

## POLAND

### General remarks

Poland positively assesses the support provided by Europol to the competent national authorities so far, while recognizing the possibility of introducing further improvements in its functioning. Poland is of the opinion that it is necessary to maintain the supportive role of Europol, while respecting the exclusive competences of the Member States.

Poland still raises the parliamentary reservation due to the ongoing consultations at the national level. We reserve our right to express further remarks and comments at a later stage of discussion and during the next LEWP VTCs

### COMMENTS

On page 24 of 5388/1/21 REV 1, Article 4

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| <p><i>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.</i></p> | <p><u>Comment:</u></p> <p>We suggest deleting this point. In the opinion of our experts Europol should not play an active role in the process of screening foreign direct investment. This provision enables Europol to seek active role in the process of screening foreign direct investment into the EU which may disort the balance between the Europol's scope of competence and the issues falling within the category of the exclusive competence of the EU Member States in accordance with art 4 (2) of the Treaty on EU. The process of screening foreign direct investment is closely related to security-sensitive area such as critical infrastructure, dual use items or critical technologies, listed in art. 4 regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union. Taking into account the specific nature of the activities carried out by the competent national authorities in these areas, the practical dimension of such cooperation between these authorities and the Europol may prove to be problematic due to the fact that it touches upon economic security of the EU.</p> |
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On page 25 of 5388/1/21 REV 1, Article 6

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| <p>(3) <i>in Article 6, paragraph 1 is replaced by the following:</i></p> <p><i>"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."</i></p> | <p><u>Comment:</u></p> <p>In the light of the results of the discussions at LEWP on 08.02 and in connection with our previous comments on the preservation of the supporting role of Europol and the exclusive competence of the member bodies in the area of initiating investigations, we propose to abandon the amendments and keep the current content of this article.</p> |
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On page 25 of 5388/1/21 REV 1, Article 7

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| <p><u><i>(4bis) In Article 7, the following paragraph 12 is added:</i></u></p> <p><u><i>"12. Europol shall draw up an annual report on the number of cases in which Europol issued notifications to private parties on missing information in accordance with point (d) of paragraph 5 of Article 26 or requests Member States to obtain personal data from private parties in accordance with paragraph 6a of Article 26, including specific examples of cases demonstrating why these requests were necessary for Europol to fulfil its objectives and tasks;"</i></u></p> | <p><u>Comment:</u></p> <p>In our opinion, it could be considered to supplement the provision with names of the institutions to which the report will be addressed.</p> |
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