



2023/0438(COD)

13.2.2025

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council on enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol's support to preventing and combating such crimes and amending Regulation (EU) 2016/794
(COM(2023)0754 – C9-0431/2023 – 2023/0438(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jeroen Lenaers

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 on enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol's support to preventing and combating such crimes and amending Regulation (EU) 2016/794
(COM(2023)0754 – C9-0431/2023 – 2023/0438(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0754),
 - having regard to Article 294(2) and Article 85(1), Article 87(2) and Article 88(2), of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0431/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the budgetary assessment by the Committee on Budgets,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 10 July 2024¹,
 - having regard to Rules 60 and 58 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A10-0000/2025),
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.

¹ OJ C, C/2024/6024, 23.10.2024, ELI: <http://data.europa.eu/eli/C/2024/6024/oj>.

Amendment 1

Proposal for a regulation Title

Text proposed by the Commission

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
*on enhancing police cooperation in
relation to the prevention, detection and
investigation of migrant smuggling and
trafficking in human beings, and on
enhancing Europol's support to
preventing and combating such crimes
and amending Regulation (EU) 2016/794*

Amendment

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
*amending Regulation (EU) 2016/794, as
regards the strengthening of Europol's
support, and enhancing police cooperation,
for preventing and combating migrant
smuggling and trafficking in human beings*

Or. en

Amendment 2

Proposal for a regulation Recital 6

Text proposed by the Commission

*(6) In order to support its strategic
analysis in the prevention and combating
of migrant smuggling and trafficking in
human beings, the European Centre
Against Migrant Smuggling should, for
strategic tasks, be supported by a
cooperation framework composed of
Europol staff and involve representatives
of the Commission, Member States'
specialised services, the European Union
Agency for Criminal Justice Cooperation
(Eurojust) and the European Border and
Coast Guard Agency. The European
Centre Against Migrant Smuggling
should hold a meeting of the entities
represented in the centre at least twice a
year to ensure effective steer and
coordination at Union level. To enable
that centre to fulfil its tasks, other*

Amendment

deleted

relevant internal structures of Europol should provide it with all necessary support. In order to maximise the effectiveness of the European Centre Against Migrant Smuggling, Europol should be able to invite, in particular, the main actors of the European Multidisciplinary Platform Against Criminal Threats ('EMPACT') as well as other relevant Union bodies or agencies when needed.

Or. en

Amendment 3

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) For the purpose of strengthening operational and technical support to preventing and combating migrant smuggling and trafficking in human beings, the European Centre Against Migrant Smuggling should involve representatives from the Member States' specialised services, Eurojust and the European Border and Coast Guard Agency to ensure an effective, timely and systematic coordination and exchange of information on countering migrant smuggling and trafficking in human beings at Union level, ensuring a stronger inter-agency cooperation within their respective competences and with Member States. Permanent representatives from Eurojust and the European Border and Coast Guard Agency should be nominated for this purpose.

Or. en

Amendment 4

Proposal for a regulation Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) In order to maximise the effectiveness of the European Centre Against Migrant Smuggling, Europol should be able to invite other participants to be involved in carrying out activities of the European Centre Against Migrant Smuggling. This may include in particular, the Commission and the main actors of the European Multidisciplinary Platform Against Criminal Threats (EMPACT), as well as other relevant Union bodies or agencies, when falling within their competences. The European Centre Against Migrant Smuggling should also be able to cooperate with the European External Action Service and Common Security and Defence Policy missions and operations, where appropriate and relevant, in line with their respective mandates and competences, as well as in accordance with Europol's mandate. Europol should ensure that the European Centre Against Migrant Smuggling has adequate resources to fulfil its duties and that other relevant internal structures of Europol provide it with all necessary support.

Or. en

Amendment 5

Proposal for a regulation Recital 7 c (new)

Text proposed by the Commission

Amendment

(7c) To ensure that the tasks and governance of the European Centre Against Migrant Smuggling remain

sufficiently flexible, the Management Board should be empowered, based upon a proposal from the Executive Director, to adopt implementing rules, including in relation to the types of operational and strategic tasks to be carried out and on the arrangements for participation of the representatives and invited participants.

Or. en

Amendment 6

Proposal for a regulation

Recital 9

Text proposed by the Commission

Amendment

(9) For the purpose of strengthening operational and technical support to preventing and combating migrant smuggling and trafficking in human beings, the European Centre Against Migrant Smuggling should, for operational tasks, involve liaison officers from the Member States, Eurojust and the European Border and Coast Guard Agency to ensure an effective, timely and systematic coordination and exchange of information on countering migrant smuggling and trafficking in human beings at Union level, ensuring a stronger inter-agency cooperation within their respective competences and with Member States. Other relevant internal structures of Europol should also provide all necessary support. Liaison officers from Eurojust and the European Border and Coast Guard Agency liaison officers should be posted as permanent representatives to Europol for this purpose. Europol should be able to involve other relevant Union bodies or agencies to draw on the expertise falling within their competencies where relevant.

deleted

Or. en

Amendment 7

Proposal for a regulation Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Taking account of the evaluation planned in accordance with Article 23 of Regulation (EU) 2021/784 of the European Parliament and of the Council^{1a}, and in view of addressing the broader problem of illegal content online, the need to broaden the scope of removal orders to cover the online dimension of migrant smuggling or trafficking in human beings, including online facilitation or public instigation, should be evaluated.

^{1a} Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2021 on addressing the dissemination of terrorist content online (OJ L 172, 17.5.2021, p. 79, ELI: <http://data.europa.eu/eli/reg/2021/784/oj>).

