



# Revising the Europol Regulation: Implementation takeaways

*This briefing is one in a series of implementation appraisals produced by the European Parliamentary Research Service (EPRS) on the operation of existing EU legislation in practice. Each briefing focuses on a specific EU law that is announced to be amended or reviewed in the European Commission's annual work programme. Implementation appraisals aim at providing a succinct overview of publicly available material on the implementation, application and effectiveness to date of that specific EU law, drawing on input from EU institutions and bodies, as well as external organisations.*

## SUMMARY

The powers of Europol, the EU's law enforcement cooperation agency, have expanded considerably in the past decade, with the agency now analysing crime trends in the EU and supporting EU Member State-initiated investigations. In 2016, the EU legislator established a new legal basis for Europol (the Europol Regulation), which strengthened its data management and data protection rules and introduced enhanced scrutiny.

In 2022, the adoption of [Regulation \(EU\) 2022/991](#) ushered in new rules enabling Europol to receive personal data directly from private parties, process large and complex data sets, exchange personal data with third countries and use data for research and innovation. At the same time, this major expansion of competences regarding data access, processing and exchange raised compatibility questions concerning the current EU data protection framework. The European Data Protection Supervisor (EDPS) has been very critical in this regard and has brought legal proceedings before the Court of Justice of the European Union (CJEU); the [case](#) is pending.

In her 18 July 2024 [political guidelines](#) for the next European Commission, Commission President Ursula von der Leyen proposed making Europol 'a truly operational police agency'. In December 2025, the Commission published an [evaluation report](#) of Regulation (EU) 2022/991. It concluded that Member States continue to support Europol's role in key areas, particularly concerning its new personal data processing tasks. However, the evaluation report also highlighted that, 'to maximise the benefits of the new personal data processing powers, some stakeholders believe there is a need to address possible inefficiencies, notably within the existing governance, administration, and data protection framework'.

In its [work programme](#) for 2026, the Commission envisages a revision of the Europol Regulation. According to the [call for evidence](#), the Commission plans to publish the new proposal in the second quarter of 2026, accompanied by an evaluation of the 2016 Europol Regulation and an impact assessment of the proposed amending legislation prepared simultaneously ('back-to-back'). It remains to be seen what course the Commission will propose for Europol and how it will ensure adequate scrutiny and oversight of the agency by bodies such as the European Parliament and the EDPS.



## Background and existing EU policy framework

Europol, the EU's law enforcement cooperation agency, was established in 1998, building on informal police cooperation that had begun in the 1970s. Its role is to support Member States' police authorities and other law enforcement services in preventing and combating serious crime affecting two or more Member States, as well as terrorism and other forms of crime that affect a common interest covered by an EU policy (see Article 88 of the Treaty on the Functioning of the EU (TFEU)). [Europol](#) is mandated to support the combatting of all forms of serious and organised crime, including terrorism, international drug trafficking and money laundering, organised fraud, euro counterfeiting and trafficking in human beings.

In line with its mandate, [Europol](#) supports investigations initiated by Member States, although Europol officers do not have the authority to arrest citizens or initiate investigations. Europol also supports Member States by providing operational support through [Operational Taskforces](#) (OTFs) and [Joint Investigation Teams](#) (JITs). Europol cooperates with Member States' law enforcement authorities through the Secure Information Exchange Network Application ([SIENA](#)), Europol's secure information exchange channel. The [support](#) provided by Europol is technical, analytical and operational in nature, with Europol deploying analysts and specialists on the ground with the agreement of EU Member States. Europol can also conclude working arrangements with third-country partners, thereby enabling structured cooperation through connection to SIENA.

Europol collaborates with many non-EU partner states, other EU agencies and international organisations to obtain the fullest and most up-to-date information available to accomplish its tasks. Europol's mission and tasks have evolved considerably over recent decades. Starting as an international organisation pursuant to the [1995 Europol Convention](#), Europol was transformed into an EU agency following [Council Decision 2009/371/JHA](#). In 2016, with the adoption of [Regulation \(EU\) 2016/794](#) (hereafter 'the Europol Regulation'), the EU co-legislators introduced a new legal basis for Europol, which strengthened its data management and data protection rules. The regulation also introduced rules on enhanced scrutiny: the European Data Protection Supervisor (EDPS) was given the task of scrutinising the lawfulness of personal data processing by Europol as of 1 May 2017, and a new parliamentary oversight body, the Joint Parliamentary Scrutiny Group (JPSG) was created. The JPSG is composed of representatives of the European Parliament and national parliaments and politically monitors Europol's activities in fulfilling its mission, including the impact of those activities on fundamental rights.

