in the case at hand.

Or. en

Amendment 87

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EU) 2016/794

Article 26a – paragraph 5

Text proposed by the Commission

5. Europol may request Member States, via their national units, to obtain personal data from private parties, which are established or have a legal representative in their territory, under their applicable laws, for the purpose of sharing it with Europol, on the condition that the requested personal data is strictly limited to what is necessary for Europol for preventing the dissemination of **online** content related to **terrorism or** violent extremism as set out in point (u) of Article 4(1). Irrespective of their jurisdiction with regard to the dissemination of the content in relation to which Europol requests the personal data, Member States shall ensure that the competent national authorities can **lawfully** process such requests in accordance with their national laws for the purpose of supplying Europol with the information necessary for it to fulfil its objectives.

Amendment

5. Europol may request Member States, via their national units, to obtain personal data from private parties, which are established or have a legal representative in their territory, under their applicable laws, for the purpose of sharing it with Europol, on the condition that the requested personal data is strictly limited to what is necessary for Europol for preventing the **online** dissemination of **terrorist content, including** content related to violent extremism, as set out in point (u) **of Article 4(1), or child sexual abuse material, as set out in point (ua)** of Article 4(1). Irrespective of their jurisdiction with regard to the dissemination of the content in relation to which Europol requests the personal data, Member States shall ensure that the competent national authorities can process such requests in accordance with their national laws for the purpose of supplying Europol with the information necessary for it to fulfil its objectives.

Or. en

Amendment 88

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EU) 2016/794

Article 26a – paragraph 6

Text proposed by the Commission

6. Europol shall ensure that detailed records of all transfers of personal data and the grounds for such transfers are recorded

Amendment

6. Europol shall ensure that detailed records of all transfers of personal data and the grounds for such transfers are recorded

in accordance with this Regulation and communicated upon request to the EDPS pursuant to Article 40.

in accordance with this Regulation and communicated upon request to the EDPS pursuant to Article 39a.

Or. en

Amendment 89

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EU) 2016/794

Article 27a – paragraph 2

Text proposed by the Commission

Amendment

2. **References to ‘applicable data protection rules’ in this Regulation shall be understood as references to the provisions on data protection set out in this Regulation and in Regulation (EU) 2018/1725.**

deleted

Or. en

Justification

No reference is made to "applicable data protection rules" throughout the text.

Amendment 90

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EU) 2016/794

Article 27a – paragraph 3

Text proposed by the Commission

Amendment

3. References to ‘personal data’ in this Regulation shall be understood as references to ‘operational personal data’, unless **indicated** otherwise.

3. References to ‘personal data’ in this Regulation shall be understood as references to ‘operational personal data’ **as defined in Article 3 of Regulation (EU) 2018/1725**, unless otherwise **provided**.

Or. en

Amendment 91

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point d

Regulation (EU) 2016/794

Article 30 – paragraph 5

Text proposed by the Commission

5. Personal data as referred to in paragraphs 1 and 2 shall not be transmitted to Member States, Union bodies, or transferred to third countries and international organisations unless such transmission or transfer is strictly necessary and proportionate in individual cases concerning crimes that ***falls*** within Europol’s objectives and in accordance with Chapter V.;

Amendment

5. Personal data as referred to in paragraphs 1 and 2 shall not be transmitted to Member States, Union bodies, or transferred to third countries and international organisations unless such transmission or transfer is strictly necessary and proportionate in individual cases concerning crimes that ***fall*** within Europol’s objectives and in accordance with Chapter V.;

Or. en

Amendment 92

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EU) 2016/794

Article 33a – paragraph 3

Text proposed by the Commission

3. Europol shall keep a ***complete and*** detailed description of the process and rationale behind the training, testing and validation of algorithms to ensure transparency and for verification of the accuracy of the results.;

Amendment

2. Europol shall keep a detailed description of the process and rationale behind the training, testing and validation of algorithms to ensure transparency and for verification of the accuracy of the results.;

Or. en

Amendment 93

Proposal for a regulation

Article 1 – paragraph 1 – point 20 – point a

Regulation (EU) 2016/794

Article 34 – paragraph 1

Text proposed by the Commission

1. In the event of a personal data breach, Europol shall without undue delay notify the competent authorities of the Member States concerned, of that breach, in accordance with the conditions laid down in Article 7(5), as well as the provider of the data concerned unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons.;

Amendment

1. ***Without prejudice to Article 92 of Regulation (EU) 2018/1725***, in the event of a personal data breach, Europol shall without undue delay notify the competent authorities of the Member States concerned, of that breach, in accordance with the conditions laid down in Article 7(5), as well as the provider of the data concerned unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons.;

Or. en

Justification

Necessary clarification that this provision applies on top of Art. 92 of Regulation (EU) 2018/1725.