Or. en

Amendment 8

Proposal for a regulation Recital 13

Text proposed by the Commission

Amendment

(13) Active engagement of the Member States and sharing of information with Europol is key to ensuring a comprehensive and coordinated Union approach to countering migrant smuggling. With a view to strengthening Member States' capacities, Member States should designate specialised services for

(13) Active engagement of the Member States and sharing of information with Europol is key to ensuring a comprehensive and coordinated Union approach to countering migrant smuggling. With a view to strengthening Member States' capacities, Member States should designate specialised services for

countering migrant smuggling, ensuring that they are adequately resourced to prevent and combat migrant smuggling and can share information on criminal investigations with Europol efficiently and effectively. In order to harmonise the sharing of information between the Member States and Europol on migrant smuggling, Member States should ensure that their designated services for countering migrant smuggling are directly connected to SIENA to facilitate the sharing of information. This is in line with Directive (EU) 2023/977 of the European Parliament and of the Council of 10 May 2023 on the exchange of information between the law enforcement authorities of Member States and repealing Council Framework Decision 2006/960/JHA. Member States' immigration liaison officers posted in third countries should also share information with Europol; for this purpose, they should also be connected to SIENA in order to ensure that they can carry out the sharing of information referred to in paragraph 1 in an efficient and effective manner.

countering migrant smuggling, ensuring that they are adequately resourced to prevent and combat migrant smuggling and can share information on criminal investigations with Europol efficiently and effectively. ***Member States may designate existing services for this purpose.*** In order to harmonise the sharing of information between the Member States and Europol on migrant smuggling, Member States should ensure that their designated services for countering migrant smuggling are directly connected to SIENA to facilitate the sharing of information. This is in line with Directive (EU) 2023/977 of the European Parliament and of the Council of 10 May 2023 on the exchange of information between the law enforcement authorities of Member States and repealing Council Framework Decision 2006/960/JHA. Member States' immigration liaison officers posted in third countries should also share information with Europol; for this purpose, they should also be connected to SIENA in order to ensure that they can carry out the sharing of information referred to in paragraph 1 in an efficient and effective manner.

Or. en

Justification

To clarify that no additional structures need be established should they already exist.

Amendment 9

Proposal for a regulation Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Effective and efficient exchange, comparison and analysis of biometric data will enhance the detection of identity fraud and the preventing and combating of crime. Therefore, it should be ensured

that the processing of biometric data is more clearly included as part of Europol's tasks in supporting the Member States.

Or. en

Amendment 10

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) To prevent, detect and investigate cross-border serious organised crime and terrorism, coordination and concerted action is necessary. In addition to the possibility of the Member State to set up a joint investigation team in accordance with Council Framework Decision of 13 June 2002, Member States should be able to set up an operational task force to reinforce law enforcement cooperation with the support of Europol. This coordination mechanism among Member States' police authorities and other law enforcement services should, with the support of Europol, enable them to conduct joint, coordinated and prioritised criminal intelligence activities and investigations notably on criminal networks and groups as well as individual criminal actors, including persons whose criminal activities fall within the forms of crime for which Europol is competent and who constitute a high risk for security. In order to ensure the well-functioning and the effectiveness of that mechanism, Member States setting up, participating in, or supporting an operational task force should be able to ensure a minimum set of requirements concerning their active and timely involvement, such as providing all relevant information to Europol, and Europol should **be able to** make available its advanced analytical, operational, technical, forensic and financial support to those

Amendment

(15) To prevent, detect and investigate cross-border serious organised crime and terrorism, coordination and concerted action is necessary. In addition to the possibility of the Member State to set up a joint investigation team in accordance with Council Framework Decision of 13 June 2002, Member States should be able to set up an operational task force to reinforce law enforcement cooperation with the support of Europol. This coordination mechanism among Member States' police authorities and other law enforcement services should, with the support of Europol, enable them to conduct joint, coordinated and prioritised criminal intelligence activities and investigations notably on criminal networks and groups as well as individual criminal actors, including persons whose criminal activities fall within the forms of crime for which Europol is competent and who constitute a high risk for security. ***It is important to ensure that the operational task force is a flexible and effective operational mechanism. Therefore, the detailed rules concerning their implementation should be adopted by the Management Board, based upon a proposal from the Executive Director. Those operational task forces can initiate certain dedicated criminal intelligence activities and investigations, or parallel financial investigations, in accordance with national and Union law,***

Member States. Third countries should be able to participate in or support an operational task force.

to identify and seize criminal assets. In order to ensure the well-functioning and the effectiveness of that mechanism, Member States setting up, participating in, or supporting an operational task force should be able to ensure a minimum set of requirements concerning their active and timely involvement, such as providing all relevant information to Europol and ***other participating Member States.*** Europol should make available its advanced analytical, operational, technical, forensic and financial support to those Member States. Third countries should be able to participate in or support an operational task force.

Or. en

Amendment 11

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) Europol should be able to deploy staff including seconded national experts in accordance with Regulation (EU) 2016/794 in the territory of a Member State upon request of that Member State, to provide analytical, operational, technical and forensic support in liaison and in agreement with the competent authorities of that Member State. These deployments should notably take place in the context of complex, large-scale and high-profile investigations, including in the context of joint investigation teams, in liaison with Eurojust where appropriate, or operational task forces. These deployments should also support further security checks against Europol or national databases in order to facilitate rapid information exchange to strengthen controls at the Union's external borders (secondary security checks), or migration management support teams in

Amendment

(17) Europol should be able to deploy staff including seconded national experts in accordance with Regulation (EU) 2016/794 in the territory of a Member State, ***or a third country,*** upon request of that Member State ***or third country,*** to provide analytical, operational, technical and forensic support in liaison and in agreement with the competent authorities of that Member State ***or third country.*** These deployments should ***remain a flexible tool and*** notably take place in the context of complex, large-scale and high-profile investigations, including in the context of joint investigation teams, in liaison with Eurojust where appropriate, or operational task forces. These deployments should also support further security checks against Europol or national databases in order to facilitate rapid information exchange to strengthen controls at the

accordance with Regulation (EU) 2019/1896 of the European Parliament and of the Council². Europol should also make use of these deployments to support Member States in relation to major international events. Europol should also be able to deploy staff and seconded national experts in third countries with which it cooperates on the basis of an adequacy decision, an international agreement concluded between the Union and that third country pursuant to Article 218 TFEU, or a cooperation agreement between Europol and that third country concluded before 1 May 2017.

² Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/1896/oj>).

Union's external borders (secondary security checks), or migration management support teams in accordance with Regulation (EU) 2019/1896 of the European Parliament and of the Council². Europol should also make use of these deployments to support Member States in relation to major international events. Europol should also be able to deploy staff and seconded national experts in third countries with which it cooperates on the basis of an adequacy decision, an international agreement concluded between the Union and that third country pursuant to Article 218 TFEU, or a cooperation agreement between Europol and that third country concluded before 1 May 2017.

² Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/1896/oj>).