### The fight against migrant smuggling: Further extension of Europol's mandate

In 2023, the European Commission [proposed](#) a regulation to enhance Europol's role in combating migrant smuggling and trafficking in human beings. The EU co-legislators, the European Parliament and the Council of the EU, reached an [agreement](#) under the Danish Presidency, leading to the adoption of [Regulation 2025/2611](#) in December 2025. The regulation, which amends the 2016 Europol Regulation, provides for [new rules](#) on information sharing obligations between the Member States' authorities and Europol, and envisages the establishment of an European Centre Against Migrant Smuggling.

The proposal was not accompanied by a Commission impact assessment. The [EPRS targeted substitute impact assessment](#), requested by Parliament's LIBE Committee, found that, although the proposal seeks to address gaps in inter-agency cooperation and information sharing, it raises concerns about its alignment with existing frameworks, the adequacy of data protection safeguards, and the risks of conflating criminal law with migration control. The impact assessment also stresses the need for a more robust evaluation of fundamental rights implications. Overall, several of its findings appear to have been reflected in both the proposed amendments and the final text, notably as regards the functioning of the European Centre Against Migrant Smuggling, the use of biometric data, and also the choice of legal basis.

Europol was given further powers in 2022 with [Regulation \(EU\) 2022/991](#) (see below for more details), which vested the agency with a [reinforced mandate](#) regarding its cooperation with private parties and the processing of personal data, particularly in support of criminal investigations as well as for research and innovation. Indeed, as the 2021 [study](#) prepared for Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) found, the Commission proposal entailed 'widespread reforms to Europol's mandate, which transform[ed] the nature of the agency and its relationship with the Member States'. The study criticised the lack of a Commission ex-post evaluation of the Europol Regulation and 'scarce information' in the impact assessment (IA).

### Amending Europol Regulation (EU) 2022/991

On 9 December 2020, the Commission published a [proposal](#) for a regulation to amend the 2016 Europol Regulation. The Commission put forward this proposal more than a year ahead of the scheduled evaluation of Europol's impact, effectiveness and efficiency and working practices, which was initially due by 1 May 2022 (and every five years thereafter), according to Article 68(1) of the Europol Regulation.<sup>1</sup> The Commission presented an accompanying [impact assessment](#) (IA) of the proposal (see [EPRS initial appraisal](#)). The EU co-legislators agreed on the final text of [Regulation \(EU\) 2022/991](#), amending the Europol Regulation, on 1 February 2022. The regulation (the 'Amending Europol Regulation') entered into force on 28 June 2022.

Europol was vested with additional powers and tasks regarding its cooperation with private parties, the processing of personal data in support of criminal investigations, and its role in research and innovation.

Specifically, the Amending Europol Regulation revised Article 26 on exchanges of personal data with private parties, with the aim of boosting their cooperation. Previously, Europol could process personal data obtained from private parties through specific channels, including a third-country authority or international organisation that ensures an adequate level of protection of personal data (adequacy decision). However, under the amended Article 26, Europol may process personal data on a larger scale, without there necessarily being an adequacy decision (Article 26(1)(c)).

The Amending Europol Regulation also inserted Article 26a concerning the exchange of personal data with private parties in online crisis situations,<sup>2</sup> and Article 26b regarding the exchange of personal data with private parties to combat the online dissemination of child sexual abuse material.

Concerning the processing of personal data in support of criminal investigations, the Amending Europol Regulation most notably introduced Article 18(6a), whereby Europol may carry out a pre-analysis of personal data received<sup>3</sup> to verify whether they pertain to the categories of personal data and data subjects listed in Annex II (data subject categorisation, or DSC<sup>4</sup>). Europol shall process such data temporarily, for up to 18 months from the moment it ascertains that the data fall under its objectives, or, in justified cases, for up to a maximum of three years (see also Recital 21).

Furthermore, the Amending Europol Regulation inserted Article 18a, stating that Europol may process personal data that lack a DSC, provided that a Member State, the European Public Prosecutor's Office (EPPO), or Eurojust requests support for a specific criminal investigation and Europol determines that it cannot perform an operational analysis or cross-checking (under Article 18(2)) without processing such data. Europol may process the data for as long as it supports the ongoing criminal investigation (Article 18a(3)). Notably, the Amending Europol Regulation also inserted Articles 74a and 74b, which retroactively authorise past and future processing of datasets without a DSC before the entry into force of the amending regulation, namely 28 June 2022.

