



Plenary sitting

A9-0290/2021

15.10.2021

*****I**
REPORT

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))

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)0796),
 - 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 (A9-0290/2021),
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 **capabilities** 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 or identities through the use of increasingly sophisticated techniques**. Criminals have **proven their ability to adapt** their modes of operation or **develop** new criminal activities **in times of crisis, including by leveraging technology-enabled tools for multiplying and expanding the range and scale of the criminal activities they engage in**. Terrorism remains a significant threat to the freedom and way of life of the Union and its citizens.

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 serious crime and terrorism. Since Regulation (EU) 2016/794 became

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 Europol offers to **prevent and** counter serious crime and terrorism. Since

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.

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.

Amendment 3

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The additional tasks conferred upon Europol by this Regulation should allow Europol to better support national law enforcement authorities while fully preserving the responsibilities of the Member States in the area of national security laid down in Article 4(2) of the Treaty on the European Union. The reinforced mandate of Europol should be balanced with strengthened safeguards with regard to fundamental rights and increased accountability, liability and oversight, including parliamentary oversight. To allow Europol to fulfil its mandate, its additional competences and tasks should be matched with adequate human and financial resources.

Amendment 4

Proposal for a regulation Recital 4

Text proposed by the Commission

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 crisis situations. In the Union, *the* law enforcement units of the Member State

(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,*

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 5

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

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 2008/617⁵³. Europol should be able to provide support to these special intervention units, including by providing operational, technical and financial support. **Such support is always to be complementary to the efforts undertaken by Member States to ensure the security of their citizens**

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*).

Amendment

(5) In recent years, **large-scale cyber-attacks, including attacks originating in third countries,** targeted public and private entities alike across many jurisdictions in the Union and beyond, affecting various sectors including transport, health and financial services. 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

national level on *cyber attacks and security* threats, Europol should cooperate with the ENISA through the exchange of information and by providing analytical support.

cooperate with the ENISA *within their respective mandates* 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).

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).

Amendment 6

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) High-risk criminals play a leading role in criminal networks and pose a high risk of serious crime to the Union's internal security. To combat high-risk organised crime groups and their leading members, Europol should be able to support Member States in focusing their investigative response on identifying these persons, their criminal activities and the members of their criminal networks.

Amendment

(6) High-risk criminals play a leading role in criminal networks and pose a high risk of serious crime to the Union's internal security. To combat high-risk organised crime groups and their leading members, Europol should be able to support Member States in focusing their investigative response on identifying these persons, their criminal activities and *financial assets, and* the members of their criminal networks, *as well as persons belonging to the national, political and financial institutions who are involved in crimes via corruption schemes.*

Amendment 7

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*

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 *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.

Amendment 8

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*. 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.

activities driven by Member States to identify, *prioritise* 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

(8) 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 *of being* involved in *or convicted for a criminal offence in respect of which Europol is competent*. Following consultation with the Member States, Europol should be able to enter *alerts* on these persons in *SIS pursuant to Regulation (EU) 2018/1862, provided that they are third-country nationals and that the information is received from a third country that is the subject of a Commission decision finding that it ensures an adequate level of data protection ('adequacy decision'), from a third country with which the Union has concluded an international agreement pursuant to Article 218 of the Treaty on the Functioning of the European Union (TFEU) that includes the transfer of*

*personal data for law enforcement purposes, or from a third country with which Europol has concluded a cooperation agreement allowing for the exchange of personal data prior to the entry into force of Regulation (EU) 2016/794. Where information is received from another third country, Europol should be allowed to enter alerts into SIS where such a third country, has confirmed the information or where the information provided concerns a terrorist offence or organised crime. Europol should be able to enter alerts in SIS 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 watch-list, through which such information is also shared. Alerts should be entered in SIS by Europol in full respect of fundamental rights and data protection rules.***

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).

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*

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).

(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).

Amendment 9

Proposal for a regulation Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Europol has an important role to play in supporting Member States to fight serious crime and terrorism through its expertise and analysis capabilities. To ensure better cooperation between Member States and Interpol in accordance with Union and international law, Europol should actively monitor, analyse and appraise red alerts which Interpol publishes at the request of third countries and notify Member States, the European External Action Service and the Commission when there is reasonable suspicion that an alert was issued in violation of Article 3 of the Interpol constitution.

Amendment 10

Proposal for a regulation Recital 9

Text proposed by the Commission

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, ***analysis***, reports and other relevant information to the entire evaluation ***and monitoring process***, from programming to on-site visits and the follow-up. Europol

(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. Europol should ***therefore, upon request***, contribute with its expertise, ***analyses***, reports and other relevant information to the entire ***Schengen Evaluation Mechanism***, from programming to on-site visits and the follow-up. Europol should also assist in

should also assist in developing and updating the evaluation and monitoring tools.

developing and updating the evaluation and monitoring tools.

Amendment 11

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Risk assessments ***are an essential element of foresight*** to anticipate new trends and ***to address new*** threats in serious crime and terrorism. ***To support the Commission and the Member States in carrying out effective risk assessments,*** Europol should provide threats assessment ***analysis*** based on the information it holds on criminal phenomena and trends, without prejudice to ***the EU*** law provisions on customs risk management.

Amendment

(10) Risk assessments ***contribute*** to anticipate new trends and threats in serious crime and terrorism. Europol should provide threats assessment ***analyses to the Member States*** based on the information it holds on criminal phenomena and trends, without prejudice to ***Union*** law provisions on customs risk management.

Amendment 12

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 order to avoid any conflicts of interest,*** Europol should not receive funding from ***Union framework programmes in whose design or implementation it plays a role.***

Amendment 13

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 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 or critical technologies that could be used to facilitate terrorism. In this context, Europol's expertise should support the screening 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).

Amendment 14

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) One of Europol’s objectives is to support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combatting forms of crime which affect a common interest covered by a Union policy. To strengthen that support, Europol should be able to request the competent authorities of a Member State to initiate, conduct or coordinate a criminal investigation of a crime, which affects a common interest covered by a Union policy, even where the crime concerned is not of a cross-border nature. Europol should inform Eurojust of such requests.

Amendment

(14) One of Europol’s objectives is to support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combatting forms of crime which affect a common interest covered by a Union policy. To strengthen that support, Europol should be able to request the competent authorities of a Member State to initiate, conduct or coordinate a criminal investigation of a crime, which affects a common interest covered by a Union policy, even where the crime concerned is not of a cross-border nature. Europol should inform Eurojust ***and, where relevant, the European Public Prosecutor’s Office (‘the EPPO’)***, of such requests.

Amendment 15

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 16

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**

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**.

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 by checking **the data** against data **it** already **holds, without further analysing the data for additional leads at this stage**. Such pre-analysis should take place prior to, **and separate from,** Europol's data processing for cross-checking, strategic analysis, operational analysis or exchange of information **and after** Europol **has established that the data are relevant and**

Regulation, Europol *should delete that data.*

necessary for the performance of its tasks.

Amendment 17

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 exceptionally 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 by up to six months in duly justified cases and provided that such an extension is necessary and proportionate. The European Data Protection Supervisor (EDPS) 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.

Amendment 18

Proposal for a regulation Recital 17

Text proposed by the Commission

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

(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.*

criminals in other Member States and outside the Union. Member States *can* detect such cross-border links *less effectively* through their own analysis of the data. Europol should *therefore* be able to support Member States' criminal investigations by processing large and complex datasets to detect such cross-border links where the strict requirements *and safeguards* set out in this Regulation are fulfilled. Where necessary to support effectively a specific criminal investigation in a Member State *or where a Member State or Union body requests a strategic analysis within the mandate of Europol*, 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, *the EPPO or Eurojust provide* Europol with an investigative case file requesting *Europol* to support a specific criminal investigation *within the mandate of Europol by providing operational analysis*, Europol should be able to process all data contained in that file for as long as it supports that specific criminal investigation.

Amendment 19

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 to be processed by Europol** is necessary and proportionate, Member States should ensure compliance with national and Union law when they submit an investigative case file **containing personal data** to Europol, **including, where applicable, prior judicial authorisation. Bearing in mind that the Court of Justice of the European Union (the ‘Court of Justice’) considers that access to personal data with a view to its retention or use affects the fundamental right to respect for private life guaranteed by Article 7 of the Charter of Fundamental Rights of the European Union (‘the Charter’)**, 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.

Amendment 20

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 an adequacy decision, an international agreement concluded by the Union pursuant to Article 218 TFEU that includes the transfer of personal data for law enforcement purposes, 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 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 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.

Amendment 21

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

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 until the judicial***

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 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.

proceeding is concluded 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 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. ***To this end, Europol should log all evidence and the methods by which it has been produced or acquired by Europol to allow for effective scrutiny of evidence by the defence.***

Amendment 22

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 ***cooperation*** 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 directly ***access*** 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 ***compliance with personal data rules in accordance with Directive (EU) 2016/680 of the European Parliament and of the Council^{1a} as well as*** the safeguards set out in this Regulation.

1^a 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).

Amendment 23

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, *including* 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, *as well as defence lawyers*, throughout the whole lifecycle of criminal proceedings. To that end, Europol staff *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.

Amendment 24

Proposal for a regulation Recital 22

Text proposed by the Commission

(22) Europol and the *European Public*

Amendment

(22) Europol and the *EPPO* established

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. 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).

Amendment 25

Proposal for a regulation **Recital 24**

by Council Regulation (EU) 2017/1939⁵⁸, should **conclude working** arrangements **setting out the process for** their cooperation **and**, 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 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. Europol should also be able to support criminal investigations by the EPPO by way of analysis of large and complex datasets **in accordance with the safeguards and data protection guarantees provided for in this Regulation.**

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).

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 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.

Amendment 26

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 27

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

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. ***In circumstances where it is essential to the investigation of*** crimes falling within the scope of Europol's objectives, the Executive Director of Europol should be allowed to authorise ***a category*** of transfers of personal data to third countries in specific situations and on a case-by-case basis, where such ***category*** of transfers related to a specific situation ***is*** necessary and ***proportionate for the investigation of the specific crime and meets*** all the requirements of this Regulation.

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 ***exceptional*** circumstances, exchange personal data with private parties.

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 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 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.

activities. Sex offenders **exploit** 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 **utilise the services offered** by online service providers to recruit volunteers, plan and coordinate attacks, and disseminate propaganda. Cyber criminals profit from the digitalisation of our societies **and from the lack of digital literacy and skills of the general population** using phishing and social engineering to commit other types of cybercrime such as online scams, ransomware attacks or payment fraud. As a result **of** 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.

Amendment 28

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

Amendment

(27) Given the borderless nature of the internet, 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. **Europol should have measures in place to facilitate the cooperation with private parties, including with respect to the sharing of information.** When private

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 29

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 30

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*

parties decide to lawfully and voluntarily share the data with law enforcement authorities, they do *not* currently have a single point of contact with which they can share such *datasets at Union level*.

Amendment

(28) To ensure that private parties have a point of contact at Union level to lawfully *and voluntarily 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 *for the sole purpose of establishing jurisdiction, in accordance with the safeguards and data protection guarantees provided for in this Regulation, including reports relating to moderated content that can reasonably be assumed to be linked to the criminal activities within the remit of Europol.*

Amendment

(29) To ensure that Member States receive *without undue delay* 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' *national units concerned* and forward *those* national *units the*

analysis *necessary to investigate these crimes under their respective jurisdictions.*

personal data and any results relevant to establish jurisdiction. Europol should also be able to forward the personal data and results relevant to establish jurisdiction to contact points 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. 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.

Amendment 31

Proposal for a regulation Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) In certain cases and subject to clear conditions, both of which are set out in this Regulation, it may be necessary and proportionate for Europol to transfer personal data to private parties which are not established within the Union or in a 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. In such cases, the transfer should be subject to prior authorisation by the Executive Director and the EDPS should be informed about the transfer.

Amendment 32

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 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.

Amendment 33

Proposal for a regulation Recital 31

Text proposed by the Commission

(31) Member States, third countries, international **organisation, including the International Criminal Police**

Amendment

(30) To ensure that **Europol** can identify all relevant national **units** concerned, **it** should be able to inform private parties when the information received from them is insufficient to enable Europol to identify the **national units** concerned. To this end, Europol **should be able to** inform private parties of missing information, as far as this is strictly necessary for the **sole purpose of identifying 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**.