Or. en

Amendment 12

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) Furthermore, in the context of Europol deployments for operational support, Europol should set up a reserve pool of Member States' highly qualified law enforcement experts with specialised profiles that can be placed at the immediate disposal of Europol for operational deployment to provide specialised support. The experts' reserve pool should include specialists in criminal analysis, forensics,

Amendment

(19) Furthermore, in the context of Europol deployments for operational support, Europol should set up a reserve pool of Member States' highly qualified law enforcement experts with specialised profiles that can be placed at the immediate disposal of Europol for operational deployment to provide specialised support. The experts' reserve pool should include specialists in criminal analysis, forensics,

investigation, languages and coordination. The Member States should ensure that their experts are available to take part, as seconded national experts, in Europol deployments for operational support, at the request of Europol. ***That obligation*** should not apply to third countries where Europol deploys staff and seconded national experts for operational support.

investigation, languages and coordination. The Member States should ***therefore*** ensure that their experts are available to take part, as seconded national experts, in Europol deployments for operational support, at the request of Europol, ***while taking into account the available resources of the Member States' competent authorities. In order to achieve a geographically balanced and proportionate composition of the reserve pool, the Member States should also ensure that their competent authorities have sufficient resources to meet their fair share of contributions to the reserve pool, in proportion to their capacity and operational needs. These obligations*** should not apply to third countries where Europol deploys staff and seconded national experts for operational support

Or. en

Amendment 13

Proposal for a regulation Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) As part of its tasks, Europol is able to support and strengthen actions by the competent authorities of the Member States. That support includes the coordination, organisation and implementation of investigative and operational actions, operational analysis as well as other analytical, forensic or technical support. If required for national criminal proceedings and permitted by national law, Europol staff should be able to be called upon to testify as witnesses in such proceedings, in accordance with Protocol No 7 on the Privileges and Immunities of the European Union, as well as with the obligation of discretion and confidentiality imposed on Europol

staff by the Staff Regulations of Officials of the European Union (the 'Staff Regulations') and the Conditions of Employment of Other Servants of the European Union (the 'Conditions of Employment of Other Servants') laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68^{1a}.

^{1a} OJ L 56, 4.3.1968, p. 1, ELI:
[http://data.europa.eu/eli/reg/1968/259\(1\)/oj](http://data.europa.eu/eli/reg/1968/259(1)/oj)

Or. en

Amendment 14

Proposal for a regulation Recital 19 b (new)

Text proposed by the Commission

Amendment

(19b) Europol is subject to the general rules on contractual and non-contractual liability applicable to Union institutions, agencies, offices and bodies. Europol should also be subject to liability for unauthorised or incorrect data processing.

Or. en

Justification

Harmonises the applicable liability rules with other EU Agencies, such as Eurojust

Amendment 15

Proposal for a regulation Recital 19 c (new)

Text proposed by the Commission

Amendment

(19c) Recalling Recital 59 of Regulation 2016/794, the principle of rotation should

be codified in terms of the maximum fixed contract duration of ten years for the overall term of service at Europol, irrespective of the number of contracts entered into for establishment plan posts which can be filled only by staff from the competent authorities of the Member States. This codification will provide social security to such staff by allowing for the obtention of a minimum pension entitlement as a result of their service for Europol and facilitate the reintegration of such staff members into the service at national level. The corresponding transitional arrangements will allow for contracts of staff who are in their ninth year of service at Europol and that were concluded before the entry into force of this Regulation to be extended to the maximum fixed duration of ten years.

Or. en

Amendment 16

Proposal for a regulation Recital 22

Text proposed by the Commission

Amendment

(22) [In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]

deleted

Or. en

Justification

Deletion in accordance with Ireland's announced intention to participate in this Regulation

Amendment 17

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) [The European Data Protection Supervisor was consulted, in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council³, and has delivered an opinion on [...]⁴.

³ 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, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

⁴ *OJ C ...*

Amendment

(24) The European Data Protection Supervisor was consulted, in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council³, and has delivered an opinion on **23 January 2024**⁴.

³ 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, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

⁴ *European Data Protection Supervisor Opinion 4/2024, https://www.edps.europa.eu/system/files/2024-01/2023-1247_d0187_opinion_en.pdf*

Or. en

Amendment 18

Proposal for a regulation Chapter I

Text proposed by the Commission

Chapter I

GENERAL PROVISIONS

Article 1

Amendment

deleted

Subject matter and scope

This Regulation lays down rules to enhance police cooperation and the support of the European Union Agency for Law Enforcement Cooperation (Europol) in preventing and combating migrant smuggling and trafficking in human beings, by:

- (a) establishing a European Centre Against Migrant Smuggling within Europol and a governance framework to regulate and support its activities;***
- (b) enhancing cooperation and coordination between the Member States, Europol and other Union agencies;***
- (c) reinforcing the exchange of information between the Member States and with Europol;***
- (d) providing Europol with the necessary tools to support and strengthen actions by the competent authorities of the Member States and their mutual cooperation in preventing and combating criminal offences falling within Europol's objectives;***
- (e) enhancing cooperation between Europol and third countries.***

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘migrant smuggling’ means any of the activities referred to in Articles 3, 4 and 5 of Directive [XXX] [laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946 JHA]⁵ ;***
- (2) ‘trafficking in human beings’ means any of the activities referred to in Articles 2 and 3 of Directive 2011/36/EU of the European Parliament and of the***

Council⁶ ;

(3) ‘competent authorities’ means the competent authorities of the Member States defined in Article 2, point (a), of Regulation (EU) 2016/794;

(4) ‘immigration liaison officer’ means a liaison officer deployed in a third country by the competent authorities of a Member State, in accordance with its national law, to deal with immigration-related issues, including when those issues are only a part of the liaison officer’s duties.

⁵ *[please add the title and the publication reference]*

⁶ *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1, ELI: <http://data.europa.eu/eli/dir/2011/36/oj>).*

Or. en

Justification

Deletion of the self-standing Regulation. Some of the provisions are repositioned as amendments to the existing Europol Regulation.

Amendment 19

Proposal for a regulation Article 3

Text proposed by the Commission

Amendment

Article 3

deleted

*European Centre Against Migrant
Smuggling*

The European Centre Against Migrant

Smuggling is established within Europol as a Union centre of specialised expertise as referred to in Article 4(1), point (l), of Regulation (EU) 2016/794. It shall support Member States in the prevention and combating of migrant smuggling and trafficking in human beings and shall perform the tasks set out in Articles 5 and 6.