As regards the processing of personal data for research and innovation, the Amending Europol Regulation inserted Article 33a which allows such processing provided that it is 'strictly required and duly justified' to meet the objectives of the project at hand or is 'strictly necessary and subject to appropriate safeguards', such as pseudonymisation,<sup>5</sup> when related to special categories of personal data that qualify as sensitive data.<sup>6</sup>

In her July 2024 [political guidelines](#) for the next European Commission, Commission President Ursula von der Leyen proposed to:

- make Europol 'a truly operational police agency and more than double its staff over time;
- reinforce the support Europol provides to Member States;
- reinforce cooperation between Europol and other agencies in the domain of justice and home affairs.

This should come with a strengthened oversight and mandate'. In its 2025 [European internal security strategy](#), the Commission subsequently envisaged 'a revamped Europol, and better means of coordinating and ensuring secure data exchange and lawful access to data', without, however, going into more detail. A revision of the Europol Regulation is also included in 2026 Commission [work programme](#).

In its 2025 European Union Serious and Organised Crime Threat Assessment (EU-SOCTA) [report](#), Europol highlights that serious and organised crime remains one of the greatest security threats. The EU-SOCTA report points out that 'criminal networks are increasingly intertwined with hybrid threats originating externally, encompassing a wide range of criminal activities and tactics, often executed through criminal proxies'. Moreover, the report underscores the online dimension and emerging technologies, such as artificial intelligence, which accelerate crime and give criminal networks new capabilities.

## European Commission reports, studies and consultations in preparation of the revision

### Commission evaluation report

The Commission published an [evaluation report](#) on the implementation of certain provisions of the Amending Europol Regulation (particularly Articles 18(2), 18(6a), 18a, 26a and 26b) on 11 December 2025. The evaluation report is accompanied by a Commission [staff working document](#).<sup>7</sup>

This staff working document (p. 6) specifies that the evaluation is based on: reports by Europol on the implementation of the Europol Regulation, consultations of Europol staff at technical meetings with DG HOME staff and through written requests for information, consultations of Member States through a short questionnaire, and contributions provided spontaneously by other stakeholders. However, it is not clear who these 'other stakeholders' are. The Commission states that 'the evidence collected, although limited in scope, nonetheless allows to identify possible areas for improvement in Europol's legal mandate and its implementation'.

In its report, the Commission (1) assessed the **operational impact of the new rules for processing personal data** regarding Europol's objectives as defined in Article 3: to support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combating criminal offences falling under Europol's mandate; (2) assessed the **impact of those rules on fundamental rights and freedoms** as enshrined in the EU Charter of Fundamental Rights; and (3) carried out a **cost-benefit analysis** of the related data processing tasks.

Although the Amending Europol Regulation entered into force on 28 June 2022, the evaluation report points out that 'its operational implementation depended on various governance, technical, and administrative measures, as well as operational requirements, such as setting up new ICT structures in some cases'. The Commission found that nearly all provisions concerning the analysis of large and complex datasets, cooperation with private parties, and the processing of personal data for research and innovation projects (as listed in Article 68(3) of the Amending Europol Regulation) were operational. The only exception was Europol's ability to propose Schengen Information System (SIS) alerts to Member States (see box on p. 5).

The Commission's evaluation report states that Member States generally hold a favourable view of the **operational impact of Europol's new personal data processing powers and tasks** in terms of their relevance, effectiveness, and added value, and Europol's support to their competent authorities in the related areas. Europol received a 'non-negligible' number of new contributions without DSC from Member States, and the administrative burden remained 'significant'. The number of cases in which Europol cooperated with private parties also increased considerably in 2024. Other provisions were reportedly either not used (Article 26a, which introduced rules for online crisis situations), or used only exceptionally (for example, Article 18a concerning the processing of personal data received without DSC was invoked just once in 2024). Identified areas for improvement include complexity, fragmentation, legal provisions that may discourage private parties from using the new available instruments, and Europol's implementation of data protection safeguards.

The evaluation report furthermore states that it 'did not find any evidence of negative **impact on fundamental rights** resulting from the operational use of the new powers for processing personal data from the limited use made so far of the new personal data processing powers.' It also highlights that 'the evidence collected suggests that Europol and its Management Board have also ensured, in cooperation with Europol's Data Protection Officer (DPO) and the EDPS, a rigorous implementation of the new data protection safeguards introduced in 2022'. According to Member States, 'Europol currently has a robust legal data protection framework in place, which ensures sufficient safeguards for the potential increased use of its new powers'.