Amendment

(31) Member States, third countries, international **organisations** or private parties may share multi-jurisdictional data

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 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.

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 *send a reasoned request to* Member States, via their national units, to *provide it with the necessary personal data from* private parties which are established or have a legal representative in their territory to *identify the national units concerned. The request should be as targeted as possible and strictly limited to what is necessary and proportionate for Europol to identify the national units concerned. The relevant personal data, which should be the least sensitive possible, should be provided to* Europol in accordance with those Member States' applicable laws. *Under the case law of the Court of Justice, prior authorisation from a court or an independent administrative authority is generally required for private parties to disclose personal data to Member States' competent authorities, except in duly justified emergency situations.* 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.

Amendment 34

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 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.

Amendment 35

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

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, unless a national unit, contact point or authority concerned resubmits **on duly justified grounds and in compliance with Union and national law**, 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.

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

FIUs in particular via the national units.

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).

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 36

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) 2021/784 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 **cyberattacks**. 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) 2021/784 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).**

Amendment 37

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 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.

Amendment

(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 harm to life or physical integrity, **thereby allowing for the glorification and provision of training for terrorism, and eventually the radicalisation and recruitment of others. Moreover, the increased use of the internet to record or share child sexual abuse material perpetuates the harm for the victims, as the material can easily be multiplied and circulated.** To ensure that Member States can effectively prevent the dissemination of **terrorist** content in the context of crisis situations stemming from ongoing or recent real-world events, **and of child sexual abuse material, and to support the actions of online service providers in line with their obligations under Union law as well as in their voluntary actions,** Europol should be able to exchange **relevant** personal data, including hashes, IP addresses or URLs related to such content, **with private parties established in the Union or in a third country that is subject to an adequacy decision, or, in the absence thereof, an international agreement pursuant to Article 218 TFEU, or an operational cooperation agreement concluded between Europol and the third country prior to the entry into force of Regulation (EU) 2016/794. Those exchanges should only take place when** necessary to support Member States in preventing the dissemination of such content **or to allow its removal,** in particular where there is an anticipated potential for exponential multiplication and virality across multiple online service

providers.

Amendment 38

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 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).

⁶¹ **Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of**

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, 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 Article2(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).

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).

Amendment 39

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 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.

Amendment

(37) Given the challenges ***posed to the Union's security by the rapid technological development and the 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 ***terrorism and*** crimes falling within the scope of Europol's objectives, ***while ensuring that the development, use and deployment of new technologies is guided by the principles of transparency, explainability, fairness, accountability and does not undermine fundamental rights and freedoms and is in compliance with Union law***. ***To that end***, Europol should be able to conduct research and innovation ***projects*** regarding matters covered by this Regulation ***within the binding general scope of research and innovation activities defined by the Management Board, which should be updated where appropriate and made available to the EDPS***. ***Those projects are allowed to include*** the processing of personal data ***only*** where ***the processing of personal data is strictly required, where the objective of the relevant project***

cannot be attained through the use of non-personal or anonymous data, and whilst ensuring full respect for fundamental rights, notably non-discrimination. The processing of special categories of personal data for research purposes should only be allowed where it is strictly necessary. Given the sensitivity of such processing, appropriate additional safeguards, including pseudonymisation, should be applied. To prevent bias in algorithmic decision-making it is crucial to train the technology with representative datasets. In exceptional and duly justified cases and where strictly required to prevent bias, Europol should therefore be allowed to process personal data outside the categories of data subjects listed in Annex II of Regulation (EU) 2016/794. Europol should keep logs of all personal data processing in the context of its research projects to allow the EDPS to carry out audits and conduct supervision, with a view to ensure that technological solutions based on artificial intelligence do not undermine fundamental rights and freedoms and are not discriminatory. It should furthermore ensure that audits are carried out by independent experts before the deployment of any technological solution resulting from Europol's research and innovation projects involving the processing of personal data with a view to ensuring that the technological solution does not undermine the fundamental rights and freedoms enshrined in the Charter. The provisions on the development of new tools by Europol should not constitute a legal basis for their deployment at Union or national level. To reinforce synergies in research and innovation, Europol should step up its cooperation with other Union agencies within their respective competences in this area.

Amendment 40

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 and freedoms, including non-discrimination**. 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, explainability** and fundamental rights.

Amendment 41

Proposal for a regulation
Recital 39

Text proposed by the Commission

(39) Europol should inform the European Data Protection Supervisor prior to the launch of its research and innovation projects that involve the processing of personal data. For each project, Europol should carry out, prior to the processing, **an assessment of the impact of the envisaged processing operations on the protection of personal data** and all other fundamental rights, **including of any bias in the outcome**. This should include an assessment of **the appropriateness of** the personal data to be processed for the specific purpose of the project. Such an assessment would facilitate the supervisory role of the European Data Protection Supervisor, **including** the exercise of its corrective powers **under this Regulation which might also** lead to a ban on processing. The development of new tools by Europol should be without prejudice to

Amendment

(39) Europol should inform the European Data Protection Supervisor prior to the launch of its research and innovation projects that involve the processing of personal data. For each project, Europol should carry out, prior to the processing, **a data protection impact assessment to ensure full respect with data protection** and all other fundamental rights **and freedoms of the data subjects**. This should include an assessment of **any potential bias in the outcome and in** the personal data to be processed for the specific purpose of the project **as well as the measures envisaged to address those risks**. Such an assessment would facilitate the supervisory role of the European Data Protection Supervisor, **which may include** the exercise of its corrective powers **and may** lead to a ban on processing **or the prohibition of the launch of a specific research and**

the legal basis, including grounds for processing the personal data concerned, that would subsequently be required for their deployment at Union or national level.

innovation project. Moreover, Europol should take the mandatory initial assessment of the Fundamental Rights Officer, including, where applicable, the recommendations included therein, into account before launching the project. The development of new tools by Europol should be without prejudice to the legal basis, including grounds for processing the personal data concerned, that would subsequently be required for their deployment at Union or national level.

Amendment 42

Proposal for a regulation Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) Expanding the mandate of Europol and the scope of its data processing activities will require the EDPS to dedicate additional financial and human resources to exercise its supervisory role as regards Europol. The financial allocation to the EDPS as well as its provision with human resources at skill levels commensurate to the complexity of data processing undertaken by Europol should be adjusted in accordance with the increased responsibilities of the EDPS towards Europol so as to deliver its feedback to consultations more quickly and not impede the proper functioning of Europol.

Amendment 43

Proposal for a regulation Recital 40

Text proposed by the Commission

Amendment

(40) Providing Europol with additional tools and capabilities requires reinforcing the democratic oversight and

(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.

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 detailed*** annual information on the ***development, deployment, use and effectiveness*** of these tools and capabilities and the result thereof, ***in particular about research and innovation projects as well as new activities or the establishment of any new specialised centres within Europol.*** ***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 behalf of the JPSG. In line with the oversight role of the JPSG, the two JPSG representatives should not have voting rights in the Management Board. Planned research and innovation activities should be set out in the single programming document containing Europol's multiannual programming and annual work programme and transmitted to the Joint Parliamentary Scrutiny Group.***

Amendment 44

Proposal for a regulation Recital 40 a (new)

Text proposed by the Commission

Amendment

(40a) The Management Board should appoint a Fundamental Rights Officer who should be responsible to monitor that Europol safeguards the respect for fundamental rights in all its activities and tasks, notably Europol's research and innovation projects and its exchanges of personal data with private parties. Europol should provide the Fundamental

Rights Officer with the resources and staff necessary to enable him or her to effectively carry out all of his or her tasks in accordance with this Regulation and access to all information concerning respect for fundamental rights in the activities of Europol. The Fundamental Rights Officer should cooperate closely with the Data Protection Officer within the scope of their respective competences. To this end, the Fundamental Rights Officer and the Data Protection Officer should establish, in writing, a memorandum of understanding specifying their division of tasks and cooperation. To the extent that data protection matters are concerned, full responsibility should lie with the Data Protection Officer. Europol should take into account the reports and advice of both bodies.

Amendment 45

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 46

Proposal for a regulation Recital 46

Text proposed by the Commission

(46) This Regulation respects the fundamental rights and observes the

Amendment

(46) This Regulation **fully** respects the fundamental rights **and safeguards**, and

principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular the right to the protection of personal data and the right to privacy as protected by Articles 8 and 7 of the Charter, as well as by Article 16 TFEU. Given the importance of the processing of personal data for the work of law enforcement in general, and for the support provided by Europol in particular, this Regulation includes **effective** safeguards to ensure full compliance with fundamental rights as enshrined in the Charter of Fundamental Rights. Any processing of personal data under this Regulation is limited to what is strictly necessary and proportionate, and subject to clear conditions, strict requirements and effective supervision by the EDPS.

observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular the right to the protection of personal data and the right to privacy as protected by Articles 8 and 7 of the Charter, as well as by Article 16 TFEU. Given the importance of the processing of personal data for the work of law enforcement in general, and for the support provided by Europol in particular, this Regulation includes **enhanced** safeguards, **democratic oversight and accountability mechanisms**, to ensure **that the activities and tasks of Europol are carried out in** full compliance with fundamental rights as enshrined in the Charter, **notably the rights to equality before the law, to non-discrimination, and to an effective remedy before the competent national court against any of the measures taken pursuant to this Regulation**. Any processing of personal data under this Regulation is limited to what is strictly necessary and proportionate, and subject to clear conditions, strict requirements and effective supervision by the EDPS.

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b

Regulation (EU) 2016/794

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 48

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c – introductory part

Regulation (EU) 2016/794

Article 2 – paragraph 1

Text proposed by the Commission

(c) the following **point (q)** is added:

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c

Regulation (EU) 2016/794

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 50

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

(c) the following **points are** added:

Amendment

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

(qa) crisis situation’ means an ongoing or recent real-world event that is linked to a terrorist crime, where online material is created depicting harm to life or to physical integrity or calls for imminent harm to life or physical integrity and aims to, or has the effect of seriously intimidating a population and where there is an anticipated potential of exponential multiplication and virality across multiple online services.

Amendment 51

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

(qb) ‘terrorist content’ means terrorist content as defined in Article 2(7) of Regulation (EU) 2021/784 of the European Parliament and of the Council^{1a};

^{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).

Amendment 52

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

(qc) ‘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^{1a} or pornographic performance as defined in point (e) of Article 2 of that Directive

^{1a} Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 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).

Amendment 53

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point c

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

(qd) category of transfers of personal data' means a group of transfers of personal data which relates to the same real-world event involving harm to life or to physical integrity and which consists of the same categories of personal data and data subjects.

Amendment 54

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, **as well as** with OLAF and ENISA, in particular through exchanges of information and by providing them with analytical support in areas **falling** within their **competences**;

Amendment 55

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 and combating forms of crime listed in Annex I which are facilitated, promoted or committed using the internet, including, in cooperation with Member States, **support** the coordination of **Member States** law enforcement authorities' response to cyberattacks, the taking down of terrorist content online **and child sexual abuse material**, and the **referral of online** content to the online service providers concerned for their voluntary consideration of the compatibility of the referred internet content with their own terms and conditions, **while respecting the right to privacy and the protection of personal data**;

Amendment 56

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 4 – paragraph 1

Text proposed by the Commission

(iv) the following points (q) to **(r)** are added:

Amendment

(iv) the following points (q) to **(ub)** are added:

Amendment 57

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point q

Text proposed by the Commission

(q) support Member States in identifying persons **whose involvement in** crimes falling within the scope of Europol's mandate, as listed in Annex I, constitute a high risk for security, and facilitate joint, coordinated and prioritised

Amendment

(q) support Member States in identifying persons **suspected of** crimes falling within the scope of Europol's mandate, as listed in Annex I, **and that** constitute a high risk for security, and facilitate joint, coordinated and prioritised

investigations;

investigations;

Amendment 58

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 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)**;

Amendment

(r) enter **alerts** into the Schengen Information System, in accordance with Regulation (EU) 2018/1862 of the European Parliament and of the Council^{1a}, 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 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 **which fulfil one of the conditions listed in Article 25(1) of this Regulation or a third country which does not fulfil one of the conditions listed in Article 25(1) of this Regulation, provided that the information has been confirmed by a third country which fulfils those conditions or provided that the information relates to a terrorist offence or organised crime**;

^{1a} **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**

Amendment 59

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point s

Text proposed by the Commission

(s) support the implementation of the evaluation and monitoring mechanism under Regulation (EU) No 1053/2013 within the scope of Europol’s objectives as set out in Article 3;

Amendment

(s) support the implementation of the evaluation and monitoring mechanism under Regulation (EU) No 1053/2013 within the scope of Europol’s objectives as set out in Article 3 ***through the provision of expertise and analyses, where relevant ;***

Amendment 60

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 ***achieving*** 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 ***projects for*** the development, training, testing and validation of algorithms for the development of ***specific*** tools ***for the use of law enforcement***.

