

BELGIUM

Written comments by Belgium concerning the proposed revision of the Europol Regulation (EU) 2016/794

Our main current concerns in relation to block 1 on private parties are the following:

- About the nature of the private parties Europol would be cooperating with we want to provide you with the following comments.
 - o We appreciate the explanations provided by the Commission concerning the cooperation with financial institutions and their views on the duplication of efforts and other related issues when FIU-obliged entities would report directly to Europol. The Commission's intentions in this regard are reassuring. We do share some of the concerns as, for example, raised by France and would not be opposed to including the French text proposals in the relevant articles.
 - o Based on a similar concern we are wondering whether Europol's interactions would not interfere with the current systems concerning the processing of information such as Passenger Name Records and Advanced Passenger Information data. Maybe this matter deserves to be explained in a recital.
 - o Also, we welcome and support the French text proposal on the role of the Management Board of Europol with regard to private parties, namely the new articles 26(2a) and 26(9).
- While we agree that information exchange with private parties should be strengthened, giving information *to* private parties (art. 26(5)) should remain the exception. Therefore, we are not in favor of the reversed phrasing that "Europol **may** transmit or transfer personal data to private parties (...) where it is strictly necessary" under certain conditions. We believe it important to keep the current phrasing that "Europol **may not** transfer personal data to private parties **except** (...)".
- Furthermore, we would welcome a streamlined use of "transmission" and "transfer" throughout the text, namely in article 26(5), taking into account the terminology used in Regulation (EU) 2018/1725.

- In relation to the possibility of Europol to proactively request a MS to contact a private party, we have to further verify the proposal in light of our national legislation. However, we do already note several concerns with the current phrasing (art. 26(6a)).
 - o Firstly, we are pleased to hear the Commission's agreement on the fact that Member States have the possibility to refuse and that private parties are not obliged to provide the requested information. Thus, it is necessary to explicitly include the possibility of the MS to refuse. Also, the text should indicate that private parties are not obliged to answer. Those two elements remain currently ambiguous. These changes would bring the text more in line with the Council Conclusions of 2 December 2019. Furthermore, a reference to private parties' own data protection obligations (e.g. art. 6(1)(e) GDPR) should be considered.
 - o Secondly, we are satisfied with the proposed way of working; namely that the ENU is the intermediate actor in this process. For clarity reasons, we believe it necessary to make sure that this process is also explicitly subjected to same reasoning of art. 26(2) that the concerned MS has/have to be informed and has/have to resubmit the information to Europol via their national units.
- As regards Europol's possibilities in relation to TCO in crisis situations and namely the situation of art. 26a(4), we believe the authorization of the Executive Director requires further specification of the applicable conditions. We believe inspiration can be found in art. 26(6).

In relation to block 3 on research and innovation we have to maintain our scrutiny reservation for now. Next to this, we can provide you already with the following comments:

- We consider it important that synergies have to be sought with existing networks in this domain (such as ENLETS, I-LEAD, etc.).
- We located article 13 of the Regulation 2018/1725 and presume this is what the Commission referred to when asked about the preference for not using real operational data. In relation to this article 13 of the Regulation 2018/1725, we however do not believe it is currently applicable to Europol. Are there other articles the Commission understood to be of relevance?