The Commission identifies specific challenges (other than those related to data subject categorisation) (1) the costs and time associated with the Data Protection Impact Assessment; (2) prior consultation of the EDPS; (3) and Europol's handling of access requests by data subjects. The Commission also emphasises the appointment of the first Europol Fundamental Rights Officer in December 2022 (who has not received or presented any complaints to the executive director), as well as the creation of the JPSG Consultative Forum for Fundamental Rights by the European Parliament in February 2024.

Regarding the **cost-benefit analysis**, the Commission's evaluation report states that it is premature to draw meaningful conclusions about the new provisions, 'given the early stage of implementation of the provisions introduced by Regulation (EU) 2022/991 and the limited experience with them'. Costs incurred in connection with the operational implementation of these provisions totalled about €25 million (about 5 % of the total allocation to Europol) between 2022 and 2025, primarily comprising one-off costs. Europol and 15 Member States anticipate that the benefits derived from

### The Schengen Information System: What role for Europol?

According to the Commission, the [Schengen Information System](#) (SIS) is the most widely used and largest information sharing system for security and border management in Europe. Police and border guards can enter and consult alerts on individuals and objects in a common database. These individuals and objects can be located anywhere within the EU and the Schengen area during border, police or other lawful checks.

Europol has access to all SIS alert categories and exchanges supplementary information with countries regarding alerts related to crimes within its remit (Europol was first granted access to SIS I in 2005 and was granted full access to SIS II in 2018, at which point it also began receiving information on hit matches linked to terrorist offences). Currently, Europol cannot enter alerts into SIS itself. However, it can ask Member States' competent authorities to do so.

Europol has established relations with third countries and international organisations. Europol also makes a preliminary assessment regarding the necessity of alerts. Experts have highlighted the importance of data protection safeguards, given Europol's perceived lack of supervision.

Sources and further reading: European Commission, [website](#) on the Schengen Information System; Tas, S., 'Europol and the Schengen Information System: A Dangerous "Unsupervised" Extension of Powers', *European Papers – A Journal on Law and Integration*, Vol. 10, No. 3, 2025, pp. 721–745; Quintel, T., 'Europol's Data Dominance: The Multifaceted Involvement and Impact of Data Analytics Across Sectors', *European Papers – A Journal on Law and Integration*, Vol. 10, No. 3, 2025, pp. 747–778.

these new personal data processing powers and tasks, particularly the ability to analyse large and complex datasets and to cooperate with private parties, will be significant and outweigh the associated costs.

The Commission concludes that Member States maintain their support for Europol's role in the key areas where it currently assists them, particularly concerning its new personal data processing capabilities. The Commission further notes that 'to maximise the benefits of the new personal data processing powers, in the view of some stakeholders, there is a need to address possible inefficiencies, notably within the existing governance, administration, and data protection framework'. The Commission also highlights the need to mitigate the complexity and fragmentation of the legal framework, which is increasingly scattered across multiple instruments and includes a growing list of secondary EU legislation and implementing acts. The views of stakeholder other than Member States are seldom reported and, when present, are not identified.

### Call for evidence and public consultation for a new Europol regulation

The Commission published a [call for evidence](#) for a back-to-back evaluation and impact assessment on a new Europol regulation, which ran from 3 July 2025 to 31 July 2025.<sup>8</sup> The Commission also launched an online public consultation, which ran from 23 October 2025 to 15 January 2026. The impact assessment and evaluation will be supported by an external study. According to the [call for evidence](#), the Commission plans to publish the new proposal in the second quarter of 2026 together with the impact assessment and evaluation.

The call for evidence aimed to gather stakeholder insights on: (i) the implementation of the Europol Regulation, focusing specifically on: its effectiveness, efficiency, relevance, coherence, EU added value and impact;<sup>9</sup> (ii) identifying possible needs and gaps; (iii) collecting quantitative and qualitative evidence to help the Commission to identify and select possible options and/or other measures in support of Member States; and (iv) the effectiveness of existing EU tools and organisations, as well as their operational functioning. The call for evidence received only 17 feedback instances, including from EU citizens (7), business organisations (3) and NGOs (2).

The call for evidence also specified that the Commission evaluation would assess how the Europol Regulation, as amended in 2022, had achieved the objectives to improve how:

- Europol supports and strengthens action by the Member States' competent authorities, including by processing operational data in its role as the EU criminal information hub;
- Europol cooperates with other EU agencies and bodies, and with other parties both within and outside the EU, to ensure security;
- Europol assists the Commission and supports Member States in research and innovation in the areas relevant to its mandate;
- Europol's governance, accountability and internal/external supervision ensure appropriate steering, control and political oversight for it to accomplish its mission also in line with the Joint Statement and Common Approach of the European Parliament, the Council of the EU and the European Commission on decentralised agencies.