Amendment 61

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

Amendment

(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. **deleted**

Amendment 62

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) cooperate with Financial Intelligence Units (FIUs), through the Europol national unit or, if allowed by the relevant Member State, by means of direct contact between the FIUs and Europol, in particular through exchanges of information and the provision of analytical support to support cross-border investigations by Member States into the money laundering activities of transnational criminal organisations and terrorism financing;

Amendment 63

Proposal for a regulation

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

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

(ub) monitor, analyse and appraise red alerts, published by Interpol at the request of third countries, and notify Member States, the European External Action Service, and the Commission in the case of reasonable suspicion that an alert was issued in violation of Article 3 of the Interpol constitution.”

Amendment 64

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 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.**

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. **Where Europol plays a role in the design or implementation of a Union framework programme, it shall not receive funding from that programme. Where appropriate, Europol may consult the Joint Research Centre when defining and conceptualising research and innovation activities regarding matters covered by this Regulation. Europol shall take all necessary measures to avoid conflicts of interest.**

Amendment 65

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^{1a} that concern undertakings providing technologies, ***including software or critical technologies that could be used to facilitate terrorism***, used by Europol or by Member States for the prevention and investigation of crimes covered by Article 3 on the expected implications for security.

^{1a} 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).

Amendment 66

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 4 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(e a) the following paragraph 5a is added:

“5a. Europol shall respect the fundamental rights and freedoms enshrined in the Charter in the performance of its tasks.”

Amendment 67

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 6 – paragraph 1

Text proposed by the Commission

Amendment

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

deleted

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.

Amendment 68

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU) 2016/794

Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(-3) In Article 6, the following paragraph 1a is inserted

“1 a. Without prejudice to paragraph 1, where Europol considers that a criminal investigation should be initiated into a specific crime which affects a common interest covered by a Union policy but is not of a cross-border nature, it shall request the competent authorities of the Member State concerned via the national unit to initiate, conduct or coordinate such criminal investigation.”

Amendment 69

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 6 – paragraph 2

Present text

Amendment

(3a) In Article 6, paragraph 2 is

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*.

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*.

(32016R0794)

Amendment 70

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 6 – paragraph 3 - introductory part

Present text

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:

Amendment

(3 b) In Article 6(3), the introductory part 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:"

(32016R0794)

Amendment 71

Proposal for a regulation

Article 1 – paragraph 1 – point 3 c (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

Amendment

(3c) In Article 6, paragraph 4 is replaced by the following:

"4. Europol shall immediately inform Eurojust *and, where relevant, the EPPO*, of any request made pursuant to *paragraphs 1 and 1a* and of any decision

pursuant to paragraph 2.

of a competent authority of a Member State pursuant to paragraph 2;”

(Document 32016R0794)

Amendment 72

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EU) 2016/794

Article 7 – paragraph 8

Text proposed by the Commission

8. Member States shall ensure that their financial intelligence units established pursuant to Directive (EU) 2015/849 of the European Parliament and of the Council* are allowed to *cooperate with* Europol in accordance with Article 12 of Directive (EU) 2019/1153 of the European Parliament and the Council**, *in particular* via their national unit regarding financial information and analyses, within the limits of their mandate and competence.

* 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).

** Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA (OJ L 186, 11.7.2019, p.

Amendment

8. Member States shall ensure that their financial intelligence units established pursuant to Directive (EU) 2015/849 of the European Parliament and of the Council*, are allowed to *reply to duly justified requests made by* Europol in accordance with Article 12 of Directive (EU) 2019/1153 of the European Parliament and the Council**, *via their national unit or, if allowed by that Member State, by direct contact with Europol* regarding financial information and analyses, within the limits of their mandate and competence.”

* 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).

** Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA (OJ L 186, 11.7.2019, p.

122).

122).

Amendment 73

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 11 – paragraph 1

Present text

(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;

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 *single programming document in accordance with Article 32 of Commission Delegated Regulation (EU) 2019/715^{1a} and the related Commission guidelines for the single programming* document containing Europol's multiannual programming and its annual work programme for the following year.

^{1a} 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)."

(32016R0794)

Amendment 74

Proposal for a regulation

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

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

(4b) In Article 11(1) the following point

(ua) is added:

“(ua) appoint a Fundamental Rights Officer who shall be functionally independent in the performance of his or her duties”

Amendment 75

Proposal for a regulation

Article 1 – paragraph 1 – point 4 c (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 the multiannual programming, after having consulted the JPSG. The Management Board shall forward **that** document to the Council, the Commission and the JPSG.

Amendment

(4c) 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 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.

(32016R0794)

Amendment 76

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 12 – paragraph 2 – subparagraph 1

Present text

Amendment

2. The multiannual programming shall set out the overall strategic programming, including the objectives, expected results and performance indicators. It shall also set out the resource planning, including the multiannual budget and staff. It shall include the strategy for relations with third countries and international organisations.

(4d) In Article 12(2), the first subparagraph is replaced by the following:

The multiannual programming shall set out the overall strategic programming, including the objectives, expected results and performance indicators. It shall also set out the resource planning, including the multiannual budget and staff. It shall include the strategy for relations with third countries and international organisations **and its planned research and innovation activities.**

(32016R0794)

Amendment 77

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 14 – paragraph 4

Present text

Amendment

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.

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

4. 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 observers without voting rights.**

(32016R0794)

Amendment 78

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 16 – paragraph 3

Present text

Amendment

3. The Council may invite the Executive Director to report on the performance of his or her duties

(4f) In Article 16, paragraph 3 is replaced by the following:

3. The Council **and the JPSG** may invite the Executive Director to report on the performance of his or her duties.

(32016R0794)

Amendment 79

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 16 – paragraph 5 – point d

Present text

Amendment

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

(4g) 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 **and the JPSG**;

((32016R0794))

Amendment 80

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a – point ii

Regulation (EU) 2016/794

Article 18 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) research and innovation regarding matters covered by this Regulation for the development, training, testing and validation of algorithms for the development of tools;

(e) research and innovation **projects** regarding matters covered by this Regulation for the development, training, testing and validation of algorithms for the development of **specific tools for the use of law enforcement**;

Amendment 81

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point a – point ii

Regulation (EU) 2016/794

Article 18 – paragraph 2 – point f

Text proposed by the Commission

(f) supporting Member States in informing the public about suspects or convicted individuals who are wanted based on a national judicial decision relating to a criminal offence in respect of which Europol is competent, and **facilitate** the provision of information by the public on these individuals.

Amendment

(f) supporting Member States in informing the public about suspects or convicted individuals who are wanted, based on a national judicial decision relating to a criminal offence in respect of which Europol is competent, and **facilitating** the provision of information, **to the Member States and Europol**, by the public on these individuals.

Amendment 82

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point b

Regulation (EU) 2016/794

Article 18 – paragraph 3 a

Text proposed by the Commission

3a. Processing of personal data for the purpose of research and innovation as referred to in point (e) of paragraph 2 shall be performed by means of Europol's research and innovation projects with clearly defined objectives, **duration and scope of the personal data processing involved, in respect of which** the additional specific safeguards set out in Article 33a **shall apply**.

Amendment

3a. Processing of personal data for the purpose of research and innovation as referred to in point (e) of paragraph 2 shall be performed by means of Europol's research and innovation projects with clearly defined **purposes and** objectives, **and shall be subject to** the additional specific safeguards set out in Article 33a, **in respect of the duration and scope of the personal data processing**.

Amendment 83

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

Amendment

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.

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.

Amendment 84

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point d

Regulation (EU) 2016/794

Article 18 – paragraph 5 a

Text proposed by the Commission

Amendment

(d) the following paragraph 5a is inserted:

deleted

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.

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.

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 accordingly.

Amendment 85

Proposal for a regulation

Article 1 – paragraph 1 – point 5 – point c

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

(5 a) 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 .”**

(32016R0794)

Amendment 86

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 18 – paragraph 6 a new

Text proposed by the Commission

Amendment

da. the following paragraph 6a is inserted:

“6a. Prior to the processing of data under paragraph 2 of this Article, Europol may exceptionally temporarily process personal data received pursuant to Article 17(1) and (2) for the sole 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.

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

Europol may only process personal data pursuant to this paragraph for a maximum period of one year, which may be extended once by up to six months in duly justified cases where proportionate and necessary for the purpose of this Article. Europol shall inform the EDPS of any extension of the maximum processing period. Where the temporary processing is no longer proportionate and necessary for the purpose of this Article, and in any case after the end of the maximum processing period, Europol shall permanently delete the personal data that does not comply with the requirements of paragraph 5 of this Article and the results of the processing, and inform the provider of the data accordingly.

Amendment 87

Proposal for a regulation
Article 1 – paragraph 1 – point 6
Regulation (EU) 2016/794
Article 18a – title

Text proposed by the Commission

Information processing in support of a criminal investigation

Amendment

Processing **of personal data** in support of a criminal investigation

Amendment 88

Proposal for a regulation
Article 1 – paragraph 1 – point 6

Text proposed by the Commission

1. Where necessary for the support of **a** specific criminal investigation, Europol may process personal data outside the categories of data subjects listed in Annex II where:

Amendment 89

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 90

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 1 – point b

Text proposed by the Commission

(b) Europol **assesses** that it is not possible to carry out the operational analysis of the investigative case file without processing personal data that does not comply with the requirements of Article 18(5). This assessment shall be recorded.

Amendment

1. Where necessary for the support of **an ongoing** specific criminal investigation, Europol may process personal data outside the categories of data subjects listed in Annex II where:

Amendment

(a) a Member State, 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 that **ongoing** specific criminal investigation within the mandate of Europol pursuant to point (c) of Article 18(2); and

Amendment

(b) Europol **concludes** that it is not possible to carry out the operational analysis of the investigative case file without processing personal data that does not comply with the requirements of Article 18(5). This assessment shall be recorded **and sent to the EDPS for information**.

Amendment 91

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) a Member State or a Union body requests a strategic analysis within the mandate of Europol pursuant to point (b) of Article 18(2).

Amendment 92

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

Amendment

2. 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.

2. 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 93

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

Amendment 94

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

Amendment 95

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where Europol reaches the conclusion that there are preliminary indications that such data is disproportionate or collected in violation of fundamental rights, Europol shall permanently delete it without processing. When the processing period for the personal data ends, the personal data shall be permanently deleted.

Amendment 96

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

Amendment

3. Upon request of the Member State

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.

that provided an investigative case file to Europol pursuant to paragraph 1, **or upon request of the EPPO or Eurojust, 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 **ongoing** in that Member State **or within the EPPO or Eurojust**.

Amendment 97

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 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.

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 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 **ongoing** in another Member State.

Amendment 98

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 3 – subparagraph 3

Text proposed by the Commission

The Management Board, acting on a proposal from the Executive Director and after consulting the EDPS, shall further

Amendment

deleted

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 99

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 3 a new

Text proposed by the Commission

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, in particular regarding the scale and complexity of the processing and the type and importance of the investigations. 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.*

Amendment 100

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/794

Article 18a – paragraph 4

Text proposed by the Commission

Amendment

4. Paragraphs 1 to 3 shall also apply

4. Paragraphs 1 to **3a** 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.;

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, *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 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 *and delete the data*. *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)*.