Or. en

Justification

Deletion of the self-standing Regulation. Some of the provisions are repositioned as amendments to the existing Europol Regulation.

Amendment 20

**Proposal for a regulation
Article 4**

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

Deletion of the self-standing Regulation. Some of the provisions are repositioned as amendments to the existing Europol Regulation.

Amendment 21

**Proposal for a regulation
Article 5**

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

Deletion of the self-standing Regulation. Some of the provisions are repositioned as amendments to the existing Europol Regulation.

Amendment 22

Proposal for a regulation
Article 6

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

Deletion of the self-standing Regulation. Some of the provisions are repositioned as amendments to the existing Europol Regulation.

Amendment 23

Proposal for a regulation
Article 7

Text proposed by the Commission

Amendment

Article 7

deleted

***National specialised services to prevent
and combat migrant smuggling and
trafficking in human beings***

***1. Each Member State shall
designate, one year after the entry into
force of this Regulation at the latest, one
or more specialised services within its
competent authorities, in accordance with
national law, to prevent and combat
migrant smuggling and trafficking in
human beings, including through
criminal investigations. Each Member
State shall immediately after such
designation inform the Commission
thereof.***

2. Each Member State shall ensure that its specialised services designated in accordance with paragraph 1 of this Article collect all relevant information concerning and resulting from criminal investigations into migrant smuggling and trafficking in human beings and share such information as soon as possible with Europol and other Member States in accordance with Article 8.

3. Each Member State shall connect, one year after the entry into force of this Regulation at the latest, its specialised services designated in accordance with paragraph 1 of this Article directly to Europol's Secure Information Exchange Network Application (SIENA) referred to in Article 2, point (w), of Regulation (EU) 2016/794. Each Member State shall immediately after such connection inform the Commission thereof.

4. Each Member State shall provide its specialised services designated in accordance with paragraph 1 with adequate resources to ensure that those specialised services are equipped to prevent and combat effectively migrant smuggling and trafficking in human beings, and to collect and share information in accordance with paragraph 2 in an effective and efficient manner.

5. Each Member State shall make available an appropriate number of staff members of the specialised services designated in accordance with paragraph 1 of this Article for the reserve pool referred to in Article 5b(6) of Regulation (EU) 2016/794, so that those staff members can participate in Europol deployments for operational support as seconded national experts.

Or. en

Justification

Deletion of the self-standing Regulation. Some of the provisions are repositioned as amendments to the existing Europol Regulation.

Amendment 24

Proposal for a regulation Article 8

Text proposed by the Commission

Amendment

Article 8

deleted

***Provision of information concerning
criminal offences on migrant smuggling
and trafficking in human beings to
Europol and the Member States***

- 1. Each Member State shall, in accordance with Regulation (EU) 2016/794, provide Europol with information held by its competent authorities and relating to criminal offences on migrant smuggling and trafficking in human beings.***
- 2. Each Member State shall provide the information referred to in paragraph 1 of this Article to Europol in a timely manner.***
- 3. Each Member State shall provide other Member States and, at the same time, Europol with information held by its competent authorities and relating to criminal offences on migrant smuggling and trafficking in human beings where there are objective reasons to believe that such information could be relevant to those other Member States for the purpose of preventing, detecting or investigating such criminal offences in those Member States.***
- 4. Each Member State shall use SIENA to provide the information referred to in paragraph 3 of this Article to other Member States and Europol, in accordance with Article 8(4) and Article***

18(2), point (d), of Regulation (EU) 2016/794.

5. Each Member State shall connect its immigration liaison officers to SIENA. Where it is not possible to connect an immigration liaison officer to SIENA due to imperative technical reasons related to the situation in the third country of deployment, that immigration liaison officer shall submit the information referred to in paragraph 1 to a national competent authority through other secure channels. That competent authority shall provide the information to Europol, directly or through the Europol national unit, using SIENA.

Or. en

Justification

Deletion of the self-standing Regulation. Some of the provisions are repositioned as amendments to the existing Europol Regulation.

Amendment 25

Proposal for a regulation

Article 9 – paragraph 1 – point 1

Regulation (EU) 2016/794

Article 2 – paragraph 1 – point y

Text proposed by the Commission

(y) ‘Europol deployment for operational support’ means the deployment of Europol staff or seconded national experts in the territory of a Member State, upon request of that Member State, to provide analytical, operational, technical and forensic support in liaison and in agreement with the competent authorities of that Member State.;

Amendment

(y) ‘Europol deployment for operational support’ means the deployment of Europol staff or seconded national experts in the territory of a Member State **or a third country**, upon request of that Member State **or third country, or upon a proposal of the Executive Director**, to provide analytical, operational, technical and forensic support in liaison and in agreement with the competent authorities of that Member State **or third country, and with the authorisation of the Executive Director**;

Amendment 26

Proposal for a regulation

Article 9 – paragraph 1 – point 1

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

"(ya) 'immigration liaison officer' means a liaison officer deployed in a third country by the competent authorities of a Member State, in accordance with its national law, to deal with immigration-related issues, including when those issues are only a part of the liaison officer's duties."

Or. en

Amendment 27

Proposal for a regulation

Article 9 – paragraph 1 – point 2 – point a – point iii

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point l

Text proposed by the Commission

Amendment

(l) develop Union centres of specialised expertise for combating certain types of crime falling within the scope of Europol's objectives, including the European Cybercrime Centre and, in accordance with ***Regulation (EU) .../... of the European Parliament and of the Council* [Regulation on Combating Migrant Smuggling]***, the European Centre Against Migrant Smuggling;

(l) develop Union centres of specialised expertise for combating certain types of crime falling within the scope of Europol's objectives, including the European Cybercrime Centre and, in accordance with ***Article 16a***, the European Centre Against Migrant Smuggling;

Or. en

Justification

Consequence of deleting the self-standing Regulation and the addition of Article 16a

Amendment 28

Proposal for a regulation

Article 9 – paragraph 1 – point 2 – point a – point iv a (new)

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

(iva) the following point is inserted:

"(ya) cooperate with the competent authorities of the Member States, including through the setting up of informal networks, to counter the online dimension of migrant smuggling and trafficking in human beings, including online facilitation or public instigation;"

