

## LITHUANIA

Lithuanian comments on thematic blocks in regards to the last working document (Brussels, 05 February 2021, Document WK 757/2021 REV 1) discussed in LEWP VTC on 08/02/2021

### **Block 1: enabling Europol to cooperate effectively with private parties**

Lithuania would like to propose the following wording in RED colour.

#### *31 recital*

Member States, third countries, international organisation, including the International Criminal Police Organisation (Interpol), or private parties may share multi-jurisdictional data sets or data sets that cannot be attributed to one or several specific jurisdictions with Europol, where those data sets contain links to personal data held by private parties. Where it is necessary to obtain additional information from such private parties to identify all relevant Member States concerned, Europol should be able to ask Member States, via their national units, to request private parties which are established or have a legal representative in their territory to share personal data with Europol in accordance with those Member States' applicable laws. **Member States should assess Europol's request and decide in accordance with their national laws whether or not to accede to it. Data processing by private parties should remain subject to their obligations under the applicable rules, notably with regard to data protection.** 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. **In those cases when it is a need to establish (identify) the 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.

#### *Article 26*

##### *Exchanges of personal data with private parties*

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.

**In those cases when it is a need to establish (identify) the jurisdiction ~~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.**

#### *Article 26a*

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

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). **In those cases when it is a need to establish (identify) the jurisdiction** ~~Irrespective of their jurisdiction~~ with regard to the dissemination of the content in relation to which Europol requests the personal data, Member States shall ensure that the competent national authorities can lawfully process such requests in accordance with their national laws for the purpose of supplying Europol with the information necessary for it to fulfil its objectives.

### **Block 3: strengthening Europol's role on research and innovation**

Lithuania does not have any additional remarks.

### **Block 5: strengthening Europol's cooperation with third countries**

Lithuania would like to ask the Commission to provide the detalization or more concrete examples of the provided new wording in Article 25 paragraph 5 „or categories of transfers“ . What is meant by this wording?

### **Block 7: clarifying that Europol may request the initiation of an investigation of a crime affecting a common interest covered by a Union policy**

Lithuania would like to ask to provide concrete examples on the situation when one MS is involved and it is requested to start/conduct the criminal investigation. We would like to support the initial wording of this Article 6 paragraph 1, according to the existing Europol manadate and Regulation.

Likewise, wording "request" Member States to intitiate criminal investigations is wrong itself and should be replaced by "offering/suggesting" to initiate investigation, as it relates to national law (Penal and Procedural Codes in particular) that clearly states the conditions under which investigation can be started.

Lithuania would like to propose the following **wording in RED colour**.

#### *Article 6*

#### ***Request by Europol for the initiation of a criminal investigation***

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 **may suggest/can offer** ~~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.