Amendment 101

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a

Regulation (EU) 2016/794

Article 20 – paragraph 2 a

Text proposed by the Commission

2a. In the framework of conducting

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Amendment

2a. In the framework of conducting

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dedicated operational analysis projects as referred to in Article 18(3), Member States may determine information to be made directly accessible by Europol to selected other Member States for the purpose of enhanced collaboration in specific investigations, without prejudice to any restrictions of Article 19(2).;

dedicated operational analysis projects as referred to in Article 18(3) **and subject to the rules and safeguards for personal data processing set out in this Regulation**, Member States may determine information to be made directly accessible by Europol to selected other Member States for the purpose of enhanced collaboration in specific investigations, without prejudice to any restrictions of Article 19(2).

Amendment 102

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 **that has come** 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.;

Amendment 103

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. **Proceeding a request by the EPPO**, 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.**

Amendment 104

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*.

Amendment 105

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

Amendment 106

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 23 – paragraph 7

Present text

7. Onward transfers of personal data held by Europol by Member States, Union

Amendment

(9a) In Article 23, paragraph 7 is replaced by the following:

7. Onward transfers of personal data held by Europol by Member States, Union

bodies, third countries **and** international organisations shall be prohibited, unless Europol has given its prior explicit authorisation.

bodies, third countries, international organisations **and private parties** shall be prohibited, unless Europol has given its prior explicit authorisation.

Amendment 107

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EU) 2016/794

Article 24 – title

Text proposed by the Commission

Transmission of **operational** personal data to Union institutions, bodies, offices and agencies

Amendment

Transmission of personal data to Union institutions, bodies, offices and agencies

Amendment 108

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EU) 2016/794

Article 24 – paragraph 1

Text proposed by the Commission

1. Subject to any further restrictions pursuant to this Regulation, in particular pursuant to Article 19(2) and (3) and without prejudice to Article 67, Europol shall only transmit **operational** personal data to another Union institution, body, office or agency if the data are necessary for the legitimate performance of tasks of the other Union institution, body, office or agency.

Amendment

1. ***In accordance with Article 71(2) of Regulation (EU) 2018/1725 and*** subject to any further restrictions pursuant to this Regulation, in particular pursuant to Article 19(2) and (3) and without prejudice to Article 67, Europol shall only transmit personal data to another Union institution, body, office or agency if the ***personal*** data are necessary ***and proportionate*** for the legitimate performance of tasks of the other Union institution, body, office or agency.

Amendment 109

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EU) 2016/794

Article 24 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. ***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.***

Amendment

2. Following a request ***for the transmission of 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.

Amendment 110

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EU) 2016/794

Article 24, –paragraph 2 – subparagraph 3

Text proposed by the Commission

The recipient Union institution, body, office or agency shall ensure that the necessity of the transmission of the ***operational*** personal data can be subsequently verified.

Amendment

The recipient Union institution, body, office or agency shall ensure that the necessity of the transmission of the personal data can be subsequently verified.

Amendment 111

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EU) 2016/794

Article 24 – paragraph 3

Text proposed by the Commission

3. The recipient Union institution, body, office or agency shall process the ***operational*** personal data only for the purposes for which they were transmitted.

Amendment

3. The recipient Union institution, body, office or agency shall process the personal data only for the purposes for which they were transmitted.

Amendment 112

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 25 – paragraph 3

Present text

Amendment

3. Europol shall publish on its website and keep up to date a list of adequacy decisions, agreements, administrative arrangements and other instruments relating to the transfer of personal data in accordance with paragraph 1.

(-a) paragraph 3 is deleted

(32016R0794)

Amendment 113

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 25 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(-aa) the following paragraph 4a is inserted:

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

(a) appropriate safeguards with regard to the protection of personal data are provided for in a legally binding instrument; or

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

Amendment 114

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point a

Regulation (EU) 2016/794

Article 25 – paragraph 5

Text proposed by the Commission

By way of derogation from paragraph 1, the Executive Director may authorise the transfer or *categories* of transfers of personal data to third countries or international organisations on a case-by-case basis if the transfer is, or the related transfers are;

Amendment

By way of derogation from paragraph 1, the Executive Director may *exceptionally* authorise the transfer or *a category* of transfers of personal data to third countries or international organisations on a case-by-case basis if the transfer is, or the related transfers are:

Amendment 115

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point b – introductory part

Regulation (EU) 2016/794

Article 25 – paragraph 8

Text proposed by the Commission

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

Amendment

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

Amendment 116

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

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

Amendment

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

justification for the transfer and about the operational personal data transferred.

authority, about the justification for the transfer and about the operational personal data transferred.”

By way of derogation from paragraph 1, the Executive Director may exceptionally authorise the transfer or categories of transfers of personal data to third countries or international organisations on a case-by-case basis if the transfer is, or the related transfers are:”

Amendment 117

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. **Where** Europol **receives** personal data directly from private parties, **it may** process those personal data in accordance with Article 18 in order to identify **the** national units concerned, as referred to in point (a) of paragraph 1. Europol shall forward the personal data and any relevant results from the **necessary** processing of that data for the purpose of establishing jurisdiction immediately to the national units concerned. Europol may forward the personal data and relevant results from the **necessary** processing of that data 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 118

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point b

Regulation (EU) 2016/794

Article 26 – paragraph 4

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 *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.

Amendment 119

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point c

Regulation (EU) 2016/794

Article 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 *shall not* transmit or transfer personal data to private parties, *except where*, on a case-by-case basis, it is strictly necessary *and proportionate*, 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 120

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point c

Regulation (EU) 2016/794
Article 26 – paragraph 5 – point c

Text proposed by the Commission

(c) the transmission or transfer of personal data **which** are publicly available is strictly necessary for the performance of the task set out in point (m) of Article 4(1) and the following conditions are met:

Amendment

(c) the transmission or transfer of personal data **that** are publicly available is strictly necessary for the performance of the task set out in point (m) of Article 4(1) and the following conditions are met:

Amendment 121

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point c

Regulation (EU) 2016/794

Article 26 – paragraph 6 – subparagraph 1 – point d

Text proposed by the Commission

(d) necessary in individual cases for the purposes of the prevention, investigation, detection or prosecution of criminal **offences** for which Europol is competent; or

Amendment

(d) necessary in individual cases for the purposes of the prevention, investigation, detection or prosecution of **a specific** criminal **offence** for which Europol is competent; or

Amendment 122

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point c

Regulation (EU) 2016/794

Article 26 – paragraph 6 – subparagraph 2

Text proposed by the Commission

Personal data shall not be transferred if the Executive Director determines that fundamental rights and freedoms of the data subject concerned override the public interest in the transfer referred to in points (d) and (e).

Amendment

The EDPS shall be informed about the transfer without undue delay. Personal data shall not be transferred if the Executive Director determines that fundamental rights and freedoms of the data subject concerned override the public interest in the transfer referred to in points (d) and (e).

Amendment 123

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point c

Regulation (EU) 2016/794
Article 26 – paragraph 6 – subparagraph 3

Text proposed by the Commission

Amendment

Transfers shall not be systematic, massive or structural.”

deleted

Amendment 124

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point d

Regulation (EU) 2016/794

Article 26 – paragraph 6 – subparagraph -6 a (new)

Text proposed by the Commission

Amendment

(d) the following paragraphs 6a and 6b are inserted:

(d) the following paragraphs **-6a**, 6a and 6b are inserted:

“-6a. Without prejudice to other Union legal acts, transfers or transmissions of personal data under paragraphs 5 and 6 of this Article shall not be systematic, massive or structural.”

Amendment 125

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point d

Regulation (EU) 2016/794

Article 26 – paragraph 6 a – subparagraph 1

Text proposed by the Commission

Amendment

6a. 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.

6a. Europol may ***send a*** request ***to*** Member States ***to provide it with*** personal data from private parties, ***that*** are established or have a legal representative in their territory. ***Such a request shall be reasoned and as targeted as possible.*** Europol ***shall make such requests via Member States' national units.*** ***Such*** personal data ***shall be the least sensitive possible and*** strictly limited to what is necessary ***and proportionate*** for Europol ***for the sole purpose of*** identifying the national units concerned.

Amendment 126

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point d

Regulation (EU) 2016/794

Article 26 – paragraph 6 a – 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.

Amendment 127

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point d

Regulation 2016/794

Article 26 – paragraph 6b

Text proposed by the Commission

6b. Europol's infrastructure may be used for exchanges between the competent authorities of Member States and private parties in accordance with the respective Member States' national laws. In cases where Member States use this infrastructure for exchanges of personal data on crimes falling outside the scope of the objectives of Europol, Europol shall not have access to that data.

Amendment

6b. Europol's infrastructure may be used for exchanges between the competent authorities of Member States and private parties in accordance with the respective Member States' national laws. In cases where Member States use this infrastructure for exchanges of personal data on crimes falling outside the scope of the objectives of Europol, Europol shall not have access to that data ***and shall be considered to be a 'processor' within the meaning of Article 87 of Regulation (EU) 2018/1725. Europol shall carry out an assessment of the possible security risks posed by the opening of its infrastructure for use by private parties and, where necessary, implement appropriate preventive and mitigating measures.***

Amendment 128

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 in crisis situations as set out in point (u) of Article 4(1).

Amendment 129

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 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

2. If Europol receives personal data from a private party in a third country, Europol may forward those data only to **the** Member State, or to **the** 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 **of this Regulation** are fulfilled, Europol may transfer the result of its analysis and verification of such data **to** the third country concerned.

Amendment 130

Proposal for a regulation

Article 1 – paragraph 1 – point 13

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 131

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

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 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

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 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

purpose of supplying Europol with the information necessary for it to fulfil its objectives.

supplying Europol with the information necessary for it to fulfil its objectives.

Amendment 132

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

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 39a.

Amendment 133

Proposal for a regulation

Article 1 – paragraph 1 – point 13 a (new)

Regulation (EU) 2016/794

Article 26b (new)

Text proposed by the Commission

Amendment

(13 a) the following Article 26b is inserted:

“Article 26b -

Exchanges of personal data with private parties to prevent the online dissemination of child sexual abuse material

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 child sexual abuse material, as set out in point (ua) of Article 4(1).

2. If Europol receives personal data from a private party in a third country, Europol may forward those data only to the Member State, or to the 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 of this Regulation are fulfilled, Europol may transfer the result of its analysis and verification of such data to the third country concerned.

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 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.

4. If the private party concerned is not established within the Union or in a country with which Europol has a cooperation agreement allowing for the exchange of personal data, with which the Union has concluded an international agreement pursuant to Article 218 TFEU or which is the subject of an adequacy decision as referred to in point (a) of Article 25(1) of this Regulation, the transfer shall be authorised by the Executive Director.

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 to

prevent the online dissemination of 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 national law for the purpose of supplying Europol with the information necessary for it to fulfil its objectives.

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 39a.

7. If the personal data received or to be transferred affect the interests of a Member State, Europol shall immediately inform the national unit of the Member State concerned.”

Amendment 134

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

Amendment 135

Proposal for a regulation

Article 1 – paragraph 1 – point 14

Regulation (EU) 2016/794

article 27a – paragraph 3

Text proposed by the Commission

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

Amendment

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 for in this Regulation**.

Amendment 136

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point a – introductory part

Regulation (EU) 2016/794

article 30 – paragraph 2

Text proposed by the Commission

(a) *in* paragraph 2, **the first sentence** is replaced by the following:

Amendment

(a) paragraph 2 is replaced by the following

Amendment 137

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point a

Regulation (EU) 2016/794

article 30 – paragraph 2

Text proposed by the Commission

2. Processing of personal data, by automated or other means, revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership **and** processing of genetic data **and** biometric data for the purpose of uniquely identifying a natural person or data concerning **a person’s** health or sex life or sexual orientation shall be allowed only where strictly necessary and proportionate for preventing or combating crime that falls within Europol’s objectives **and** if those data supplement other personal data processed by Europol.;

Amendment

2. Processing of personal data, by automated or other means, revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, **and the** processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, or data concerning health or **concerning natural persons’** sex life or sexual orientation shall be allowed only where strictly necessary and proportionate for **research and innovation projects pursuant to Article 33a and for operational purposes, within the mandate of Europol, and only for** preventing or combating crime that falls within Europol’s objectives **as set out in Article 3. Such**

processing shall also be subject to appropriate safeguards with regard to the rights and freedoms of the data subject, and, with the exception of biometric data processed for the purpose of uniquely identifying a natural person, shall be allowed only if those data supplement other personal data processed by Europol. Discrimination against natural persons on the basis of such personal data shall be prohibited;

Amendment 138

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point a (new)

Regulation (EU) 2016/794

article 30– paragraph 2a (new)

Text proposed by the Commission

Amendment

(aa) the following paragraph 2a is inserted:

“2a. The Data Protection Officer shall be informed without undue delay in the case of processing of personal data pursuant to this Article.”