According to the Commission, the evaluation will cover the period from the Europol Regulation's entry into force up to April 2025. In its call for evidence, the Commission considers options that range from non-legislative measures to a new mandate for Europol.

The public consultation received a total of 34 valid [feedback instances](#), most of which came from public authorities (39 %) and EU citizens (18 %). Geographically, most respondents came from Italy (24 %), Belgium (15 %) and Germany (12 %). Given this low response rate, the Commission is expected to also run targeted consultations for the preparation of the impact assessment and the evaluation. The questionnaire was divided into two parts, with the first part focusing on the

evaluation of the current 2016 Europol Regulation, as amended in 2022, and the second assessing the potential impacts of a revision of Europol's mandate.

As the feedback [summary report](#) finds, the respondents, few as they were, positively assessed Europol's performance and effectiveness in its activities, such as threat assessments and operational support. However, respondents identified legal factors as the biggest external obstacle hindering Europol's activities. In terms of efficiency, respondents offered mixed opinions on whether Europol's budget delivered proportionate benefits. Respondents also described Europol's objectives and activities as 'highly relevant' (50 %) or 'relevant' (31 %), especially its operational investigative support and technological expertise. Accordingly, the majority of respondents either opposed (38 %) or expressed uncertainty (33 %) regarding expanding Europol's mandate to additional crime areas and security threats. While Europol's objectives and activities were also viewed as coherent with EU policy developments and priorities, uncertainty remained high across all areas, particularly concerning newer legal frameworks such as those governing data protection (42 %). An overwhelming majority (95 %) of respondents also gave a favourable assessment of Europol's added value, with many attributing positive changes to the Europol Regulation (57 %). However, respondents expressed uncertainty about Europol's capacity to safeguard fundamental rights and freedoms (45 %) or withstand external shocks.

In the second part of the public consultation's questionnaire, respondents generally affirmed that the current Europol Regulation adequately enables Europol to fulfil its mandate. Regarding the four options for the framework's revision, as presented in the call for evidence, respondents generally favoured non-legislative measures or targeted amendments. Specifically, 55 % supported simplifying legal provisions, while 45 % advocated for new legal provisions to address technical and legal obstacles in information access, collection, sharing and analysis. Establishing a new Europol mandate was also broadly supported, with an emphasis on strengthening Europol's technological and innovation capabilities (48 %), and extending its scope to areas like sabotage, hybrid threats, and information manipulation (39 %).

## European Parliament position and oversight activities

### Parliamentary resolutions and decisions

In November 2025, Parliament adopted a legislative [resolution](#) on the 2023 Commission proposal for a regulation to amend the Europol Regulation, aiming to enhance police cooperation in preventing, detecting and investigating migrant smuggling and trafficking of human beings. Most notably, Parliament introduced several amendments to Article 4, which outlines Europol's tasks, and Article 7, which outlines the tasks of Europol national units. It also proposed a new Article 9a establishing the European Centre Against Migrant Smuggling within Europol.

Parliament has also scrutinised the implementation of the Europol Regulation through its discharge decisions. Most notably, in its discharge [decision](#) of May 2025 for the EDPS, Parliament expressed regret that the EDPS 'did not realise the manifest inadmissibility of its appeal' against the General Court's [judgment](#) concerning the lawfulness of Articles 74a and 74b (for further details, see below in the CJEU section). Indeed, as Parliament clarified, the insertion of Articles 74a and 74b solely 'aimed at neutralising the effects of the EDPS' enforcement actions' retroactively, rather than directly challenging Europol's acts (para. 20). Furthermore, Parliament called on the EDPS to cooperate with EU institutions and agencies, especially before initiating legal proceedings that could prevent it from delivering on its mandate or using its resources as intended.

## Selected parliamentary questions

The Members of the European Parliament (MEPs) have raised numerous questions regarding Europol's mandate, tasks and activities. These inquiries have covered topics such as its role in combating various forms of crime and its cooperation with other EU agencies, particularly Frontex, and third countries. However, a smaller subset of questions has focused on the evaluation and revision of the Europol Regulation itself. This focus intensified following the 'big data challenge' prompted by an inquiry by the EDPS (for further details, see the section on the EDPS below), with notable questions arising in [September 2020](#) and [June 2022](#).

In December 2024, three MEPs (Renew) [questioned](#) the Commission regarding the evaluation of the Europol Regulation. This inquiry came in advance of the regulation's planned revision, in line with the Commission [better regulation agenda](#). The Commission, acknowledging the importance of timely evaluations of existing legislation, [confirmed](#) that its forthcoming proposal would indeed build on an evaluation of the current Europol Regulation, alongside an impact assessment and a stakeholder consultation. To this end, the Commission would 'consider' submitting the evaluation report, as required by Article 68(1) of the Europol Regulation, before the 29 June 2027 deadline. Later, in [March 2026](#), MEP Kamiński (ECR), addressed the Commission's stated vision of transforming Europol into a 'truly operational EU policy agency'. He requested clarification on this concept and an outline of the safeguards the Commission intended to put in place to preserve Europol's supporting role to Member States.

## Views of the Council

In its conclusions, the Council has continuously called for strengthening Europol in various targeted ways. For example, in its [conclusions](#) on combating trafficking of weapons and fighting threats stemming from firearms and pyrotechnic articles of 12 June 2025, the Council invited Europol to establish a dedicated platform for the exchange of information on 3D-printed firearms and blueprints for computer numerical control machines to better coordinate EU-level law enforcement activities at in cooperation with Eurojust, Interpol and OLAF within their respective mandates.

The Council [conclusions](#) of 13 June 2025 centred on the European Multidisciplinary Platform Against Criminal Threats (EMPACT), the EU's security initiative aimed at identifying and addressing criminal threats and coordinated by Europol. The conclusions addressed the enhancement of EMPACT and on EU crime priorities for the next EMPACT cycle (2026–2029), calling on the Commission to increase the financial support allocated to EMPACT, including in the Europol budget.

As regards Member States' positions on Europol, [EPRS](#) research highlights that they are roughly divided into three groups: those that appreciate its work under the existing mandate; those that want a more active Europol on the ground, especially through OTF, JIT and guest officers (mainly small and medium-sized Member States); and those that make little use of Europol support.

## Judgements of the Court of Justice of the European Union

On 16 September 2022, the EDPS lodged an action for annulment of Articles 74a and 74b against the Parliament and the Council ([Case T-578/22](#)) for violating the principles of legal certainty and non-retroactivity of legal acts. However, on 6 September 2023 the General Court held that the EDPS lacks legal standing to bring the action, as Articles 74a and 74b are not 'of direct and individual concern' to the EDPS<sup>10</sup> ([para. 85](#)). Consequently, the EDPS lodged an appeal ([Case C-698/23 P](#)) on 16 November 2023, requesting that the Court of Justice declare its annulment action admissible. The appeal was supported by the Advocate General who, in his [opinion](#) of 8 May 2025, argued that Articles 74a and 74b are, indeed, of direct and individual concern to the EDPS as they are, in light of the origins of the provision, 'aimed, specifically, at counteracting an individual, and now final, decision' by the EDPS ([para. 90](#)). The Court of Justice's judgment on this appeal is, nevertheless, still pending.

In a separate development, on 5 March 2024, the Court of Justice delivered its judgment on the appeal in [Kočner v Europol \(Case T-528/20\)](#), ruling that Europol may be held jointly and severally liable when cooperating with a Member State for unlawful data processing. This ruling contrasts with the General Court's approach, as it eliminates the need to attribute unlawful data processing to either Europol or the Member State. Instead, it suffices to demonstrate that the processing itself caused damage to the individual concerned.

## Views of EU advisory bodies and agencies

### European Data Protection Supervisor

Under The Europol Regulation the European Data Protection Supervisor (EDPS) is responsible for supervising how Europol processes personal data as part of its operational and administrative activities (Article 43). To fulfil this role, the EDPS is required to draw up an annual report detailing its supervisory activities concerning Europol (Article 43(5)).

In April 2019, already concerned about the emerging trend of Member States and other operational partners sending increasingly voluminous datasets to Europol for processing, the EDPS launched an inquiry. Its [decision](#) of September 2020 concluded that such processing contravened Article 18 and Annex II of the Europol Regulation, as well as the minimisation principle under Article 18(1)(c).<sup>11</sup> As a result, the EDPS admonished Europol to implement 'all necessary and appropriate measures to mitigate the risks for individuals' data'. In December 2021, the EDPS further [ordered](#) Europol to delete any stored data pertaining to individuals not falling under of the Annex II categories. It also imposed a six-month retention period during which Europol was to filter and extract personal data from datasets lacking a DSC (para. 4.20).

However, the EDPS noted in its [press statement](#) of June 2022 and its [2022 annual report](#) that the EU co-legislators overrode its 2021 order by expanding Europol's mandate without strong data protection safeguards. They also introduced Articles 74a and 74b, which retroactively legalised the processing of large datasets without a DSC, thereby setting a 'worrying precedent' (p. 60). As a result, the EDPS submitted an [action](#) for annulment of Articles 74a and 74b before the Court of Justice of the EU (CJEU) in September 2022. The CJEU [dismissed](#) this action in September 2023, prompting the EDPS to lodge an appeal, as mentioned earlier in this briefing.

Furthermore, Europol's Management Board failed to formally consult the EDPS on four decisions regarding the implementation of Articles 18 (specifically Articles 18(2), 18(6) and 18(6a)) and 18a before officially adopting them.<sup>12</sup> This prompted the EDPS to refer the matter not only to Europol but also to the [European Parliament](#), the Council and the Commission in July 2022, requesting the repeal of these decisions.<sup>13</sup> In the end, Europol formally consulted the EDPS, which subsequently issued a [supervisory opinion](#) in November 2022. This opinion offers various recommendations to avoid risks of non-compliance with the 2022 amendments. While the 2022 EDPS supervisory opinion is not legally binding, Europol implemented the recommendations within it, as evidenced by the updated decisions for the implementation of Articles [18\(2\)](#), [18\(6\)](#) and [18\(6a\)](#) and [18a](#).

In the past, the EDPS has also undertaken other supervisory activities concerning Europol. These include issuing decisions on admissible complaints against Europol and delivering opinions after receiving consultations received from Europol, particularly regarding the technical tools Europol employs. The EDPS also conducts annual inspections of Europol, most recently focusing on the implementation of Articles 18(6a) and 18a. Although the reports following these inspections are not public, the EDPS' [2024 annual report](#) highlights the importance of distinguishing between data processing under the normal regime of Article 18(2) and under the exceptional regime of Articles 18(6a) and 18a of the Europol Regulation.

## Expert and stakeholder views

Several stakeholders, including organisations and citizens, submitted detailed contributions to the Commission's call for evidence, sharing their views and recommendations about the upcoming revision of the Europol Regulation. Experts in the field have likewise offered their perspectives. This section aims to provide an overview of the debate and is not intended to be an exhaustive account of all the different views. The most common positions can be categorised as follows:

- 1 No centralised Europol agency:** Various organisations, such as the European Digital Rights ([EDRi](#)), the European Confederation of Police ([EuroCOP](#)), and the European Federation of Police Unions ([EUPol](#)), all concur that transforming Europol into a 'truly operational agency' likely conflicts with the principle of subsidiarity and Article 88 TFEU. Instead, Europol should maintain its supportive role for national authorities, particularly local authorities in need of further financing, training, staffing and technology.
- 2 No expansion of Europol's competences:** According to ([EDRi](#)), expanding Europol's activities to new forms of crime, such as sabotage, hybrid threats and information manipulation, would be 'highly problematic'. For instance, sabotage may encompass civil disobedience actions that could result in the criminalisation of public protest, whereas disinformation and misinformation are better handled through non-criminal means. EDRi therefore encourages the Commission to evaluate the 'necessity, impact, effectiveness and efficiency' of Europol in certain crime areas and consider removing some if deemed unnecessary or inefficient. However, ([EuroCOP](#)) recommends that violence against law enforcement officers should be added as a crime area under Europol's mandate.
- 3 Stronger oversight over Europol's data collection and processing practices:** EDRi proposed that the 2022 legislative amendments should be repealed, and that Europol's data collection and processing activities be limited to only what is necessary for supporting targeted investigations by domestic law enforcement authorities. Furthermore, EDRi highlighted that transfers of personal data to third countries should not lead to human rights violations. Likewise, the receipt of personal data from third countries with disastrous human rights records should be evaluated due to the risk of data laundering and data inaccuracy. To this end, the evaluation and impact assessment of the new Europol Regulation should include a fundamental rights impact assessment, 'encompassing, at a very minimum, all individuals whose data is processed by Europol'.
- 4 Stronger internal standards:** [EUPol](#) recommends that Europol should strive to uphold strong internal standards, such as binding participation rights for staff and seconded officers; harmonised, transparent employment conditions; adequate pay; fair working hours; proper occupational health services; and high social standards, including gender equality and anti-discrimination.

Various academic experts have also shared their views on the implementation of the current regime, which can feed into the upcoming revision of the Europol Regulation. For instance, one [expert](#) remarked that the amending Europol Regulation only provided Europol with a new mandate and legal basis for processing activities previously criticised by the EDPS (p. 100). According to this [expert](#), Europol's strengthened mandate should be accompanied by adequate safeguards to maintain high data protection standards; however, these safeguards are often codified in legislation adopted at different times, making coherent implementation challenging and inaccessible (p. 778).