Or. en

Amendment 29

Proposal for a regulation

Article 9 – paragraph 1 – point 2 – point a – point v

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point za

Text proposed by the Commission

Amendment

(za) support Member States with the effective and efficient processing of biometric data.;

(za) support Member States, *including through the development of advanced tools*, with the effective and efficient processing of biometric data, *including dactyloscopic data, facial images and DNA profiles*;

Or. en

Amendment 30

Proposal for a regulation

Article 9 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 5a – paragraph 3

Text proposed by the Commission

Amendment

3. *The Member States setting up an operational task force shall ensure coherence and synergies with the framework of the European Multidisciplinary Platform Against Criminal Threats (EMPACT).* *deleted*

Or. en

Justification

Deletion in order to avoid excessive regulation and ensure greater flexibility of operational task forces. It is proposed to leave greater scope for the Management Board, based on a proposal from the Executive Director, to decide upon the details of operational task force implementation (paragraph 8).

Amendment 31

Proposal for a regulation

Article 9 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 5a – paragraph 4

Text proposed by the Commission

Amendment

4. *The Member States setting up an operational task force may decide to invite other Member States, third countries and other partners referred to in Article 23 to participate in or support the operational task force. The participation of third countries and other partners in the operational task force shall take place in accordance with this Regulation.* *deleted*

Or. en

Justification

Deletion in order to avoid excessive regulation and ensure greater flexibility of operational task forces. It is proposed to leave greater scope for the Management Board, based on a proposal from the Executive Director, to decide upon the details of operational task force implementation (paragraph 8).

Amendment 32

Proposal for a regulation

Article 9 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 5a – paragraph 5

Text proposed by the Commission

5. To support the implementation of an operational task force, Europol shall make available the analytical, operational, technical, forensic and financial support provided for by this Regulation, in accordance with paragraph 2.

Amendment

5. To support the implementation of an operational task force, Europol shall make available the analytical, operational, technical, forensic and financial support provided for by this Regulation, in accordance with paragraph **1**.

Or. en

Amendment 33

Proposal for a regulation

Article 9 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 5a – paragraph 6

Text proposed by the Commission

6. Each Member State setting up, or participating in, or supporting an operational task force shall, in accordance with the planning, coordination and implementation referred to in paragraph 2:

Amendment

6. Each Member State setting up, or participating in, or supporting an operational task force shall, in accordance with the planning, coordination and implementation referred to in paragraph **1**, ***cooperate with Europol, and with other participating Member States, to the extent necessary for carrying out the tasks of the operational task force, in particular by providing and sharing all relevant information.***

- (a) provide all relevant information without delay to Europol and to the other Member States setting up, participating in, or supporting the operational task force, using SIENA and, where appropriate, make information directly accessible in accordance with Article 20(2a);*
- (b) make use of the analytical, operational, technical, forensic and financial support provided by Europol;*
- (c) initiate certain dedicated criminal intelligence activities and investigations in accordance with national law where required to address the crime to which the operational task force relates;*
- (d) initiate parallel financial investigations in accordance with national and Union law to identify and seize criminal assets;*
- (e) engage its liaison officers deployed in third countries where criminal activities are investigated in the context of the operational task force to enhance cooperation and information sharing, and provide Europol with the information obtained, in accordance with Union and national law.*

Or. en

Justification

Deletion in order to avoid excessive regulation and ensure greater flexibility of operational task forces. It is proposed to leave greater scope for the Management Board, based on a proposal from the Executive Director, to decide upon the details of operational task force implementation (paragraph 8).

Amendment 34

Proposal for a regulation

Article 9 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 5a – paragraph 8

Text proposed by the Commission

8. The Management Board shall adopt implementing rules for the setting up and implementation of operational task forces.

Amendment

8. ***Upon a proposal from the Executive Director***, the Management Board shall adopt implementing rules for the setting up, ***participation in***, and implementation of operational task forces. ***The participation of third countries and other partners in the operational task forces shall take place in accordance with this Regulation.***

Or. en

Amendment 35

Proposal for a regulation

Article 9 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 5b – paragraph 1

Text proposed by the Commission

1. A Member State may request, in accordance with its national law, Europol deployment for operational support on its territory to make use of the analytical, operational, technical, forensic and financial support provided by Europol to prevent and combat crimes falling within Europol's objectives.

Amendment

1. A Member State may request, in accordance with its national law, Europol deployment for operational support on its territory to make use of the analytical, operational, technical, forensic and financial support provided by Europol to prevent and combat crimes falling within Europol's objectives. ***The Executive Director shall evaluate all requests and may accept or refuse the deployment, considering the operational needs, risk assessment, and available resources.***

Or. en

Amendment 36

Proposal for a regulation

Article 9 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 5b – paragraph 2

Text proposed by the Commission

Amendment

2. *Europol deployment for operational support shall take place in the context of complex and large-scale investigations requiring Europol's support, including in the context of joint investigation teams or operational task forces, or to support checks against relevant databases to strengthen controls at the Union's external borders, or migration management support teams in accordance with Regulation (EU) 2019/1896 of the European Parliament and of the Council or to provide support to Member States in major international events.* ***deleted***

Or. en

Justification

Deletion in order to avoid excessive regulation and ensure greater flexibility of Europol deployments. It is proposed to leave greater scope for the Management Board, based on a proposal from the Executive Director, to decide upon the details of Europol deployments (paragraph 9).

Amendment 37

Proposal for a regulation

Article 9 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 5b – paragraph 3

Text proposed by the Commission

Amendment

3. *The Executive Director shall evaluate the request made by a Member State in accordance with paragraph 1 and may approve the Europol deployment for operational support for a limited period of time that can be renewed, considering the operational needs and its available resources. The decision of the Executive Director shall be based on a risk assessment.* ***deleted***

Justification

Deletion in order to avoid excessive regulation and ensure greater flexibility of Europol deployments. It is proposed to leave greater scope for the Management Board, based on a proposal from the Executive Director, to decide upon the details of Europol deployments (paragraph 9).