Amendment 139

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

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 **falls** within Europol’s objectives and in accordance with Chapter V.;

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.”;

Amendment 140

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EU) 2016/794

article 33a – paragraph –1 (new)

Text proposed by the Commission

Amendment

-1. Europol may process personal data for the purpose of its research and innovation projects as referred to in point (e) of Article 18(2), but only where the following conditions are met:

(a) the processing of personal data is strictly required and duly justified to achieve the objectives of the project;

(b) as regards special categories of personal data, processing shall be only allowed where it is strictly necessary and accompanied by appropriate additional safeguards, including pseudonymisation.

The processing of personal data by Europol in the context of research and innovation projects shall be guided by the principles of transparency, explainability, fairness, and accountability.

Amendment 141

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EU) 2016/794

article 33a – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) any project shall be subject to prior authorisation by the Executive Director, based on a description of the envisaged processing activity setting out the necessity to process personal data, ***such as for exploring and testing innovative solutions and ensuring accuracy of the project results***, a description of the personal data to be processed, a description of the retention period and conditions for access

(a) any ***research and innovation*** project shall be subject to prior authorisation by the Executive Director, ***in consultation with the Data Protection Officer and the Fundamental Rights Officer***, based on ***a description of the specific objectives of the project and the way in which the project assists Europol or national law enforcement authorities in its tasks***, a description of the envisaged

to the personal data, a data protection impact assessment of the risks to all rights and freedoms of data subjects, including of any bias in the outcome, and the measures envisaged to address those risks;

processing activity, setting out the ***objectives, scope and duration of the processing and the necessity and proportionality*** to process ***the*** personal data, a description of the ***categories of*** personal data to be processed, a description ***of compliance with the data protection principles laid down in Article 71 of Regulation (EU) 2018/1725***, of the retention period and conditions for access to the personal data, a data protection impact assessment of the risks to all rights and freedoms of data subjects, including ***the risk*** of any bias in the ***personal data to be used for the training of algorithms and in the outcome of the processing***, and the measures envisaged to address those risks ***as well as to avoid violations of fundamental rights*** .

Amendment 142

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EU) 2016/794

Article 33a – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) any research and innovation project shall be subject to an initial assessment by the Fundamental Rights Officer based on the information in point(a). Europol shall take this assessment and, where applicable, recommendations included therein, into account before launching the project.

Amendment 143

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EU) 2016/794

Article 33a – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) ***(g)*** the logs of the processing of

(f) the logs of the processing of

personal data in the context of the project shall be kept for the duration of the project and 1 year after the project is concluded, solely for the purpose of and only as long as necessary for verifying the accuracy of the outcome of the data processing.

personal data in the context of the project shall be kept for the duration of the project and 1 year after the project is concluded, solely for the purpose of and only as long as necessary for verifying the accuracy of the outcome of the data processing, ***accuracy of the outcome of the data processing, and to allow the EDPS to conduct supervision and audits to ensure that all the conditions and safeguards provided for in this Article have been met.***

Amendment 144

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EU) 2016/794

Article 33a – paragraph 1a (new)

Text proposed by the Commission

Amendment

1a. The Management Board shall establish a binding general scope for the research and innovation projects of Europol. The document shall be updated where appropriate. The document shall be made available to the EDPS for the purpose of its supervisory role.

Amendment 145

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EU) 2016/794

article 33a – paragraph 2

Text proposed by the Commission

Amendment

2. 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.;

2. Europol shall keep a detailed description of the process and rationale behind the training, testing and validation of algorithms to ensure transparency ***of the procedure and the algorithms, including their explainability, compliance with the safeguards provided for in this Article, and to allow*** for verification of the accuracy of the results. ***Europol shall make the description available to the***

Amendment 146

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EU) 2016/794

Article 33a – paragraph 2a (new)

Text proposed by the Commission

Amendment

2 a. *Europol shall ensure that independent experts carry out an audit before the deployment of any technological solution resulting from its research and innovation projects involving the processing of personal data.*

Amendment 147

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

Amendment

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.;

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;

Amendment 148

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

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

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 national law.**

Amendment 149

Proposal for a regulation

Article 1 – paragraph 1 – point 22 – point b

Regulation (EU) 2016/794

Article 36 – paragraph 3

Text proposed by the Commission

3. Any data subject wishing to exercise the right of access referred to in Article 80 of Regulation (EU) 2018/1725 to personal data that relate to the data subject may make a request to that effect, **without incurring excessive costs**, to the authority appointed for that purpose in the Member State of his or her choice, or to Europol. Where the request is made to the Member State authority, that authority shall refer the request to Europol without delay, and in any case within one month of receipt.;

Amendment

3. Any data subject wishing to exercise the right of access referred to in Article 80 of Regulation (EU) 2018/1725 to personal data that relate to the data subject may make a request to that effect to the authority appointed for that purpose in the Member State of his or her choice, or to Europol. Where the request is made to the Member State authority, that authority shall refer the request to Europol without delay, and in any case within one month of receipt.;

Amendment 150

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

Without prejudice to Article 82(3) of **Regulation 2018/1725**, Europol shall

Amendment

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.;

restrict rather than erase personal data 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.***

Amendment 151

Proposal for a regulation

Article 1 – paragraph 1 – point 24

Regulation (EU) 2016/794

Article 37a

Text proposed by the Commission

Amendment

(24) the following Article 37a is inserted:

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.;

Amendment 152

Proposal for a regulation

Article 1 – paragraph 1 – point 25 – introductory part

Regulation (EU) 2016/794

Article 38

Text proposed by the Commission

Amendment

(25) Article 38 is amended as follows:

(25) Article 38 is amended as follows:

(-a) paragraph 1 is replaced by the following:

“1. Europol shall process personal data in a way that ensures that their source, in

accordance with Article 17, can be established.”

(-aa) introductory part of 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:”

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

“(a) the Member State or the Union, body which provided the personal data;”

(a) paragraph 4 is replaced by the following:

“4. Responsibility for compliance with Regulation (EU) 2018/1725 in relation to administrative personal data and for compliance with this Regulation and with Article 3 and Chapter IX of Regulation (EU) 2018/1725 in relation to operational personal data shall lie with Europol.”

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

“6. 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 153

Proposal for a regulation

Article 1 – paragraph 1 – point 29

Regulation (EU) 2016/794

Article 4 – 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.

Amendment 154

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 professional qualities and, in particular, the expert knowledge of data protection ***law*** and practices and the ability to fulfil ***the*** tasks ***referred to in Article 41b of*** this Regulation.

Amendment 155

Proposal for a regulation

Article 1 – paragraph 1 – point 29

Regulation (EU) 2016/794

Article 41 – paragraph 4

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

deleted

Amendment 156

Proposal for a regulation

Article 1 – paragraph 1 – point 29

Regulation (EU) 2016/794

Article 41 – paragraph 5

Text proposed by the Commission

5. ***After his or her designation, the Data Protection Officer shall be registered with the European Data Protection***

Amendment

deleted

Supervisor by the Management Board

Amendment 157

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** by providing the resources and staff necessary to carry out those tasks and access to personal data and processing operations, and to maintain his or her expert knowledge. The staff **provided to assist the Data Protection Officer and to support Europol in complying with this Regulation and with Regulation (EU) 2018/1725** 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. **The provisions applicable to the Data Protection Officer shall apply mutatis mutandis to the assistant Data Protection Officers.**

Amendment 158

Proposal for a regulation

Article 1 – paragraph 1 – point 30

Regulation (EU) 2016/794

Article 41a – paragraph 3

Text proposed by the Commission

3. Europol shall ensure that the Data Protection Officer does not receive any instructions regarding the exercise of those tasks. The Data Protection Officer shall report directly to the Management Board. The Data Protection Officer shall not be dismissed or penalised by the Management

Amendment

3. Europol shall ensure that the Data Protection Officer **acts independently and** does not receive any instructions regarding the exercise of those tasks. The Data Protection Officer shall report directly to the Management Board. The Data Protection Officer shall not be dismissed or

Board for performing his or her tasks.

penalised by the Management Board for performing his or her tasks.

Amendment 159

Proposal for a regulation

Article 1 – paragraph 1 – point 30

Regulation (EU) 2016/794

Article 41a – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. 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

Amendment 160

Proposal for a regulation

Article 1 – paragraph 1 – point 30

Regulation (EU) 2016/794

Article 41a – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. After their designation, the Data Protection Officer and the assistant Data Protection Officers shall be registered with the EDPS by the Management Board.

Amendment 161

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

Amendment

(e) ensuring that a record of the transfer and receipt of personal data is kept

(e) ensuring that a record of the **transmission**, transfer and receipt of

in accordance with this Regulation;

personal data is kept in accordance with this Regulation;

Amendment 162

Proposal for a regulation

Article 1 – paragraph 1 – point 30

Regulation (EU) 2016/794

Article 41b – paragraph 1 – point h

Text proposed by the Commission

(h) cooperating with the EDPS;

Amendment

(h) ***responding to requests from the EDPS; within the sphere of his or her competence, cooperating and consulting with the EDPS, at the latter's request or on his or her own initiative;***

Amendment 163

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;***

Amendment 164

Proposal for a regulation

Article 1 – paragraph 1 – point 30

Regulation (EU) 2016/794

Article 41b – paragraph 1 – point k a (new)

Text proposed by the Commission

Amendment

(k a) ensuring that the rights and freedoms of data subjects are not adversely affected by processing

operations;

Amendment 165

Proposal for a regulation

Article 1 – paragraph 1 – point 30

Regulation (EU) 2016/794

Article 41b – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Data Protection Officer may make recommendations to the Management Board for the practical improvement of data protection and advise on matters concerning the application of data protection provisions. Furthermore, the Data Protection Officer may, on his or her own initiative or at the request of the Management Board or any individual, investigate matters and occurrences directly relating to his or her tasks which come to his or her notice, and report back to the person who commissioned the investigation or to the Management Board.

Amendment 166

Proposal for a regulation

Article 1 – paragraph 1 – point 30 a (new)

Regulation (EU) 2016/794

Article 41 c (new)

Text proposed by the Commission

Amendment

(30a) the following Article 41c is inserted

“Article 41c

Fundamental Rights Officer

1. A Fundamental Rights Officer shall be appointed by the Management Board on the basis of a list of three candidates. The Fundamental Rights Officer shall be selected on the basis of professional qualities and, in particular, the expert knowledge and experience in the field of fundamental rights and the ability to fulfil

the tasks referred to in this Article.

2. The Fundamental Rights Officer shall perform the following tasks:

(a) monitoring Europol's compliance with fundamental rights;

(b) promoting Europol's respect of fundamental rights in the performance of its tasks and activities;

(c) advising Europol where he or she deems it necessary or where requested on any activity of Europol without impeding or delaying those activities; (d) providing opinions on working arrangements;

(f) informing the Executive Director about possible violations of fundamental rights during activities of Europol;

(g) performing any other tasks, where provided for by this Regulation; The Executive Director shall reply to the Fundamental Rights Officer as to how possible violations of fundamental rights as referred to in point (f) of the first subparagraph have been addressed.

3. Europol shall ensure that the Fundamental Rights Officer acts independently and does not receive any instructions regarding the exercise of those tasks. Europol shall support the Fundamental Rights Officer in performing the tasks referred to in this Article by providing the resources and staff necessary to carry out those tasks and access to all information concerning respect for fundamental rights in the activities of Europol.

4. The Fundamental Rights Officer shall report directly to the Management Board and publish annual reports on his or her activities, including the extent to which the activities of Europol respect fundamental rights. The Management Board shall ensure that action is taken with regard to recommendations of the Fundamental Rights Officer.

5. The Fundamental Rights Officer and the Data Protection Officer shall establish, in writing, a memorandum of understanding specifying their division of tasks and cooperation.”