Amendment 94

Proposal for a regulation

Article 1 – paragraph 1 – point 21 – point b

Regulation (EU) 2016/794

Article 35 – paragraph 3

Text proposed by the Commission

(b) *in* paragraph 3, ***the first sentence*** is replaced by the following:

Without prejudice to Article 93 of ***Regulation 2018/1725***, if Europol does not have the contact details of the data subject concerned, it shall request the provider of the data to communicate the personal data breach to the data subject concerned and to inform Europol about the decision taken.;

Amendment

(b) paragraph 3 is replaced by the following:

"Without prejudice to Article 93 of ***Regulation (EU) 2018/1725***, if Europol does not have the contact details of the data subject concerned, it shall request the provider of the data to communicate the personal data breach to the data subject concerned and to inform Europol about the decision taken. ***Member States providing***

the data shall communicate the breach to the data subject concerned in accordance with the procedures of their national law."

Or. en

Amendment 95

Proposal for a regulation

Article 1 – paragraph 1 – point 23 – point c

Regulation (EU) 2016/794

Article 37 – paragraph 3

Text proposed by the Commission

(c) *in* paragraph 3, *the first sentence* is replaced by the following:

Without prejudice to Article 82(3) of **Regulation 2018/1725**, Europol shall restrict rather than erase personal data as referred to in paragraph 2 if there are reasonable grounds to believe that erasure could affect the legitimate interests of the data subject.;

Amendment

(c) paragraph 3 is replaced by the following:

“Without prejudice to Article 82(3) of Regulation (EU) 2018/1725, Europol shall restrict rather than erase personal data as referred to in paragraph 2 if there are reasonable grounds to believe that erasure could affect the legitimate interests of the data subject. ***Restricted data shall be processed only for the purpose of protecting the rights of the data subject or another natural or legal person or for the purposes laid down in Article 82(3) of that Regulation.***”

Or. en

Amendment 96

Proposal for a regulation

Article 1 – paragraph 1 – point 24

Regulation (EU) 2016/794

Article 37a

Text proposed by the Commission

(24) *the following Article 37a is inserted:*

Amendment

deleted

“Article 37a

Right to restriction of processing

Where the processing of personal data has been restricted under Article 82(3) of Regulation (EU) 2018/1725, such personal data shall only be processed for the protection of the rights of the data subject or another natural or legal person or for the purposes laid down in Article 82(3) of that Regulation.;”

Or. en

Justification

The relevant substance was added to paragraph 3 of article 37 (which mentions "restriction" in the title).

Amendment 97

Proposal for a regulation

Article 1 – paragraph 1 – point 25 – point -a (new)

Regulation (EU) 2016/794

Article 38 – paragraph 2 – introductory part

Present text

2. The responsibility for the quality of personal data as referred to in point (d) of **Article 28(1)** shall lie with:

Amendment

(-a) paragraph 2 is replaced by the following:

"2. The responsibility for the quality of personal data as referred to in point (d) of Article 71(1) of Regulation (EU) 2018/1725 shall lie with:"

Or. en

Justification

Necessary adaptation resulting from the deletion of Art. 28

Amendment 98

Proposal for a regulation

Article 1 – paragraph 1 – point 25 – point a a (new)

Regulation (EU) 2016/794

Article 38 – paragraph 6 – subparagraph 1

Present text

In the case of a transfer between Europol and a Union body, the responsibility for the legality of the transfer shall lie with Europol.

Amendment

(aa) In paragraph 6, the first subparagraph is replaced by the following:

In the case of a transfer between Europol and a Union **institution**, body, **office or agency**, the responsibility for the legality of the transfer shall lie with Europol.

Or. en

Amendment 99

Proposal for a regulation

Article 1 – paragraph 1 – point 26 – point a

Regulation (EU) 2016/794

Article 39 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 90 of Regulation (EU) 2018/1725, any new type of processing operations to be carried out shall be subject to prior consultation of the **EDPS** where special categories of data as referred to in Article 30(2) of this Regulation are to be processed.;

Amendment

1. Without prejudice to Article 90 of Regulation (EU) 2018/1725, any new type of processing operations to be carried out shall be subject to prior consultation of the **Data Protection Officer** where special categories of data as referred to in Article 30(2) of this Regulation are to be processed.;

Or. en

Justification

In accordance with Article 76 of Regulation (EU) 2018/1725, the DPO shall be informed of the processing of special categories of data. Prior consultation of the DPO still goes beyond the requirements for Eurojust.