Another [expert](#) concurs that, while the expansion of Europol's competences can meaningfully support national criminal investigations, it fails to adequately protect individuals' data, particularly due to the 'already fragmented and asymmetrical application of data protection rules in the police cooperation sector'. Indeed, beyond the data protection provisions in the Europol Regulation (for

reference, see Articles 27a and 28), the 2016 Law Enforcement Directive ([LED](#)) and the [EUDPR](#) may also apply.

The Meijers Committee, in its [comment](#) of May 2024, criticises Europol's processing of personal data without a DSC, describing it as 'an intrusive interference with the right to personal data protection and the data subject's fundamental rights', protected in Articles 7 and 8 of the [EU Charter of Fundamental Rights](#) and further by [Directive 2016/680](#) on data processing for law enforcement purposes.

By contrast, the Legal [Research Institute](#) of the Romanian Academy highlighted the need to extend Europol's operational capabilities, particularly by creating joint operational intervention teams, which would be subordinated to the Member States and coordinated by Europol.

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## ENDNOTES

- <sup>1</sup> It should be noted, however, that Article 68(1) was also amended, postponing the evaluation of the Europol Regulation to 29 June 2027.
- <sup>2</sup> Online crisis situations are defined in Article 2(t) as the dissemination of online content stemming from an ongoing or recent real world event which depicts harm to life or to physical integrity, or calls for imminent harm to life or to physical integrity, and aims to or has the effect of seriously intimidating a population, provided that there is a link, or a reasonable suspicion of a link, to terrorism or violent extremism and that the potential exponential multiplication and virality of that content across multiple online services are anticipated.
- <sup>3</sup> Article 17 of the Amending Europol Regulation (EU) 2022/991 states that Europol shall only process information that it has received from Member States; EU bodies, third countries and international organisations; and private parties and private persons, in accordance with the relevant chapters of the Europol Regulation.
- <sup>4</sup> DSC refers to 'the need to screen the datasets to sort out personal data according to different categories, exhaustively listed in Annex II.A. and Annex II.B. to the Europol Regulation, before proceeding to the actual processing of the data for investigative purposes, including before cross-checking data to detect links or carrying out analyses of a strategic or thematic nature or operational analyses' (see Commission [evaluation report](#) of the implementation of certain provisions of the amending Europol Regulation (particularly Articles 18(2), 18(6a), 18a, 26a and 26b) of 11.12.2025, p. 4.
- <sup>5</sup> Pseudonymisation is defined in Article 1 of the [General Data Protection Regulation \(GDPR\)](#) as the processing of personal data in such a way that it can 'no longer be attributed to a specific data subject without the use of additional information'.
- <sup>6</sup> Special categories are defined in Recital 10 of the [GDPR](#) as sensitive data, such as biometric data, health data ,or data concerning a natural person's sex life or sexual orientation (Article 9).
- <sup>7</sup> This evaluation report is a targeted assessment examining the operational impact of implementing certain tasks concerning data processing, as well their impact on fundamental rights. It is not a fully-fledged evaluation of the Europol Regulation, in line with the five evaluation criteria of the European Commission's [Better Regulation Guidelines](#).
- <sup>8</sup> As a general rule and in line with the European Commission's [Better Regulation Guidelines](#), the ex-post evaluation should be published before the ex-ante impact assessment. The European Parliament expressed serious concerns

about the increasing trend of evaluations and impact assessments being carried out in parallel (the Commission's 'back-to-back' practice) (see European Parliament resolution of 7 July 2022 on better regulation: Joining forces to make better laws (2021/2166(INI)), para. 52.

- <sup>9</sup> This seems to indicate that the evaluation will be a fully-fledged evaluation, covering all five evaluation criteria.
- <sup>10</sup> Article 263(4) of the Treaty on the Functioning of the European Union (TFEU) provides that any natural or legal person may institute proceedings against an act addressed to them, or which is of direct and individual concern to them.
- <sup>11</sup> Article 28(1)(c) stipulates that personal data shall be 'adequate, relevant, and limited to what is necessary in relation to the purposes for which they are processed'.
- <sup>12</sup> According to Article 11(1)(q) of the Europol Regulation, Europol's Management Board shall adopt guidelines further specifying the procedures for the processing of information by Europol (in accordance with Article 18) after consulting the EDPS. This consultation obligation is confirmed in Articles 18(6b) and 18a(5b).
- <sup>13</sup> Article 43(3)(g) of the Europol Regulation enables the EDPS to refer a matter to the European Parliament, the Council and the Commission, if necessary.

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