Amendment 167

Proposal for a regulation
Article 1 – paragraph 1 – point 30 b (new)
Regulation (EU) 2016/794
Article 41 d (new)

Text proposed by the Commission

Amendment

(30 b) the following Article 41d is inserted:

“Article 41d

Fundamental Rights Training

All Europol staff involved in operational tasks involving personal data processing shall receive mandatory training on the protection of fundamental rights and freedoms, including with regard to the processing of personal data. This training shall be developed and organised in cooperation with the FRA and CEPOL.”

Amendment 168

Proposal for a regulation
Article 1 – paragraph 1 – point 32 – point a a (new)
Regulation (EU) 2016/794
Article 43 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(aa) the following paragraph 1a is inserted:

“1a. The EDPS shall be provided with the financial and human resources necessary for the effective and efficient performance of his or her tasks*.”

Amendment 169

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 43 – paragraph 2 – point c

Present text

(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

(a b) in paragraph 2, 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;”

Amendment 170

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 43 – paragraph 2 a (new)

Text proposed by the Commission

Amendment 171

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 43 – paragraph 3

Present text

3. The EDPS may pursuant to this Regulation:

Amendment

(a c) the following paragraph 2a is inserted:

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

Amendment

(a d) paragraph 3 is replaced by the following:

3. The tasks and powers of the EDPS as set out in Articles 57 and 58 of Regulation(EU) 2018/1725 shall apply

mutatis mutandis to all personal data processing by Europol under this Regulation.;

- (a) give advice to data subjects on the exercise of their rights;*
- (b) refer a matter to Europol in the event of an alleged breach of the provisions governing the processing of personal data, and, where appropriate, make proposals for remedying that breach and for improving the protection of the data subjects;*
- (c) order that requests to exercise certain rights in relation to data be complied with where such requests have been refused in breach of Articles 36 and 37;*
- (d) warn or admonish Europol;*
- (e) order Europol to carry out the rectification, restriction, erasure or destruction of personal data which have been processed in breach of the provisions governing the processing of personal data and to notify such actions to third parties to whom such data have been disclosed;*
- (f) impose a temporary or definitive ban on processing operations by Europol which are in breach of the provisions governing the processing of personal data;*
- (g) refer a matter to Europol and, if necessary, to the European Parliament, the Council and the Commission;*
- (h) refer a matter to the Court of Justice of the European Union under the conditions provided for in the TFEU;*
- (i) intervene in actions brought before the Court of Justice of the European Union.*

Amendment 172

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 43 – paragraph 4

Text proposed by the Commission

Amendment

(a e) paragraph 4 is deleted.

Amendment 173

Proposal for a regulation

Article 1 – paragraph 1 – point 32 – point b

Regulation (EU) 2016/794

Article 43 – paragraph 5

Text proposed by the Commission

Amendment

5. The EDPS shall draw up an annual report on his or her supervisory activities in relation to Europol. That report shall be part of the annual report of the EDPS referred to in Article 60 of Regulation (EU) 2018/1725. The national supervisory authorities shall be invited to make observations on *this* report before it becomes part of the annual report. The EDPS shall take utmost account of the observations made by national supervisory authorities and, *in any case*, shall refer to them in the annual report.

5. The EDPS shall draw up an annual report on his or her supervisory activities in relation to Europol. That report shall be part of the annual report of the EDPS referred to in Article 60 of Regulation (EU)2018/1725.

The report shall include statistical information regarding complaints, inquiries, and investigations, as well as regarding transfers of personal data to third countries, including to private parties, international organisations, cases of prior consultation, and the use of the powers laid down in this Article.

The national supervisory authorities shall be invited to make observations on *the annual report on the supervisory activities of the EDPS in relation to Europol* before it becomes part of the annual report *of the EDPS*. The EDPS shall take utmost account of the observations made by national supervisory authorities and, shall refer to them in the annual report.

Amendment 174

Proposal for a regulation

Article 1 – paragraph 1 – point 33 – introductory part

Regulation (EU) 2016/794

Article 44

Text proposed by the Commission

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

Amendment

(33) Article 44 *is amended as follows*

(a) paragraph 2 is replaced by the following:

Amendment 175

Proposal for a regulation

Article 1 – paragraph 1 – point 33 a (new)

Regulation (EU) 2016/794

Article 44 – paragraph 4

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

(33 a) 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 EDPB."

(Regulation (EU) 2016/794)

Amendment 176

Proposal for a regulation

Article 1 – paragraph 1 – point 35 – point b

Regulation (EU) 2016/794

Article 47 – paragraph 2

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.”;

Amendment 177

Proposal for a regulation

Article 1 – paragraph 1 – point 36 – point b

Regulation (EU) 2016/794

Article 50 – paragraph 1

Text proposed by the Commission

(b) paragraph 1 is *deleted*;

Amendment

(b) paragraph 1 is *replaced by the following*:

“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 2016/1725 and national laws transposing Article 56 of Directive (EU) 2016/680.”

Amendment 178

Proposal for a regulation

Article 1 – paragraph 1 – point 36 – point c

Regulation (EU) 2016/794

Article 50 – paragraph 2

Text proposed by the Commission

2. Any dispute between Europol and Member States over the ultimate responsibility for compensation awarded to a person who has suffered material or non-material damage in accordance with ***Article 65 of Regulation (EU) 2018/1725 and national laws transposing Article 56 of Directive (EU) 2016/680*** 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.”;

Amendment

2. Any dispute between Europol and Member States over the ultimate responsibility for compensation awarded to a person who has suffered material or non-material damage 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.”;

Amendment 179

Proposal for a regulation

Article 1 – paragraph 1 – point 37 – point -a (new)

Regulation (EU) 2016/794

Article 51 – paragraph 3 - point (c)

Present text

(c) the *document containing the multiannual programming and the annual work programme of Europol*, referred to in *Article 12(1)*;

Amendment

(-a) in paragraph 3, point (c) is replaced by the following:

“(c) the consolidated annual activity report on Europol’s activities, referred to in point (c) of Article 11(1), with a detailed section on Europol’s activities in and results obtained in processing complex datasets;

Amendment 180

Proposal for a regulation

Article 1 – paragraph 1 – point 37 – point a

Regulation (EU) 2016/794

Article 51 – paragraph 3 – point f

Text proposed by the Commission

(f) annual information about the number of cases in which Europol issued follow-up requests to private parties or own-initiative requests to Member States of establishment for the transmission of personal data in accordance with *Article 26, including* specific examples of cases demonstrating why these requests were necessary for Europol to fulfil its objectives and tasks;

Amendment

(f) annual information about the number of cases in which Europol issued follow-up requests to private parties or own-initiative requests to Member States of establishment for the transmission of personal data in accordance with *Article 26, relevant details on the private parties concerned and an assessment of the effectiveness of cooperation, and* specific examples of cases demonstrating why these requests were necessary *and proportionate* for Europol to fulfil its objectives and tasks;

Amendment 181

Proposal for a regulation

Article 1 – paragraph 1 – point 37 – point a

Regulation (EU) 2016/794

Article 51 – paragraph 3 – point g

Text proposed by the Commission

(g) annual information about the number of cases where it was necessary for Europol to process personal data outside the categories of data subjects listed in Annex II in order to support Member States in a specific criminal investigation in accordance with Article 18a, including examples of such cases demonstrating why this data processing was necessary;

Amendment 182

Proposal for a regulation

Article 1 – paragraph 1 – point 37 – point a

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

(g) annual information about the number of cases where it was necessary for Europol to process personal data outside the categories of data subjects listed in Annex II in order to support Member States in a specific criminal investigation in accordance with Article 18a, ***alongside information on the duration and outcomes of the processing***, including examples of such cases demonstrating why this data processing was necessary ***and proportionate***;

Text proposed by the Commission

Amendment

(g a) annual information about transfers of personal data to third countries and international organisations pursuant to Article 25(1) broken down per legal basis, and on the number of cases in which the Executive Director authorised, pursuant to Article 25(5), the transfer or categories of transfers of personal data related to a specific ongoing criminal investigation to third countries or international organisations, including information on the countries concerned and the duration of the authorisation;

Amendment 183

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**, 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, **the number of objections by Member States to proposals by Europol to issue an alert, and, where this information is available to Europol, the number of investigations initiated and convictions as a result of those alerts**;

Amendment 184

Proposal for a regulation

Article 1 – paragraph 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 **research and innovation** 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, the additional safeguards used, including data minimisation**, the law enforcement needs they seek to address, **the outcome of the projects and, where the projects resulted in law enforcement tools, information on the deployment of the tools in the Member States alongside their effectiveness**;

Amendment 185

Proposal for a regulation

Article 1 – paragraph 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;

Amendment 186

Proposal for a regulation

Article 1 – paragraph 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 on the number and types of cases where special categories of personal data were processed, pursuant to Article 30(2);

Amendment 187

Proposal for a regulation

Article 1 – paragraph 1 – point 37 – point a

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

(i c) annual information about the number of cases in which Europol processed personal data in accordance with Article 26a;

Amendment 188

Proposal for a regulation

Article 1 – paragraph 1 – point 37 – point a

Regulation (EU) 2016/794

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

Text proposed by the Commission

Amendment

(id) annual information about the number of cases in which Europol processed personal data in accordance with Article 26b, including, 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.”;

Amendment 189

Proposal for a regulation

Article 1 – paragraph 1 – point 37 – point a a (new)

Regulation (EU) 2016/794

Article 51 – paragraph 5

Present text

Amendment

5. The JPSG may draw up summary conclusions on the political monitoring of Europol's activities and submit those conclusions to the European Parliament and national parliaments. The European Parliament shall forward them, for information purposes, to the Council, the Commission and Europol.

(a a) paragraph 5 is replaced by the following:

“5. The JPSG may draw up summary conclusions on the political monitoring of Europol's activities, **including specific recommendations to Europol**, and submit those conclusions to the European Parliament and national parliaments. The European Parliament shall forward them, for information purposes, to the Council, the Commission and Europol.”

Amendment 190

Proposal for a regulation

Article 1 – paragraph 1 – point 37 a (new)

Regulation (EU) 2016/794

Article 52 a (new)

Text proposed by the Commission

Amendment

(37 a) the following Article 52a is inserted

“Article 52a

Consultative Forum

1. A consultative forum shall be established by Europol to assist it by providing independent advice in fundamental rights matters upon request. The Executive Director and the Management Board, in coordination with the Fundamental Rights Officer, may consult the consultative forum on any matter related to fundamental rights.

2. Europol shall invite independent experts, the European Union Agency for Fundamental Rights and other relevant organisations in the field of fundamental rights to participate in the consultative forum. On the basis of a proposal from the Fundamental Rights Officer that was made after consulting the Executive Director, the Management Board shall decide on the composition of the consultative forum, its working methods and the terms of the transmission of information to the consultative forum.”

Amendment 191

Proposal for a regulation

Article 1 – paragraph 1 – point 37 b (new)

Regulation (EU) 2016/794

Article 52 b (new)

Text proposed by the Commission

Amendment

(37 b) Article 52b (new) is inserted:

“Article 52b

Accountability

Europol shall be accountable to the European Parliament, to the Council and to the Commission in accordance with this Regulation.”

Amendment 192

Proposal for a regulation

Article 1 – paragraph 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, within the scope of its objectives and tasks, receive contributions from European Economic Area (EEA) countries with which it or the Union has concluded an agreement on operational cooperation providing for financial contributions in accordance with point (a) of Article 20(2) of Commission Delegated Regulation (EU) 2019/715^{1a} or from third countries which fulfil one of the conditions listed in Article 25(1) of this Regulation for specific projects in accordance with point (d) of Article 20(2) of Commission Delegated Regulation (EU) 2019/715.*** The amount of the contribution shall be determined in the respective agreement. ***The amount, origin and purpose of such contributions shall be included in the annual accounts of Europol and clearly detailed in the annual report on the Europol's budgetary and financial management referred to in Article 60(2)."***

Amendment 193

Proposal for a regulation

Article 1 – paragraph 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.

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

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

Amendment 194

Proposal for a regulation

Article 1 – paragraph 1 – point 38 b (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 Council²⁵, 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.

(38 b) In Article 60, 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^{25a}***, 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)

^{25a} ***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 Regulation (EU) No 996/2012(OJ L 122, 10.5.2019, p.1).”