Amendment 100

Proposal for a regulation

Article 1 – paragraph 1 – point 29

Regulation (EU) 2016/794

Article 41 – paragraph 1

Text proposed by the Commission

1. The Management Board shall appoint a Data Protection Officer, who shall be a member of the staff specifically appointed for this purpose. In the performance of his or her duties, **he or she shall act independently and may not receive any instructions.**

Amendment

1. The Management Board shall appoint a Data Protection Officer, who shall be a member of the staff specifically appointed for this purpose. **The Data Protection Officer shall act independently** in the performance of his or her duties.

Or. en

Justification

Prohibition of instructions is covered by Article 41a(3)

Amendment 101

Proposal for a regulation

Article 1 – paragraph 1 – point 29

Regulation (EU) 2016/794

Article 41 – paragraph 2

Text proposed by the Commission

2. The Data Protection Officer shall be selected on the basis of his or her personal and professional qualities and, in particular, the expert knowledge of data protection and practices and the ability to fulfil his or her tasks **under** this Regulation.

Amendment

2. The Data Protection Officer shall be selected on the basis of his or her personal and professional qualities and, in particular, the expert knowledge of data protection **law** and practices and the ability to fulfil his or her tasks **referred to in Article 41b of** this Regulation.

Or. en

Amendment 102

Proposal for a regulation

Article 1 – paragraph 1 – point 29

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Text proposed by the Commission

4. The Data Protection Officer shall be **designated** for a term of four years and shall be eligible for reappointment. The Data Protection Officer may be dismissed from his or her post by the **Executive** Board only with the agreement of the EDPS, if he or she no longer fulfils the conditions required for the performance of his or her duties

Amendment

4. The Data Protection Officer shall be **appointed** for a term of four years and shall be eligible for reappointment. The Data Protection Officer may be dismissed from his or her post by the **Management** Board only with the agreement of the EDPS, if he or she no longer fulfils the conditions required for the performance of his or her duties

Or. en

Amendment 103

Proposal for a regulation

Article 1 – paragraph 1 – point 30

Regulation (EU) 2016/794

Article 41a – paragraph 2

Text proposed by the Commission

2. Europol shall support the Data Protection Officer in performing the tasks referred to in Article **41c** by providing the resources and staff necessary to carry out those tasks and **by providing** access to personal data and processing operations, **and to maintain his or her expert knowledge. The related** staff may be supplemented by **an** assistant **DPO in the area of** operational **and** administrative processing of personal data.

Amendment

2. Europol shall support the Data Protection Officer in performing the tasks referred to in Article **41b in order to maintain his or her expert knowledge** by providing the resources and staff necessary to carry out those tasks and access to personal data and processing operations. **The staff provided by Europol** may be supplemented by **two** assistant **Data Protection Officers, one responsible for operational processing of personal data and the other responsible for** administrative processing of personal data.

Or. en

Amendment 104

Proposal for a regulation

Article 1 – paragraph 1 – point 30

Regulation (EU) 2016/794

Article 41b – paragraph 1 – point e

Text proposed by the Commission

(e) ensuring that a record of the transfer and receipt of personal data is kept in accordance with this Regulation;

Amendment

(e) ensuring that a record of the **transmission or** transfer and receipt of personal data is kept in accordance with this Regulation;

Or. en

Amendment 105

Proposal for a regulation

Article 1 – paragraph 1 – point 30

Regulation (EU) 2016/794

Article 41b – paragraph 1 – point j

Text proposed by the Commission

(j) acting as the contact point for the European Data Protection Supervisor on issues relating to processing, including the prior consultation under Articles 39 and 90 of Regulation (EU) 2018/1725, and consulting, where appropriate, with regard to any other matter;

Amendment

(j) acting as the contact point for the European Data Protection Supervisor on issues relating to processing, including the prior consultation under Articles 39 and 90 of Regulation (EU) 2018/1725, and consulting, where appropriate, with regard to any other matter **within the sphere of his or her competence**;

Or. en

Amendment 106

Proposal for a regulation

Article 1 – paragraph 1 – point 30

Regulation (EU) 2016/794

Article 41b – paragraph 3

Text proposed by the Commission

3. In the performance of his or her tasks, the Data Protection Officer and the staff members of Europol assisting the Data Protection Officer in the performance of his or her duties shall have access to all the data processed by Europol and to all Europol premises.