Amendment 38**Proposal for a regulation****Article 9 – paragraph 1 – point 3**

Regulation (EU) 2016/794

Article 5b – paragraph 5

*Text proposed by the Commission**Amendment*

5. In exceptional cases of urgency requiring immediate Europol deployment for operational support in the territory of a Member State, that Member State and the Executive Director shall ensure that the steps set out in paragraphs 1, 3 and 4 take place within a period of 72 hours. **deleted**

Justification

Deletion in order to avoid excessive regulation and ensure greater flexibility of Europol deployments. It is proposed to leave greater scope for the Management Board, based on a proposal from the Executive Director, to decide upon the details of Europol deployments (paragraph 9).

Amendment 39**Proposal for a regulation****Article 9 – paragraph 1 – point 3**

Regulation (EU) 2016/794

Article 5b – paragraph 6

*Text proposed by the Commission**Amendment*

6. Europol shall set up a reserve pool of Member States' experts for the purpose

6. Europol shall set up a *mandatory* reserve pool of Member States' experts for

of Europol deployments for operational support. The reserve pool shall constitute a reserve of experts working in their Member States that can be placed at the immediate disposal of Europol for that purpose. The Member States shall ensure that their experts are available to take part, as seconded national experts, in Europol deployments for operational support at the request of Europol.

the purpose of Europol deployments for operational support. The reserve pool shall constitute a reserve of experts working in their Member States that can be placed at the immediate disposal of Europol for that purpose. The Member States shall ensure that their experts are available to take part, as seconded national experts, in Europol deployments for operational support at the request of Europol, ***in accordance with the principle of fair sharing of responsibility, ensuring that each Member State contributes fairly while maintaining the necessary resources to fulfil its national responsibilities. To the greatest extent possible, the composition of the reserve pool shall be both geographically balanced and proportionate to the capacities of each Member State.***

Or. en

Amendment 40

Proposal for a regulation

Article 9 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 5b – paragraph 9

Text proposed by the Commission

9. The Management Board shall adopt implementing rules for the preparation and implementation of Europol deployments for operational support, including on the number and profiles of experts to be included in the reserve pool and any subsequent changes thereto.

Amendment

9. ***Upon a proposal from the Executive Director,*** the Management Board shall adopt implementing rules for the preparation and implementation of Europol deployments for operational support, including on the number and profiles of experts to be included in the reserve pool and any subsequent changes thereto.

Or. en

Amendment 41

Proposal for a regulation

Article 9 – paragraph 1 – point 3 a (new)

Regulation (EU) 2016/794

Article 8 a (new)

Text proposed by the Commission

Amendment

(3a) the following is inserted:

"Article 8a

National specialised services to prevent and combat migrant smuggling and trafficking in human beings

- 1. By ... [one year after the entry into force of this Regulation], each Member State shall designate one or more specialised services within its competent authorities, in accordance with national law, to prevent and combat migrant smuggling and trafficking in human beings, including through criminal investigations, and immediately inform the Commission thereof.***
- 2. Each Member State shall ensure that its specialised services designated in accordance with paragraph 1 of this Article collect all relevant information concerning and resulting from criminal investigations into migrant smuggling and trafficking in human beings and shall share such information as soon as possible with Europol and other Member States via Europol's Secure Information Exchange Network Application (SIENA).***
- 3. Each Member State shall ensure that its immigration liaison officers are connected to SIENA and cooperate, as far as possible, and in accordance with national law, with the specialised services designated in accordance with paragraph 1, and Europol in the prevention and combating of migrant smuggling and trafficking in human beings."***

Or. en

Amendment 42

Proposal for a regulation

Article 9 – paragraph 1 – point 3 b (new)

Regulation (EU) 2016/794

Section 2 a (new) – Article 16a (new)

Text proposed by the Commission

Amendment

(3b) the following Section is inserted:

"Section 2a

European Centre Against Migrant Smuggling

Article 16a

Tasks and composition of the European Centre Against Migrant Smuggling

1. The European Centre Against Migrant Smuggling shall be established within Europol as a Union centre of specialised expertise. It shall support Member States in the prevention and combating of migrant smuggling and trafficking in human beings by carrying out operational and strategic tasks. Those tasks shall include coordinating, organising and implementing investigative and operational actions, and supporting Member States' cross-border information exchange activities, operations and investigations, as well as joint investigation teams and operational task forces. It shall also include monitoring migrant smuggling and trafficking in human beings taking place in the Union and in third countries, and in identifying cases of migrant smuggling and trafficking in human beings that may require cooperation with third countries, including by exchanging personal data. The European Centre Against Migrant Smuggling shall also provide strategic analyses and threat assessments on migrant smuggling and on trafficking in human beings, and an annual report identifying the main operational priorities

and possible related actions at Union level.

2. Europol shall provide the European Centre Against Migrant Smuggling with adequate resources to fulfil its tasks.

3. The European Centre Against Migrant Smuggling shall be composed of Europol staff and representatives of the following entities:

(a) a representative of each Member State appointed from a national specialised service, within the competent authorities, responsible for the prevention and combating of migrant smuggling and trafficking in human beings, as referred to in Article 8a;

(b) a permanent representative of Eurojust;

(c) a permanent representative of the European Border and Coast Guard Agency;

Europol may invite other participants to be involved in carrying out activities of the European Centre Against Migrant Smuggling.

4. Upon a proposal from the Executive Director, after having consulted with the entities listed in paragraph 3, points (a), (b), and (c), the Management Board shall adopt implementing rules for the European Centre Against Migrant Smuggling, including on the types of operational and strategic tasks to be carried out, and on the participation of the representatives and invited participants listed in paragraph 3. Union bodies or agencies, including those referred to in paragraph 3 that are participating in the activities of the European Centre Against Migrant Smuggling shall do so in accordance with their respective legal frameworks."

Or. en

Justification

Proposes to establish the European Centre Against Migrant Smuggling within the Europol Regulation. It is proposed to leave greater scope for the Management Board, based on a proposal from the Executive Director, to decide upon the detailed tasks of the Centre and the involvement of other entities (paragraph 4).

Amendment 43

Proposal for a regulation

Article 9 – paragraph 1 – point 4 a (new)

Regulation (EU) 2016/794

Article 49 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(4a) in Article 49, the following paragraph is added:

"5a. Any person who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation in accordance with Article 65 of Regulation (EU) 2018/1725 and Article 56 of Directive (EU) 2016/680."