Amendment 195

Proposal for a regulation

Article 1 – paragraph 1 – point 38 c (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

(38 c) In Article 60, 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 196

Proposal for a regulation

Article 1 – paragraph 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 197

Proposal for a regulation

Article 1 – paragraph 1 – point 39 – point b

Regulation (EU) 2016/794

Article 61 – paragraph 3

Text proposed by the Commission

3. Europol may award grants without

Amendment

3. Europol may award grants without

a call for proposals to Member States for performance of activities falling within Europol's *objectives and* tasks.;

a call for proposals to Member States for performance of activities falling within *the scope of* Europol's tasks *set out in Article 4.*;

Amendment 198

Proposal for a regulation

Article 1 – paragraph 1 – point 39 – point c

Regulation (EU) 2016/794

Article 61 – paragraph 3a

Text proposed by the Commission

Amendment

3a. Where duly justified for operational purposes, financial support may cover the full investment costs of equipment, infrastructure *or other assets.*;

3a. Where duly justified for operational purposes, *following authorisation by the Management Board*, financial support may cover the full investment costs of equipment *and* infrastructure.;

Amendment 199

Proposal for a regulation

Article 1 – paragraph 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.*

Amendment 200

Proposal for a regulation

Article 1 – paragraph 1 – point 40a (new)

Regulation (EU) 2016/794

Article 68 – paragraph 1

Present text

1. By **1 May 2022** and every five years thereafter, the Commission shall ensure that an evaluation assessing, in particular, the impact, effectiveness and efficiency of Europol and of its working practices is carried out. The evaluation may, in particular, address the possible need to modify the structure, operation, field of action and tasks of Europol, and the financial implications of any such modification.

Amendment 201

Proposal for a regulation

Article 1 – paragraph 1 – point 41

Regulation (EU) 2016/794

Article 68 – paragraph 3

Amendment

(40a) In Article 68, paragraph 1 is replaced by the following:

“1. By... [five years after entry into force of this Regulation] and every five years thereafter, the Commission shall ensure that an evaluation assessing, in particular, the impact, effectiveness and efficiency of Europol and of its working practices is carried out. The evaluation may, in particular, address the possible need to modify the structure, operation, field of action and tasks of Europol, and the financial implications of any such modification.”

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 [**two** years after entry into force of this Regulation], submit a report to the European Parliament and to the Council, **evaluating and** assessing the operational benefits of the implementation of the competences provided for in **this Regulation, in particular with regard to Article 4(1)(r)**, Article 18(2)(e), Article **18(6a)**, **and Articles 18a, 26, 26a and 26b** with regard to Europol's objectives **as set out in Article 3**. The report shall **assess** the impact of those competences on fundamental rights and freedoms as enshrined in the Charter. **It shall also provide a cost-benefit analysis of the extension to Europol's mandate."**

2.6.2021

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Civil Liberties, Justice and Home Affairs

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))

Rapporteur for opinion: Niclas Herbst

SHORT JUSTIFICATION

The July 2020 EU Security Union Strategy¹ painted a picture of a rapidly evolving security threat landscape across the Union and set out a number of steps to future-proof the Union's security policy, to tackle evolving threats and to build a strong European security ecosystem. A key plank of the Strategy is the planned reinforcement of Europol's mandate. It is part of a package of measures presented by the Commission in December 2020 to strengthen the EU response to terrorism, including a proposal amending the Schengen Information System Regulation² to enable Europol to enter data in the SIS.

The proposal extends the existing Europol mandate, inter alia, to enable the agency to cooperate effectively with private parties and to support Member State investigations involving large, complex datasets, to strengthen its role with respect to research and innovation and to improve cooperation with the European Public Prosecutor's Office. Your Rapporteur welcomes the central aims of the proposal and considers that Europol should be properly equipped to deal with a fast-changing security landscape and provide optimal support to Member States.

In line with his role as standing Rapporteur in the Committee on Budgets for decentralised agencies, your Rapporteur focuses in particular on the financial provisions, governance rules and provisions relating to reporting and evaluation to ensure proper parliamentary scrutiny. He therefore focuses on assessing whether the provisions in the Commission proposal are in line with the:

- European Parliament resolution of 14 February 2019 on the implementation of the legal provisions and the Joint Statement ensuring parliamentary scrutiny over

¹ [COM/2020/605 final](#)

² [COM\(2020\) 791 final](#)

decentralised agencies (Schoepflin report)³

- Joint Statement of the European Parliament, the Council and the Commission on decentralised agencies of 19 July 2012 and the Common Approach⁴
- 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 Council⁵

He also analyses the proposal in light of the Court of Auditors Special Report on the ‘Future of EU agencies⁶ and the study by the Policy Department for Citizens’ Rights and Constitutional Affairs on ‘EU agencies and conflicts of interest⁷’.

Overall, the Rapporteur welcomes the proposal from the Commission with regard to these aspects. However, he proposes a number of amendments to align the Europol regulation with the Commission Delegated Regulation governing decentralised agencies with respect to the requirement to produce a single programming document containing multiannual programming and annual work programmes. He also clarifies provisions designed to avoid conflicts of interest - even perceived - with respect to Europol’s proposed role in the design and implementation of research programmes. Finally, he introduces some changes to strengthen parliamentary scrutiny and the provisions governing evaluation and reporting.

Budgetary impact of the proposal

The proposed reinforcement of the Europol mandate would require additional commitment and payment appropriations of 178 million EUR under Heading 5 and 8.5 million EU under Heading 7. The Legislative Financial Statement makes clear that the “budgetary impact of the additional financial resources for Europol will be offset through a compensatory reduction from programmed spending under Heading 4”. Furthermore, the Commission’s financial programming specifies that Europol is to receive a budgetary reinforcement from the ‘Integrated Border Management Fund - Border Management and Visa Instrument’.

Your Rapporteur notes that the ‘IBMF - Border Management and Visa Instrument’ benefits from a 1 billion EUR top-up through a programme-specific adjustment agreed during the MFF negotiations, meaning there was a clear political will to reinforce the instrument. Moreover, the additional tasks assigned to Europol under the proposal are not tasks that would otherwise be carried out under the ‘IBMF - Border Management and Visa Instrument’. Your Rapporteur therefore regrets the fact that the proposal, which came in the immediate aftermath of a political agreement on the MFF, entails a de facto reduction in the financial envelope just agreed for the ‘IBMF - Border Management and Visa Instrument’.

He recalls, in that regard, that, under point 27 of the Interinstitutional Agreement of 16

³ https://www.europarl.europa.eu/doceo/document/TA-8-2019-0134_EN.html

⁴ [joint_statement_and_common_approach_2012_en.pdf](https://www.europarl.europa.eu/doceo/document/TA-8-2012-0100_EN.html)

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0715>

⁶ https://www.eca.europa.eu/Lists/ECADocuments/SR20_22/SR_Future_of_EU_Agencies_EN.pdf

⁷ [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/621934/IPOL_STU\(2020\)621934_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/621934/IPOL_STU(2020)621934_EN.pdf)

December 2020⁸, the final financial statement accompanying the legislative act is to be placed on the agenda of the final legislative trilogue for endorsement and is to be placed on the agenda of a subsequent budgetary trilogue with a view to reaching an agreement on the financing.

AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

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. 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, ***which instrumentalise and exploit the debts and the lack of income brought about by the COVID-19 crisis. The Union's economic recovery depends largely on its capacity to prevent and eradicate financial crime.*** Terrorism remains a significant threat to the freedom and way of life of the Union and its citizens.

Amendment 2

Proposal for a regulation

Recital 4

⁸ [OJ L 433I, 22.12.2020, p. 28.](#)

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 crisis situations. ***Such operationalisation of investigative instruments available in the Union's legal framework is especially necessary in view of the unprecedented mobilisation of much higher amounts of financial resources under Next Generation EU.*** 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 3

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

Amendment

(5) In recent years large scale cyber attacks, ***including attacks originating from third countries***, 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

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).

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 4

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) High-risk criminals play a leading role in criminal networks and pose a high risk of serious crime to the Union's internal security. To combat high-risk organised crime groups and their leading members, Europol should be able to support Member States in focusing their investigative response on identifying these persons, their criminal activities and the members of their criminal networks.

Amendment

(6) High-risk criminals play a leading role in criminal networks and pose a high risk of serious crime to the Union's internal security. To combat high-risk organised crime groups and their leading members, Europol should be able to support Member States in focusing their investigative response on identifying these persons, their criminal activities and ***financial assets, and*** the members of their criminal networks, ***as well persons belonging to the national political and financial institutions who are involved in crimes via corruption schemes. Europol should also support Member States in the recovery of***

criminal assets for their subsequent introduction into public funds.

Amendment 5

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 order to avoid any conflicts of interest, Europol should not receive funding from Union framework programmes in which it plays an active role in design or implementation.*

Amendment 6

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) Europol provides specialised expertise for countering serious crime and terrorism. Upon request by a Member State, Europol staff should be able to provide operational support to that Member State's law enforcement authorities on the ground in operations and investigations, in particular by facilitating cross-border information exchange and providing forensic and technical support in operations and investigations, including in the context of joint investigation teams. Upon request by a Member State, Europol staff should be entitled to be present when investigative

Amendment

(13) Europol provides specialised expertise for countering serious crime and terrorism. Upon request by a Member State, Europol staff should be able to provide operational support to that Member State's law enforcement authorities on the ground in operations and investigations, in particular by facilitating cross-border information exchange and providing forensic and technical support in operations and investigations, including in the context of joint investigation teams, *as well as in the recovery of assets*. Upon request by a Member State, Europol staff should be

measures are taken in that Member State and assist in the taking of these investigative measures. Europol staff should not have the power to execute investigative measures.

entitled to be present when investigative measures are taken in that Member State and assist in the taking of these investigative measures. Europol staff should not have the power to execute investigative measures.

Amendment 7

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) One of Europol's objectives is to support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combatting forms of crime which affect a common interest covered by a Union policy. To strengthen that support, Europol should be able to request the competent authorities of a Member State to initiate, conduct or coordinate a criminal investigation of a crime, which affects a common interest covered by a Union policy, even where the crime concerned is not of a cross-border nature. Europol should inform Eurojust of such requests.

Amendment

(14) One of Europol's objectives is to support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combatting forms of crime which affect a common interest covered by a Union policy. To strengthen that support, Europol should be able to request the competent authorities of a Member State to initiate, conduct or coordinate a criminal investigation of a crime, which affects a common interest covered by a Union policy, even where the crime concerned is not of a cross-border nature. Europol should inform Eurojust **and the European Public Prosecutor's Office** of such requests.

Amendment 8

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

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, 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.

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. ***Europol should have in place measures to facilitate the cooperation of private parties, including with respect to the sharing of information.*** 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 9

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, ***transparency*** 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. ***Planned research and innovation activities should be set out in the single programming document containing Europol's multiannual programming and annual work programme and transmitted to the Joint Parliamentary Scrutiny Group.***

Amendment 10

Proposal for a regulation Recital 40 a (new)

Text proposed by the Commission

Amendment

(40a) It is necessary to provide Europol with additional human and financial resources so that it can fulfil the new objectives, tasks and responsibilities assigned to it under this Regulation. The necessary appropriations should be drawn exclusively from unallocated margins under the relevant MFF heading ceilings or through the mobilisation of the relevant MFF special instruments. The final amount should be authorised by the European Parliament and the Council through the annual budgetary procedure.

Amendment 11

Proposal for a regulation Recital 41

Text proposed by the Commission

Amendment

(41) Europol's services provide added value to Member States and third countries. This includes Member States that do not take part in measures pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union. Member States and third countries may contribute to Europol's budget based on separate agreements. Europol should therefore be able to receive contributions from Member States and third countries on the basis of financial agreements within the scope of its objectives and tasks.

(41) Europol's services provide added value to Member States and third countries. This includes Member States that do not take part in measures pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union. Member States and third countries may contribute to Europol's budget based on separate agreements. Europol should therefore be able to receive contributions from Member States and third countries on the basis of financial agreements within the scope of its objectives and tasks. ***Such financial contributions should be entered in the Europol budget as external assigned***

revenue. In order to ensure transparency and accountability, the amount, origin and purpose of those contributions should be included in the annual accounts and in the annual report on the budgetary and financial management of Europol.