Amendment

3. In the performance of his or her tasks, the Data Protection Officer and the staff members of Europol assisting the Data Protection Officer in the performance of his or her duties shall have access to all the data processed by Europol and to all Europol premises, ***to the extent necessary for the performance their tasks.***

Or. en

Amendment 107

Proposal for a regulation

Article 1 – paragraph 1 – point 32 – point a (new)

Regulation (EU) 2016/794

Article 43 – paragraph 2

Text proposed by the Commission

(c) monitoring and ensuring the application of this Regulation and ***any other Union act*** relating to the protection of natural persons with regard to the processing of personal data by Europol;

Amendment

(aa) paragraph 2 is amended as follows:

(i) point (c) is replaced by the following:

"(c) monitoring and ensuring the application of this Regulation and ***Regulation (EU) 2018/1725*** relating to the protection of natural persons with regard to the processing of personal data by Europol;"

(ii) point (f) is deleted.

Or. en

Amendment 108

Proposal for a regulation

Article 1 – paragraph 1 – point 32 – point a b (new)

Regulation (EU) 2016/794

Article 43 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(ab) the following paragraph is inserted:

"2a. The EDPS shall have access to the operational personal data processed by Europol and to its premises to the extent necessary for the performance of his or her tasks."

Or. en

Justification

Aligned with Eurojust

Amendment 109

Proposal for a regulation

Article 1 – paragraph 1 – point 32 – point a c (new)

Regulation (EU) 2016/794

Article 43 – paragraphs 3 and 4

Text proposed by the Commission

Amendment

(ac) paragraphs 3 and 4 are deleted

Or. en

Justification

Articles 57 and 58 of Regulation 2018/1725 fully apply

Amendment 110

Proposal for a regulation

Article 1 – paragraph 1 – point 33 – introductory part

Regulation (EU) 2016/794

Article 44 – paragraph 2

Text proposed by the Commission

Amendment

(33) in Article 44, paragraph 2 is replaced by the following:

(33) Article 44 is amended as follows:

(a) paragraph 2 is replaced by the following:

Or. en

Amendment 111

Proposal for a regulation

Article 1 – paragraph 1 – point 33

Regulation (EU) 2016/794

Article 44 – paragraph 4 – subparagraph 2

Present text

In cases *which* the EDPS *considers to be extremely urgent, he or she may decide to take immediate action. In such cases, the EDPS shall immediately inform the national supervisory authorities concerned and justify the urgent nature of the situation as well as the action he or she has taken.*

Amendment

(b) in paragraph 4, the second subparagraph is replaced by the following:

"In cases where the EDPS intends not to follow the position of a national supervisory authority, he or she shall inform that authority, provide a justification and submit the matter to the European Data Protection Board."

Or. en

Justification

Adaptation resulting from the abolition of the Cooperation Board

Amendment 112

Proposal for a regulation

Article 1 – paragraph 1 – point 35 – point b

Regulation (EU) 2016/794

Article 47 – paragraph 2 – first sentence

Text proposed by the Commission

Where a complaint relates to a decision as referred to in Article 36, **37 or 37a** of this Regulation or Article **80**, 81 or 82 of Regulation (EU) 2018/1725, the EDPS

Amendment

Where a complaint relates to a decision as referred to in Article 36 **or 37** of this Regulation or Article 81 or 82 of Regulation (EU) 2018/1725, the EDPS

shall consult the national supervisory authorities of the Member State that provided the data or of the Member State directly concerned.

shall consult the national supervisory authorities of the Member State that provided the data or of the Member State directly concerned.

Or. en

Justification

The deletion of the reference to Article 37a results from the deletion of that article. Article 80 of Regulation (EU) 2018/1725 only provides for the right of access but does not foresee a decision.

Amendment 113

Proposal for a regulation

Article 1 – paragraph 1 – point 37 – point a

Regulation (EU) 2016/794

Article 51 – paragraph 3 – point h

Text proposed by the Commission

(h) annual information about the number of cases in which Europol issued alerts in the Schengen Information System in accordance with Article 4(1)(r), and the number of ‘hits’ these alerts generated, including specific examples of cases demonstrating why these alerts were necessary for Europol to fulfil its objectives and tasks;

Amendment

(h) annual information about the number of cases in which Europol issued alerts in the Schengen Information System in accordance with Article 4(1)(r) ***per category of alert and in aggregate***, and the number of ‘hits’ these alerts generated ***per category of alert and in aggregate***, including specific examples of cases demonstrating why these alerts were necessary for Europol to fulfil its objectives and tasks;

Or. en

Amendment 114

Proposal for a regulation

Article 1 – point 37 – point a

Regulation (EU) 2016/794

Article 51 – paragraph 3 – point i

Text proposed by the Commission

(i) annual information about the number of pilot projects in which Europol processed personal data to train, test and validate algorithms for the development of tools, including AI-based tools, for law enforcement in accordance with Article 33a, including information on the purposes of these projects and the law enforcement needs they seek to address.;

Amendment

(i) annual information about the number of pilot projects in which Europol processed personal data to train, test and validate algorithms for the development of tools, including AI-based tools, for law enforcement in accordance with Article 18(2)(e), including information on the purposes of these projects, ***the categories of personal data processed*** and the law enforcement needs they seek to address;

Or. en

Amendment 115

Proposal for a regulation

Article 1 – point 37 – point a

Regulation (EU) 2016/794

Article 51 – paragraph 3 – point i a (new)

Text proposed by the Commission

Amendment

(ia) annual information about the number of cases in which Europol made use of temporary processing in accordance with Article 18(6a) and, where applicable, the number of cases in which the maximum processing period was prolonged;

Or. en

Amendment 116

Proposal for a regulation

Article 1 – point 37 – point a

Regulation (EU) 2016/794

Article 51 – paragraph 3 – point i b (new)

Text proposed by the Commission

Amendment

(ib) annual information about the

number of cases in which Europol processed personal data in accordance with Article 26a, by type of content and, to the extent that this information is available to Europol, the number of children identified and saved as a result of the processing of personal data to prevent the dissemination of child sexual abuse material.”

Or. en

Amendment 117

Proposal for a regulation

Article 1 – point 38

Regulation (EU) 2016/794

Article 57 – paragraph 4

Text proposed by the Commission

4. Europol may benefit from Union funding in the form of contribution agreements or grant agreements in accordance with its financial rules referred to in Article 61 and with the provisions of the relevant instruments supporting the policies of the Union. Contributions *may be received* from countries with *whom* Europol or the Union has an agreement providing for financial contributions to Europol within the scope of Europol’s objectives and tasks. The amount of the contribution shall be determined in the respective agreement.;

Amendment

4. Europol may benefit from Union funding in the form of contribution agreements or grant agreements in accordance with its financial rules referred to in Article 61 and with the provisions of the relevant instruments supporting the policies of the Union. *Europol may receive* contributions from countries with *which* Europol or the Union has *concluded* an agreement providing for financial contributions to Europol within the scope of Europol’s objectives and tasks. The amount of the contribution shall be determined in the respective agreement.;

Or. en

Amendment 118

Proposal for a regulation

Article 1 – point 38 a (new)

Regulation (EU) 2016/794

Article 58 – paragraph 9

Present text

Amendment

9. For any building projects likely to have significant implications for Europol's budget, ***Delegated Regulation (EU) No 1271/2013*** shall apply.

(38a) In Article 58, paragraph 9 is replaced by the following:

“9. For any building projects likely to have significant implications for Europol's budget, ***Delegated Regulation (EU) 2019/715*** shall apply.”

Or. en

Amendment 119

Proposal for a regulation

Article 1 – point 38 b (new) – point a (new)

Regulation (EU) 2016/794

Article 60 – paragraph 4

Present text

Amendment

4. On receipt of the Court of Auditors' observations on Europol's provisional accounts for year N pursuant to ***Article 148 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council***²⁵, Europol's accounting officer shall draw up Europol's final accounts for that year. The Executive Director shall submit them to the Management Board for an opinion.

(38b) Article 60 is amended as follows:

(a) paragraph 4 is replaced by the following:

“4. On receipt of the Court of Auditors' observations on Europol's provisional accounts for year N pursuant to ***Article 246 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council****, Europol's accounting officer shall draw up Europol's final accounts for that year. The Executive Director shall submit them to the Management Board for an opinion.

²⁵ ***Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).***

****Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013 (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 282/2013, and Decision No 541/2014/EU and repealing***

Amendment 120

Proposal for a regulation

Article 1 – point 38 b (new) – point b (new)

Regulation (EU) 2016/794

Article 60 – paragraph 9

Present text

9. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for year N, as laid down in **Article 109(3) of Delegated Regulation (EU) No 1271/2013**.

Amendment

(b) paragraph 9 is replaced by the following:

“9. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for year N, as laid down in **Article 106(3) of Delegated Regulation (EU) 2019/715**.”

Amendment 121

Proposal for a regulation

Article 1 – point 39 – point b

Regulation (EU) 2016/794

Article 61 – paragraph 2

Text proposed by the Commission

2. Europol may award grants related to the fulfilment of its **objectives and** tasks as referred to in **Articles 3 and 4**.”;

Amendment

2. Europol may award grants related to the fulfilment of its tasks as referred to in **Article 4**.

Amendment 122

Proposal for a regulation

Article 1 – point 40

Regulation (EU) 2016/794

Article 67

Text proposed by the Commission

Amendment

(40) Article 67 is replaced as follows: *deleted*

‘Article 67

Security rules on the protection of classified information and sensitive non-classified information

1. The Europol shall adopt its own security rules that shall be based on the principles and rules laid down in the Commission’s security rules for protecting European Union classified information (EUCI) and sensitive non-classified information including, inter alia, provisions for the exchange of such information with third countries, and processing and storage of such information as set out in Commission Decisions (EU, Euratom) 2015/443 (44) and (EU, Euratom) 2015/444 (45). Any administrative arrangement on the exchange of classified information with the relevant authorities of a third country or, in the absence of such arrangement, any exceptional ad hoc release of EUCI to those authorities, shall be subject to the Commission’s prior approval.

2. The Management Board shall adopt the Europol’s security rules following approval by the Commission. When assessing the proposed security rules, the Commission shall ensure that they are compatible with Decisions (EU, Euratom) 2015/443 and (EU, Euratom) 2015/444. ’

Or. en

Justification

The current system, which also applies to Eurojust should be maintained. Member States are the main contributors of data to Europol so the rules of the Council and not the Commission should apply.

Amendment 123

Proposal for a regulation

Article 1 – point 41

Regulation (EU) 2016/794

Article 68 – paragraph 3

Text proposed by the Commission

3. The Commission shall, by [three years after entry into force of this Regulation], submit a report to the European Parliament and to the Council, assessing the operational benefits of the implementation of the competences provided for in Article 18(2)(e) and (5a), Article 18a, Article 26 and Article 26a with regard to Europol's objectives. The report shall cover the impact of those competences on fundamental rights and freedoms as enshrined in the Charter of Fundamental Rights..

Amendment

3. The Commission shall, by [three years after entry into force of this Regulation], submit a report to the European Parliament and to the Council, assessing the operational benefits of the implementation of the competences provided for in Article 18(2)(e) and (5a), **Article 4(1)(r)**, Article 18a, Article 26 and Article 26a with regard to Europol's objectives. The report shall cover the impact of those competences on fundamental rights and freedoms as enshrined in the Charter of Fundamental Rights..

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EXPLANATORY STATEMENT

Introduction

The Rapporteur will present hereafter the main reasons for the amendments presented in the draft report on the proposal for a Regulation amending Regulation (EU) 2016/794, as regards Europol's cooperation with private parties, the processing of personal data by Europol in support of criminal investigations, and Europol's role on research and innovation (2020/349(COD)).

Content of the Commission proposal

The Commission proposal for a recast of Europol Regulation was presented on 9 December 2020 seeks to respond to new security challenges, to clarify certain provisions of the current mandate, and address identified shortcomings.

The proposal is composed of the following key elements:

- it ensures **effective cooperation between Europol and private parties**, notably by allowing Europol to process personal data received from private parties for the purpose of identifying all Member States concerned and to support Member States in preventing the online dissemination of content related to terrorism and violent extremism linked to on-going or recent real-world events depicting harm to life or physical integrity in crisis situations;
- it allows Europol to **analyse large datasets** to support criminal investigations;
- it improves Europol's **cooperation with the European Public Prosecutor's Office (EPPO)** and with the **European Anti-Fraud Office (OLAF)**
- it reinforces Europol's role in **research and innovation**;
- it clarifies that Europol may request a **Member State to initiate investigations** into a crime that affects the common interest of the Union covered by Union policy;
- it **aligns the rules for the processing of operational personal data** with those applicable to other Justice and Home Affairs agencies
- it strengthens **accountability and democratic oversight**.

Main elements of the draft report

The Rapporteur welcomes the different elements of the targeted revision of Europol's mandate as proposed by the Commission but suggests some additions and changes as set out hereunder.

Europol alerts in SIS (Article 4(1)(r))

The Rapporteur acknowledges the operational need to provide frontline officers with real time information regarding the suspected involvement of third country nationals in a crime falling within the scope of Europol's mandate. In line with their competence for national security, Member States should enter alerts on such persons in the Schengen Information System (SIS). However, for situations where this is not possible, the Rapporteur supports the Commission proposal to enable Europol to enter third-country sourced information on third country nationals in the SIS.

Research and Innovation (Article 4, paragraphs (1)(t) and 4a; Article 33a)

The Rapporteur is of the opinion that law enforcement authorities should be equipped with technological capabilities to keep up with criminals who exploit digital technologies for malicious purposes. Europol, notably through its Innovation Hub and Innovation Lab, has already taken on an active role in the monitoring of emerging technologies and their development for law enforcement purposes. Thus, the specific provision of a role for Europol in the monitoring of and contribution to research and innovation (Article 4(1)(t)) and the identification of key research themes (Article 4(4a)) is deemed justified.

Although emerging technologies offer many potential benefits, they also pose risks. Given the potential grave impact of the use of technology for law enforcement purposes for the person concerned, it is essential that technologies developed and deployed for law enforcement purposes are trustworthy, human centric and respects fundamental rights, including non-discrimination. The Rapporteur considers the definition of specific safeguards for personal data processing for research and innovation purposes in the text (**Article 33 a**) appropriate.

In view of the particular risks resulting from bias in algorithmic decision-making, the Rapporteur emphasises the importance to use representative datasets. However, under the proposal, Europol could only use personal data belonging to the categories of data subjects listed in Annex II of the Europol Regulation. Since all categories are linked to crimes, there is a serious risk that algorithms trained with Annex II data will perpetuate bias. To prevent this from happening, the Rapporteur suggests to allow Europol to process personal data outside the categories of data subjects listed in Annex II of the Regulation where strictly necessary to prevent algorithmic bias in the context of data processing for research and innovation purposes (**Article 18(5)**).

Right to request the initiation of investigations (Article 6)

The Rapporteur welcomes the proposal to empower Europol to request investigations in a single Member State as it addresses a long-standing call of the European Parliament. While the rapporteur agrees with the proposal in substance, he suggests to clarify in the text via introduction of a new paragraph 1a that this possibility should be limited to the investigation of crimes affecting a common interest covered by a Union policy.

Processing of large datasets in support of criminal investigations (Articles 18(5a) and 18a)

The decision of the EDPS decision to admonish Europol in September 2020 has pointed to a structural problem of Europol, namely that large datasets provided by Member States or third

countries to Europol for operational analysis often include data which are not listed in Annex II and which Europol is thus not allowed to process.

The Rapporteur welcomes the proposal of the Commission to address this problem by allowing Europol to temporarily process personal data prior to its regular processing activities (Art. 18(5a)) for the purpose of determining whether such data comply with the categories of data subjects listed in Annex II of Regulation (EU) 2016/794.

To ensure that the temporary processing does not become the rule, the rapporteur considers it necessary to better define the conditions for such processing without unnecessarily limiting the possibilities for Europol to process personal data that is relevant for its tasks. To this end, he suggests that Europol should only be allowed to temporarily process data in duly justified cases, after it has established that the data is relevant for its tasks.

As regards the extension of the proposed maximum processing period of one year, the Rapporteur considers the proposed prior authorisation of the EDPS to be inappropriate as it risks long delays and would furthermore go against the spirit of recital 50 of Regulation (EU) 2016/794 which states that prior consultation should not apply in the context of operational activities of Europol. In any case, the EDPS should be informed of each extension. If necessary, the EDPS can intervene at any stage where it finds the extension of the processing period inappropriate.

When it comes to processing operations in the context of a specific investigation that Europol supports, the Rapporteur agrees that Europol should be allowed to process data outside of the data categories outside Annex II (**Article 18a**). Yet, he suggests to go beyond the proposal of the Commission which refers to investigative case files received from Member States, the EPPO and third countries as he considers that the rules should also apply to investigative case files Europol received from Eurojust.

As far as the definition of ‘investigative case file’ (Article 2(h)) is concerned, an amendment was introduced to reflect that the provisions of Article 18a do not only cover Member States and third countries but also to Union bodies.

Cooperation with Third Countries (Article 25)

Beyond the existing possibilities of established cooperation (**Article 25(1)**) - i.e. an adequacy decision, an international agreement based on Article 218 TFEU and operational agreements concluded by Europol before the entry into application of the Europol Regulation on 1 May 2017 - and in line with the possibilities foreseen by Regulation (EU) 2018/1725, Europol should also be able to transfer operational personal data to a third country or international organisation where appropriate data protection safeguards are provided for in a legally binding document or Europol has concluded based on an assessment of all circumstances surrounding the transfer appropriate data protection safeguards exist. To ensure proper oversight, all transfers pursuant to Europol’s own assessment should be documented and made available to the EDPS upon request.

Europol should be able to share personal data included in an investigative case file received from a third country with international organisations where Europol considers such transfers

necessary (**Article 18a(4)**).

Cooperation with private parties (Articles 26, 26a + new definitions in Article 2)

The Rapporteur welcomes the Commission's proposal (Article 26(2)) to allow Europol to process personal data received from private parties for the purpose of identifying the Member States concerned.

Given the rapid dissemination of terrorist content online, the Rapporteur strongly supports the proposal (**Article 26a**) to enable Europol to process personal data received from private parties to prevent the dissemination of such content. Although he acknowledges that the dissemination rate of such content is particularly high in the aftermath of a terrorist attack, he considers that the processing should not be limited to 'crisis situations' but take place at all times, especially taking into account the role of such content in radicalisation and incitement to terrorist activity.

For reasons of legal clarity as to the content covered by this provision, a definition of 'terrorist content' is introduced in **Article 2**, which refers to the definition in the recently adopted 'TCO-Regulation'¹ (EU) [2021/XXX] on addressing the dissemination of terrorist content online. In the view of the Rapporteur, this definition covers 'content related to violent extremism'.

In view of the sharp increase of reports of child sexual abuse material online, the Rapporteur considers that the scope of Article 26a should be extended to child sexual abuse material to prevent the further dissemination of such content on the internet. For reasons of legal clarity, a definition of 'child sexual abuse material' based on Directive (EU) 2011/93 on child sexual abuse² is added in **Article 2** which is in line with the definition recently agreed by the co-legislators in the Regulation on a temporary derogation to the ePrivacy Directive³.

Protection of personal data

Since the Parliament already demanded that the processing of operational personal data by Europol be covered by Chapter IX of Regulation (EU) 2018/1725 at the time it was negotiated, the Rapporteur supports the Commission's proposal to align the rules for operational personal data processing by Europol with those of Regulation (EU) 2018/1725⁴.

The Rapporteur considers the introduction of some more specific provisions for Europol in

¹ Regulation (EU) 2021/[XXX] of the Council and the European Parliament of 29 April 2021 on addressing the dissemination of terrorist content online.

² Directive (EU) 2011/93 of the European Parliament and the Council on child sexual abuse.

³ Proposal for a Regulation of the European Parliament and of the Council on a temporary derogation from certain provisions of Directive 2002/58/EC of the European Parliament and of the Council as regards the use of technologies by number-independent interpersonal communications service providers for the processing of personal and other data for the purpose of combatting child sexual abuse online.

⁴ Regulation (EU) 2018/1725 of the European Parliament and the Council on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC; (*OJ L 295, 21.11.2018, p. 39*)

addition to those of Regulation (EU) 2018/1725 justified. Yet, those provisions have to be limited to what is necessary and proportionate to protect personal data. Moreover, Europol should not be subject to stricter rules than other JHA agencies, notably Eurojust.

The Rapporteur therefore proposes to clarify and amend certain provisions and correct minor drafting mistakes in the Commission proposal, including:

- the incorporation of Article 37a on restriction of processing into Article 37 (‘Right to rectification, erasure and restriction’)
- the obligation for Europol to seek prior authorisation from the Data Protection Officer (‘DPO’) rather than the EDPS before carrying out new processing operations involving special categories of data (**Article 39**), which still provides an additional safeguard compared to the requirement of Art. 76 of Regulation (EU) 2018/1725 and the rules applicable to Eurojust;
- the possibility for Europol to appoint two assistant Data Protection Officers (‘DPO’), namely one in charge of administrative personal data processing and another in charge of operational personal data processing (**Article 41a**);
- the alignment of the supervisory tasks of the EDPS in relation to Europol with those established in Regulation 2018/1725 (deletion of paragraphs 3 and 4 in **Article 43**).

Parliamentary Oversight (Articles 12, 14, 51)

Since additional tasks have to be accompanied with more democratic accountability, the Rapporteur proposes to add annual information regarding the use of the pre-analysis for the purpose of filtering (Article 18(6a)) and regarding the cases in which personal data received by private parties was processed to prevent the dissemination of terrorist content and child sexual abuse material to the reporting requirements to the Joint Parliamentary Scrutiny Group (JPSG) in **Article 51**.

Furthermore, amendments have been tabled to **Articles 12 and 14** to

- require the Management Board to provide a thorough justification if it does not take into account elements raised by the JPSG with regard to the multiannual programming; and
- clarify that two representatives of the JPSG, one for the European Parliament and one for the national parliaments to reflect the dual constituency of the JPSG, may be invited to the Management Board meetings to address the Board on behalf of the JPSG.

Other provisions

The Rapporteur proposes a number of amendments to update legal references (e.g. to the Financial Regulation) and align the Europol regulation with the Commission Delegated

Regulation (EU) 2019/715⁵ governing decentralised agencies and clarifies provisions designed to avoid conflicts of interest with respect to Europol's role in the design and implementation of research programmes.

Regarding the rules governing sensitive non-classified and classified information (**Article 67**), the rapporteur proposes to maintain the current system which is based on the Council Decisions since most of the information is provided to Europol by the Member States and not the Commission and the Eurojust is also subject to those rules.

Finally, given the change of paradigm for the Schengen Information System ('SIS') resulting from the possibility for Europol to enter alerts in SIS, the Commission should also evaluate the operational benefits of this new Europol competence (Article 68).

⁵ Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council.