Or. en

Amendment 44

Proposal for a regulation

Article 9 – paragraph 1 – point 4 b (new)

Regulation (EU) 2016/794

Article 50

Present text

Amendment

Article 50

Liability for incorrect personal data
processing and the right to compensation

1. ***Any individual who has suffered damage as a result of an unlawful data***

(4b) Article 50 is replaced by the following:

"Article 50

Liability for ***unauthorised or*** incorrect
processing of data

1. Europol ***shall be liable***, in
accordance with Article 340 TFEU, ***for***

processing operation shall have the right to receive compensation for damage suffered, either from Europol in accordance with Article 340 TFEU or from the Member State in which the event that gave rise to the damage occurred, in accordance with its national law. The individual shall bring an action against Europol before the Court of Justice of the European Union, or against the Member State before a competent national court of that Member State.

2. Any dispute between Europol and Member States over the ultimate responsibility for compensation awarded to an individual in accordance with paragraph 1 shall be referred to the Management Board, which shall decide by a majority of two-thirds of its members, without prejudice to the right to challenge that decision in accordance with Article 263 TFEU.

any damage caused to an individual which results from the unauthorised or incorrect processing of data carried out by it.

2. Complaints against Europol on grounds of the liability referred to in paragraph 1 of this Article shall be heard by the Court of Justice of the European Union in accordance with Article 268 TFEU.

3. Each Member State shall be liable, in accordance with its national law, for any damage caused to an individual which results from the unauthorised or incorrect processing carried out by it of data which were communicated to Europol."

Or. en

Justification

Harmonises the applicable liability and compensation regime with other agencies (cf. Article 46 Eurojust Regulation)

Amendment 45

Proposal for a regulation
Article 9 – paragraph 1 – point 4 c (new)
Regulation (EU) 2016/794
Article 53

Article 53

General provisions

1. The Staff Regulations, the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to the Staff Regulations and to the Conditions of Employment of Other Servants shall apply to the staff of Europol ***with the exception of staff who, on 1 May 2017, are employed pursuant to a contract concluded by Europol as established by the Europol Convention without prejudice to Article 73(4) of this Regulation. Such contracts shall continue to be governed by the Council Act of 3 December 1998.***

2. Europol staff shall consist of temporary staff ***and/or*** contract staff. The Management Board shall be informed on a yearly basis of contracts of an indefinite duration granted by the Executive Director. The Management Board shall decide which temporary posts provided for in the establishment plan can be filled only by staff from the competent authorities of the Member States. Staff recruited to occupy such posts shall be temporary agents and may be awarded only fixed-term contracts, renewable once for a fixed period.

(4c) Article 53 is replaced by the following:

‘Article 53

General provisions

1. The Staff Regulations, the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to the Staff Regulations and to the Conditions of Employment of Other Servants shall apply to the staff of Europol.

2. Europol staff shall consist of temporary staff or contract staff. The Management Board shall be informed on a yearly basis of contracts of an indefinite duration granted by the Executive Director. The Management Board shall decide which temporary posts provided for in the establishment plan can be filled only by staff from the competent authorities of the Member States. Staff recruited to occupy such posts shall be temporary agents and may be awarded only fixed-term contracts, renewable once for ***an overall maximum fixed period of ten years.***’

Or. en

Amendment 46

Proposal for a regulation

Article 9 – paragraph 1 – point 4 d (new)

Regulation (EU) 2016/794

Article 54 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

(4 d) in Article 54, paragraph 3, introductory part is replaced by the following:

3. The term of office of the Executive Director shall be **four** years. By the end of that period, the Commission, in association with the Management Board, shall undertake an assessment taking into account:

'3. The term of office of the Executive Director shall be **five** years. By the end of that period, the Commission, in association with the Management Board, shall undertake an assessment taking into account.'

Or. en

Justification

Proposes to harmonise the term of office of the Executive Management with that of other JHA Agencies such as Frontex, the EU Agency for Fundamental Rights (FRA) and eu-LISA

Amendment 47

Proposal for a regulation

Article 9 – paragraph 1 – point 4 e (new)

Regulation (EU) 2016/794

Article 54 – paragraph 4

Text proposed by the Commission

Amendment

(4e) Article 54, paragraph 4 is replaced by the following:

4. The Council, acting on a proposal from the Management Board that takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once and for no more than **four** years.

'4. The Council, acting on a proposal from the Management Board that takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once and for no more than **five** years'

Or. en

Justification

Proposes to harmonise the term of office of the Executive Management with that of other JHA Agencies such as Frontex, the EU Agency for Fundamental Rights (FRA) and eu-LISA

Amendment 48

Proposal for a regulation

Article 9 – paragraph 1 – point 4 f (new)

Regulation (EU) 2016/794

Article 63 a (new)

Text proposed by the Commission

Amendment

(4f) the following Article 63a is inserted:

‘Article 63a

Witness testimony by Europol staff

The Executive Director shall decide upon the authorisation for Europol staff to testify before a court of a Member State as a witness. The authorisation to testify shall not be unduly withheld, and, depending on the circumstances, the Executive Director may define conditions for the testimony, in accordance with national law. These provisions also apply to staff formerly employed by Europol.’

Or. en

Amendment 49

Proposal for a regulation

Article 9 – paragraph 1 – point 4 g (new)

Regulation (EU) 2016/794

Article 74 c (new)

Text proposed by the Commission

Amendment

(4g) the following Article 74c is inserted:

‘Article 74c

Transitional arrangements concerning the length of service of the Executive Director, the Deputy Directors and staff

1. The Executive Director, appointed on the basis of Article 54 of this Regulation, whose term of office comes to an end after...[the entry into force of this

amending Regulation], shall have his or her first or second term of office automatically extended to allow for the maximum period of ten years of service. That extension shall not constitute a contract renewal pursuant to Article 8 the Conditions of Employment of other Servants.

2. Where the Executive Director is unwilling to accept the automatic extension foreseen in paragraph 1, the Executive Director may retain his or her existing term of office.

3. Paragraphs 1 and 2 of this Article shall apply to the Deputy Executive Directors appointed on the basis of Article 55 of this Regulation, whose term of office comes to an end after...[the entry into force of this amending Regulation].

4. The contract of a temporary staff member provided for in the establishment plan who is in active employment on [the date of entry into force of this amending Regulation] shall be extended automatically to the maximum period of ten years provided that:

(a) the temporary staff member was recruited to occupy a post which can be filled only by staff from the competent authorities of the Member States in accordance with Article 53(2) of this Regulation;

(b) the contract has already been renewed once and is coming to the end of the maximum period of nine years of service.

That automatic extension shall not constitute a contract renewal pursuant to Article 8 of the Conditions of Employment of other Servants. A staff member who does not accept the automatic extension referred to in the first subparagraph may retain his or her existing contractual relationship with Europol in accordance with Article 53.'

Justification

To allow the specified agency staff and Executive Management already in place at the time of the entry into force of this amending Regulation to benefit from the new rules.

EXPLANATORY STATEMENT

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2016/794, as regards the strengthening of Europol's support, and enhancing police cooperation, for preventing and combating migrant smuggling and trafficking in human beings

More than 90% of people arriving in the EU irregularly rely on smugglers to facilitate part of, or their entire journey. These smugglers are ruthless criminals for whom a human life is merely a business opportunity. A cynical business model that takes advantage of vulnerable people, often putting their lives in danger on perilous journeys and subjecting them to violence and abuse. After facilitating the crossing of the EU external borders, the criminal networks continue their activity by facilitating unauthorised secondary movements within the EU. Smuggling networks adapt quickly to external developments by flexibly allocating resources and using new routes, technologies and modus operandi. Investigations revealed that migrant smugglers often use existing infrastructure of parallel criminal activities such as drug, firearms or human trafficking in combination with abuse of legal instruments and business structures.

These criminal networks generate a staggering amount of EUR 4.7 to EUR 6 billion annually in revenue. Therefore, all Member State authorities, EU agencies and key actors, such as travel and transport companies and civil society organisations, have a legal duty and a moral responsibility to make every effort to prevent migrant smuggling.

The European Union Agency for Law Enforcement Cooperation (Europol) plays an essential role to coordinate these efforts, which is underscored by European Commission President von der Leyen, who emphasised that police should be able to work across Europe without borders. The Commission also proposed to double Europol's staff and strengthen its mandate in order for Europol to become a truly operational police agency. Being part of the revised Facilitators Package, the *Proposal for a Regulation on Enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol's support to preventing and combating such crimes and amending Regulation (EU) 2016/794*, represents an important step forward in achieving these goals and systematically addressing the crime of migrant smuggling both within the EU and from third countries. The European Commission estimated that an additional budget of EUR 50 million and 50 additional posts are required for the overall period of the current Multiannual Financial Framework 2021-2027. This Regulation will release these much needed additional funds and create these extra posts for Europol to fully and efficiently carry out the new strategic and operational tasks assigned to it as well as its revised mandate.

This Draft Report's key aspects to enhance the effective implementation of the legislative proposal include the following:

- The report aims to simplify and clarify the structure of the Commission proposal, by deleting the self-standing regulation and repositioning some of those provisions as amendments to the existing Europol Regulation. This reduces legal complexity, improves readability and ensures that the governance of the agency is managed by a single EU Regulation.

- By its nature, migrant smuggling has a cross-border dimension. Therefore, dismantling smuggling networks requires more efficient and effective data sharing and cross-border cooperation between Member States, EU agencies and with third countries. This Draft Report endorses the Commission proposals to enhance the responsibility of Member States to share data in this respect.
- In order to enhance police cooperation in relation to the prevention, detection and investigation of migrant smuggling, Europol has a comprehensive toolbox at its disposal. This Draft Report supports the Commission proposal to codify these tools and structures for legal clarity and to provide general direction, while maintaining the much needed flexibility to adapt to changing circumstances, leaving sufficient scope for Europol's Management Board to decide upon the details of the functioning of these tools and structures. To reinforce the role of the Europol Executive Director, it is also proposed that these implementing rules shall be based upon the Executive Director's proposal. The tools and structures include the following:

The European Centre Against Migrant Smuggling, which shall be established within Europol as a Union centre of specialised expertise. It shall support Member States in the prevention and combating of migrant smuggling and trafficking in human beings by carrying out operational and strategic tasks. The Centre shall be composed of representatives from the national specialised services dedicated to preventing and combating migrant smuggling and trafficking in human beings. It shall also be composed of permanent representatives from Frontex and Eurojust. It is proposed to leave up to the Agencies themselves to decide on whether to relocate these representatives in the interests of their tasks.

In the context of Europol deployments for operational support, Europol shall set up a mandatory reserve pool of Member States' highly qualified law enforcement experts with specialised profiles that can be placed at the immediate disposal of Europol for operational deployment to provide specialised support, in proportion to their capacity and operational needs.

Member States should be able to set up operational task forces to reinforce law enforcement cooperation with the support of Europol. Also the Executive Director must have the prerogative to propose operational task forces to the Member States.

Member States shall designate specialised services to prevent and combat migrant smuggling and trafficking in human beings. These services shall share all relevant information resulting from criminal investigations as soon as possible with Europol and other Member States. No additional structures need to be established should they already exist.

The Rapporteur supports the Commission's intention to include the processing of biometric data within the agency's tasks and proposes to reinforce this. Given the role played in the facilitation and instigation of migrant smuggling and trafficking in human beings by online services, it is also proposed to clarify Europol's support to countering the online dimension of these criminal activities.

- For Europol to successfully and effectively carry out its mandate, procedural and internal staff aspects should be improved when needed. This draft report includes amendments to harmonise the term of office of the Executive Management and staff, and applicable liability and compensation regimes with other agencies such as Frontex, the EU Agency for Fundamental Rights (FRA) and eu-LISA, while safeguarding the rights of any person potentially affected. It also clarifies the rules concerning witness testimony by Europol staff, since the current legal framework is insufficient and may generate misinterpretations regarding the legal status of Europol staff members in national courts or regarding the scope of their testimony.

**ANNEX: ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that he received input from the following entities or persons in the preparation of the draft report:

| Entity and/or person |
|-------------------------------|
| EDRi |
| Europol |
| European Commission - DG HOME |
| EPRS |
| Equinox |

The list above is drawn up under the exclusive responsibility of the rapporteur.

Where natural persons are identified in the list by their name, by their function or by both, the rapporteur declares that he has submitted to the concerned natural persons the European Parliament's Data Protection Notice No 484 (<https://www.europarl.europa.eu/data-protect/index.do>), which sets out the conditions applicable to the processing of their personal data and the rights linked to that processing.