Amendment 12

Proposal for a regulation

Recital 42

Text proposed by the Commission

(42) Since the objective of this Regulation, namely to support and strengthen action by the Member States' law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy, cannot be sufficiently achieved by the Member States but can rather, due to the cross-border nature of serious crime and terrorism and the need for a coordinated response to related security threats, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

Amendment

(42) Since the objective of this Regulation, namely to support and strengthen action by the Member States' law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy, ***including the illicit online marketing of pharmaceutical products related to the COVID-19 pandemic, the trafficking of human beings, arms, drugs and oil, environmental crime and cybercrime,*** cannot be sufficiently achieved by the Member States but can rather, due to the cross-border nature of serious crime and terrorism and the need for a coordinated response to related security threats, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EU) 2016/794

Article 4 – paragraph 3

Text proposed by the Commission

Europol shall also provide threats assessment analysis supporting the Commission and the Member States in carrying out risk assessments.;

Amendment

Europol shall also provide threats assessment analysis, ***including the analysis of any potential financial impact,*** supporting the Commission and the Member States in carrying out risk assessments;

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point d

Regulation (EU) 2016/794

Article 4 – paragraph 4a

Text proposed by the Commission

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*.

Amendment

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. ***Where*** Europol ***plays an active role in the design or implementation of*** a Union framework programme, it shall not receive funding from that programme. ***Europol shall take all necessary measures to avoid conflicts of interest.***

Amendment 15

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 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;”

Amendment

(4a) in Article 11, paragraph 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 **single programming document in accordance with Article 32 of the Commission Delegated Regulation (EU) 2019/715^{1a} and the related Commission guidelines for the Single Programming Document** containing Europol's multiannual programming and its annual work programme for the following year;"

^{1a}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).

Amendment 16

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 the multiannual programming, after having consulted the JPSG. The Management

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 Commission and, as regards the multiannual programming, after having

Board shall forward *that* document to the Council, the Commission and the JPSG.

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 obligation to provide a thorough justification shall also apply to the elements raised by the JPSG.* The Management Board shall forward *the final single programming* document to the Council, the Commission and the JPSG.”

Amendment 17

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 12 – paragraph 2 – subparagraph 1

Present text

2. The multiannual programming shall set out the overall strategic programming, including the objectives, expected results and performance indicators. It shall also set out the resource planning, including the multiannual budget and staff. It shall include the strategy for relations with third countries and international organisations.

Amendment

(4c) in Article 12, paragraph 2, first subparagraph is replaced by the following

“2. The multiannual programming shall set out the overall strategic programming, including the objectives, expected results and performance indicators. It shall also set out the resource planning, including the multiannual budget and staff. It shall include the strategy for relations with third countries and international organisations *and its planned research and innovation activities.*”

Amendment 18

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

Amendment

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

“(d) preparing the draft *single*

programming and annual work programmes and submitting *them* to the Management Board, after having consulted the Commission;

programming document containing the multiannual programming and annual work programmes and submitting *it* to the Management Board, after having consulted the Commission;"

Amendment 19

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 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 *the EPPO and* OLAF with that information.

Amendment 20

Proposal for a regulation
Article 1 – paragraph 1 – point 12 – point d
Regulation (EU) 2016/794
Article 26 – paragraph 6b

Text proposed by the Commission

6b. Europol's infrastructure may be used for exchanges between the competent authorities of Member States and private parties in accordance with the respective Member States' national laws. In cases where Member States use this infrastructure for exchanges of personal data on crimes falling outside the scope of the objectives of Europol, Europol shall not have access to that data.

Amendment

6b. Europol's infrastructure may be used for exchanges between the competent authorities of Member States and private parties in accordance with the respective Member States' national laws. In cases where Member States use this infrastructure for exchanges of personal data on crimes falling outside the scope of the objectives of Europol, Europol shall not have access to that data. *In order to identify possible security risks posed by the opening of its infrastructure for use by private parties, Europol shall carry out an*

assessment and, where necessary, implement appropriate preventive and mitigating measures.

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 37 – point a

Regulation (EU) 2016/794

Article 51 – paragraph 3 – point f

Text proposed by the Commission

(f) annual information about the number of cases in which Europol issued follow-up requests to private parties or own-initiative requests to Member States of establishment for the transmission of personal data in accordance with Article 26, including specific *examples of cases* demonstrating why these requests were necessary for Europol to fulfil its objectives and tasks;

Amendment

(f) annual information about the number of cases in which Europol issued follow-up requests to private parties or own-initiative requests to Member States of establishment for the transmission of personal data in accordance with Article 26, including specific *information* demonstrating why these requests were necessary for Europol to fulfil its objectives and tasks;

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 37 – point a

Regulation (EU) 2016/794

Article 51 – paragraph 3 – point g

Text proposed by the Commission

(g) annual information about the number of cases where it was necessary for Europol to process personal data outside the categories of data subjects listed in Annex II in order to support Member States in a specific criminal investigation in accordance with Article 18a, including *examples of such cases* demonstrating why this data processing was necessary;

Amendment

(g) annual information about the number of cases where it was necessary for Europol to process personal data outside the categories of data subjects listed in Annex II in order to support Member States in a specific criminal investigation in accordance with Article 18a, including *specific information* demonstrating why this data processing was necessary;

Amendment 23

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), and the number of ‘hits’ these alerts generated, including specific **information** demonstrating why these alerts were necessary for Europol to fulfil its objectives and tasks;

Amendment 24

Proposal for a regulation

Article 1 – paragraph 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 it** or the Union has **concluded** an agreement providing for financial contributions within the scope of Europol’s objectives and tasks. The amount of the contribution shall be determined in the respective agreement. **The amount, origin and purpose of such contributions shall be included in the annual accounts of Europol and clearly detailed in the annual report on the Agency’s budgetary and financial**

management referred to in paragraph 2 of Article 60.

Amendment 25

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 58 – paragraph 9

Present text

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

Amendment

(38 a) 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) *No 2019/715* shall apply."

Amendment 26

Proposal for a regulation

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

Regulation (EU) 2016/794

Article 60 – paragraph 4

Present text

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 Council²⁵, 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.

Amendment

(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 Council²⁵, 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).

²⁵ 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 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

Amendment 27

Proposal for a regulation

Article 1 – paragraph 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 28

Proposal for a regulation

Article 1 – paragraph 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 objectives as referred to in **Article 3** and **in accordance with its tasks as referred to in Article 4**";

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 39 – point b

Regulation (EU) 2016/794

Article 61 – paragraph 3

Text proposed by the Commission

3. Europol may award grants without a call for proposals to Member States for performance of activities falling within Europol's objectives and tasks.;

Amendment

3. Europol may award grants without a call for proposals to Member States for the performance of activities falling within ***the scope of*** Europol's objectives and tasks;

Amendment 30

Proposal for a regulation

Article 1 – paragraph 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 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. ***It shall also provide a cost-benefit analysis of the extension to Europol's mandate.***

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	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
References	COM(2020)0796 – C9-0401/2020 – 2020/0349(COD)
Committee responsible Date announced in plenary	LIBE 8.2.2021
Opinion by Date announced in plenary	BUDG 8.2.2021
Rapporteur for the opinion Date appointed	Niclas Herbst 14.1.2021
Discussed in committee	31.05.2021
Date adopted	12.10.2021
Result of final vote	+: 40 –: 1 0: 0
Members present for the final vote	Rasmus Andresen, Robert Biedroń, Anna Bonfrisco, Olivier Chastel, Lefteris Christoforou, David Cormand, Paolo De Castro, José Manuel Fernandes, Eider Gardiazabal Rubial, Vlad Gheorghe, Valentino Grant, Elisabetta Gualmini, Francisco Guerreiro, Valérie Hayer, Eero Heinäluoma, Niclas Herbst, Monika Hohlmeier, Moritz Körner, Joachim Kuhs, Zbigniew Kuźmiuk, Ioannis Lagos, Hélène Laporte, Pierre Larrourou, Janusz Lewandowski, Silvia Modig, Siegfried Mureşan, Victor Negrescu, Andrey Novakov, Jan Olbrycht, Dimitrios Papadimoulis, Karlo Ressler, Bogdan Rzońca, Nicolae Ştefănuţă, Nils Torvalds, Nils Ušakovs, Johan Van Overtveldt, Rainer Wieland, Angelika Winzig
Substitutes present for the final vote	Mario Furore, Jens Geier, Henrike Hahn

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

40	+
ECR	Zbigniew Kuźmiuk, Bogdan Rzońca, Johan Van Overtveldt
ID	Anna Bonfrisco, Valentino Grant, Joachim Kuhs, Hélène Laporte
NI	Mario Furore
PPE	Lefteris Christoforou, José Manuel Fernandes, Niclas Herbst, Monika Hohlmeier, Janusz Lewandowski, Siegfried Mureșan, Andrey Novakov, Jan Olbrycht, Karlo Ressler, Rainer Wieland, Angelika Winzig
Renew	Olivier Chastel, Vlad Gheorghe, Valérie Hayer, Moritz Körner, Nicolae Ștefănuță, Nils Torvalds
S&D	Robert Biedroń, Paolo De Castro, Eider Gardiazabal Rubial, Jens Geier, Elisabetta Gualmini, Eero Heinäluoma, Pierre Larrourou, Victor Negrescu, Nils Ušakovs
The Left	Silvia Modig, Dimitrios Papadimoulis
Verts/ALE	Rasmus Andresen, David Cormand, Francisco Guerreiro, Henrike Hahn

1	-
NI	Ioannis Lagos

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	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		
References	COM(2020)0796 – C9-0401/2020 – 2020/0349(COD)		
Date submitted to Parliament	10.12.2020		
Committee responsible Date announced in plenary	LIBE 8.2.2021		
Committees asked for opinions Date announced in plenary	BUDG 8.2.2021	CONT 8.2.2021	
Not delivering opinions Date of decision	CONT 26.1.2021		
Rapporteurs Date appointed	Javier Zarzalejos 10.2.2021		
Discussed in committee	24.2.2021	26.5.2021	11.10.2021
Date adopted	12.10.2021		
Result of final vote	+	47	
	–	16	
	0	0	
Members present for the final vote	Magdalena Adamowicz, Katarina Barley, Pernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rares Bogdan, Patrick Breyer, Saskia Bricmont, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Marcel de Graaff, Anna Júlia Donáth, Lena Düpont, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Maria Grapini, Andrzej Halicki, Sophia in ‘t Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Peter Kofod, Moritz Körner, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Roberta Metsola, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Terry Reintke, Diana Riba i Giner, Ralf Seekatz, Michal Šimečka, Birgit Sippel, Sara Skytvedal, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Javier Zarzalejos		
Substitutes present for the final vote	Olivier Chastel, Clare Daly, Tanja Fajon, Jan-Christoph Oetjen, Philippe Olivier, Anne-Sophie Pelletier, Thijs Reuten, Rob Rooker, Maria Walsh		
Date tabled	15.10.2021		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

47	+
ECR	Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Nicola Procaccini, Jadwiga Wiśniewska
ID	Nicolaus Fest, Peter Kofod, Annalisa Tardino, Tom Vandendriessche
NI	Laura Ferrara
EPP	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Lukas Mandl, Roberta Metsola, Nadine Morano, Emil Radev, Paulo Rangel, Ralf Seekatz, Sara Skyttedal, Elissavet Vozemberg-Vrionidi, Maria Walsh, Javier Zarzalejos
Renew	Olivier Chastel, Anna Júlia Donáth, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Jan-Christoph Oetjen, Maite Pagazaurtundúa, Michal Šimečka, Ramona Strugariu
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Tanja Fajon, Maria Grapini, Marina Kaljurand, Juan Fernando López Aguilar, Javier Moreno Sánchez, Thijs Reuten, Birgit Sippel, Bettina Vollath

16	-
ECR	Rob Rooker
ID	Nicolas Bay, Marcel de Graaff, Philippe Olivier
NI	Martin Sonneborn, Milan Uhrík
The Left	Pernando Barrena Arza, Clare Daly, Cornelia Ernst, Anne-Sophie Pelletier
GREENS	Patrick Breyer, Saskia Bricmont, Damien Carême, Terry Reintke, Diana Riba i Giner, Tineke Strik

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention