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5370/22

Dossier interinstitutionnel: 2020/0349(COD)

LIMITE

ENFOPOL 16 SIRIS 10 COPEN 17 SCHENGEN 5 IXIM 15 CODEC 65 IA 3

# **NOTE**

Origine:	Secrétariat général du Conseil
Destinataire:	Comité des représentants permanents
N° doc. Cion:	13908/20 + COR 1
Objet:	Proposition de Règlement du Parlement Européen et du Conseil modifiant le règlement (UE) 2016/794 en ce qui concerne la coopération d'Europol avec les parties privées, le traitement de données à caractère personnel par Europol à l'appui d'enquêtes pénales et le rôle d'Europol en matière de recherche et d'innovation
	Préparation du trilogue

# I. Contexte

Les négociations sur la révision du Règlement Europol sont entrées dans une phase qui peut permettre d'envisager prochainement un accord politique en première lecture entre les colégislateurs. Dans ses contacts avec le Parlement Européen et la Commission, la Présidence a notamment pu s'appuyer sur le travail important fourni sous Présidence slovène pour poursuivre la dynamique engagée, et tenter de finaliser les blocs thématiques et sujets encore en discussion. La décision récente du Contrôleur européen de la Protection des données¹ qui pourrait avoir des conséquences opérationnelles pour l'action d'Europol, confirme la nécessité d'une adoption rapide du règlement.

5370/22 RS/sbr

1

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EDPS Decision on the retention by Europol of datasets lacking Data Subject Categorisation (Cases 2019-0370 & 2021-0699) notified to Europol on 3 January 2022

### II. L'état des négociations

C'est dans ce contexte que la Présidence a soumis, le 19 janvier dernier, à l'appréciation du groupe Application de la loi (police) une approche globale reposant sur deux composantes majeures :

- L'approbation en « paquet » d'une série de propositions de la Présidence visant à prendre en compte les observations exprimées par les délégations lors de la dernière réunion sur ce sujet sous présidence slovène tout en intégrant les préoccupations majeures du Parlement concernant notamment la gouvernance et le contrôle de l'Agence ; ce paquet de compromis a été conçu avec un esprit d'équilibre;
- La finalisation et l'approbation des compromis proposés par la Présidence sur sept sujets
  qui restaient plus ouverts au sein du Conseil, et par conséquent également entre les colégislateurs. Une fois validées par le Conseil, ces solutions devraient également être
  acceptables pour le Parlement Européen.

### a. Le paquet de compromis

La Présidence a pu constater lors de la réunion du 19 janvier que les délégations soutenaient le paquet dans sa globalité, n'ayant exprimé qu'un certain nombre d'observations techniques, qu'elles n'ont pas qualifiées de bloquantes au profit de l'approche « en paquet » susvisée. La Présidence a donc conclu que le paquet pouvait être soumis au Parlement Européen sans changements pour la réunion technique du 25 janvier 2022 et le trilogue prévu pour le 1<sup>er</sup> février prochain.

# b. Sujets ouverts débattus au sein du groupe de travail

Également dans cette partie de la réunion, les États membres ont largement soutenu les propositions de la Présidence pour intégrer un cetain nombre de propositions du Parlement européen, dans l'esprit de cette approche « en paquet » :

5370/22 RS/sbr 2 JAI.1 **LIMITE FR** 

#### Officier des droits fondamentaux

Vu l'importance que cette nouvelle fonction a pour le Parlement Européen, les délégations ont soutenu la proposition de la Présidence de ne pas bloquer cette initiative, mais d'insister pour que l'officier soit nommé sur simple proposition de la directrice exécutive d'Europol, et qu'il ou elle soit en principe déjà membre du personnel existant de l'Agence ; ceci marquera notamment la différence par rapport à l'Officier de la protection des données

## Groupe de contrôle parlementaire conjoint (GCPC)

Les délégations ont soutenu la proposition de la Présidence d'accepter la modification du Parlement Européen visant à codifier la pratique actuelle d'inviter les représentants du GCPC à deux réunions du Conseil d'administration d'Europol par an, ou encore de renforcer le rôle du GCPC dans l'élaboration des documents de programmation de l'Agence. Les délégations ont toutefois insisté sur la nécessité de ne pas aller au delà des solutions présentées dans le tableau 4-colonnes quant à la différenciation entre le contrôle politique et opérationnel par le GCPC.

# Contrôle des notices rouges d'Interpol par Europol et le rôle d'Europol dans les investissements directs étrangers

Les délégations ont insisté pour que la Présidence obtienne la suppression de l'amendement introduit par le Parlement selon lequel Europol devrait contrôler les notices rouges d'Interpol quant à l'abus éventuel à des fins politiques. Afin d'obtenir cette concession, les États membres ont accepté de réintroduire un certain rôle d'Europol dans le filtrage des investissements directs étrangers qu'elles avaient supprimé dans le mandat du Conseil, à condition que ce rôle soit limité à l'assistance aux États membres. Par ailleurs, un engagement des États membres à renforcer les échanges entre eux et avec Interpol sur cette question, pourrait s'avérer décisif pour ne pas intégrer cette proposition du Parlement dans le règlement d'Europol : une possible déclaration du Conseil qui reste à préciser dans la forme et dans le fond, rappelant le rôle des points de contacts nationaux – SPOC – également bureaux centraux nationaux d'Interpol, afin d'échanger des informations y compris en cas de découverte à un stade quelconque une motivation douteuse d'une alerte rouge, pourrait aider à convaincre le Parlement, ceci bien sûr après un échange en groupe de travail entre les États membres et avec Interpol, et en gardant à l'esprit l'objectif de ne pas troubler les négociations en cours entre l'UE et l'OIPC Interpol.

5370/22 RS/sbr 3
JAI.1 **LIMITE FR** 

# **Signalements SIS**

Afin d'assouplir la position du Conseil si cela s'avérait nécessaire dans le cadre des négociations, les États membres ont autorisé la Présidence à accepter un certain raccourcissement du délai d' d'information sur le traitement des signalements ; ce raccourcissement devrait être limité au strict nécessaire.

# Nouvel Article 74a (lignes 564a-e du tableau en annexe)

La Présidence a proposé aux délégations d'introduire un nouvel article 74a qui aurait pour objectif de clarifier davantage la situation des données actuellement en possession d'Europol, notamment dans le contexte de la décision du CEPD du 3 janvier 2022 susvisée. Cette mesure transitoire permettrait aux États membres, au Parquet européen et à Eurojust d'informer Europol, une fois que le Règlement sous examen entrera en vigueur, qu'ils souhaitent faire application de son article 18a au sujet des données qu'ils ont soumises à Europol avant ladite entrée en vigueur. Par conséquent, Europol serait en mesure de continuer à soutenir les enquêtes reposant sur ces données en faisant application du nouvel article 18a. Le nouvel article 74a réserverait la même possibilité aux données provenant des pays tiers.

De nombreuses délégations ont accueilli favorablement les principes de cette proposition lors de la réunion du 19 janvier mais une approbation par le Comité est nécessaire du fait de sa présentation récente, et de l'enjeu que ce sujet représente suite à la décision du CEPD. La Présidence s'efforcera de convaincre le Parlement Européen de la nécessité d'adopter un tel mécanisme afin de préserver la continuité du soutien qu'Europol apporte à une série d'enquêtes importantes en cours.

### Initiative des enquêtes

La possibilité pour Europol de demander une enquête nationale même dans les situations où seulement un État membre est concerné s'agissant d'un crime en lien avec un intérêt commun d'une politique de l'Union (article 88 TFUE dont l'application aux cas non transfrontaliers a fait l'objet d'interprétations diverses) a toujours été un sujet extrêmement important pour le Parlement Européen, alors que les États membres avaient rejeté cette proposition de la Commission de manière quasiment unanime. Dans le cadre des négociations en cours, il s'est toutefois avéré que le Parlement risquait de refuser un accord global tant qu'un compromis n'était pas obtenu du Conseil sur cette question.

Lors de la réunion du 19 janvier, la Présidence a suggéré un tel compromis qui consiste à autoriser la Directrice exécutive de proposer à un État membre d'ouvrir une enquête si elle le considérait opportun. A la différence du mécanisme existant qui doit toujours concerner au moins deux États membres, il ne s'agirait pas d'une demande d'Europol mais bien d'une proposition de sa Directrice exécutive, et contrairement aux cas transfrontaliers les autorités compétentes ne seraient pas tenues de justifier leur décision de ne pas y donner suite.

Lors de la réunion du 19 janvier dernier, de nombreuses délégations se sont montrées prêtes à soutenir un tel compromis si cela s'avérait nécessaire lors du trilogue politique programmé le 1<sup>er</sup> février prochain. Toutefois, vu le caractère sensible de cette question et le mandat initial du Conseil, ce soutien n'a pas encore pu être considéré comme suffisant à ce stade, et fera sans doute l'objet de discussions lors du prochain trilogue politique.

# III. Préparation du trilogue

A la lumière de ce qui précède, le <u>Comité des représentants permanents</u> est invité à valider les compromis proposés par la Présidence et repris dans le tableau annexé à cette note, à modifier le mandat de négociation en ce qui concerne la question de l'initiative des enquêtes à l'article 6 du Règlement (qui fera l'objet d'une discussion spécifique), à confirmer le soutien pour le nouvel article 74a, et à réfléchir au principe d'une déclaration qui serait préparée en groupe « application de la loi » afin de permettre la conclusion d'un accord global en première lecture avec le Parlement Européen lors du trilogue politique programmé le 1<sup>er</sup> février prochain.

5370/22 RS/sbr 5
JAI.1 **LIMITE FR** 

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

Colour codes

Technical provisions or identical text not requiring further attention

Provisional agreement between co-legislators

**Text under discussion at technical level** 

Outstanding issues for political discussion pertaining to data protection and governance (to be dealt with as a package)

Other outstanding issues for political discussion

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
1.	2020/0349 (COD)		2020/0349 (COD)	
2.	Proposal for a		Proposal for a	
	REGULATION OF THE		REGULATION OF THE	
	EUROPEAN		EUROPEAN PARLIAMENT	
	PARLIAMENT AND OF		AND OF THE COUNCIL	
	THE COUNCIL		amending Regulation (EU)	
	amending Regulation (EU)		2016/794, as regards Europol's	
	2016/794, as regards		cooperation with private parties,	
	Europol's cooperation with		the processing of personal data by	
	private parties, the		Europol in support of criminal	
	processing of personal data		investigations, and Europol's role	
	by Europol in support of		on research and innovation	
	criminal investigations, and			
	Europol's role on research			
	and innovation			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
3.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,		THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
4.	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 88 thereof,		Having regard to the Treaty on the Functioning of the European Union, and in particular Article 88 thereof,	
5.	Having regard to the proposal from the European Commission,		Having regard to the proposal from the European Commission,	
6.	After transmission of the draft legislative act to the national parliaments,		After transmission of the draft legislative act to the national parliaments,	
7.	Acting in accordance with the ordinary legislative procedure,		Acting in accordance with the ordinary legislative procedure,	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
8.	Whereas:		Whereas:	
9.	(1) The European Union		(1) The European Union	
	Agency for Law Enforcement		Agency for Law Enforcement	
	Cooperation (Europol) was		Cooperation (Europol) was	
	established by Regulation		established by Regulation (EU)	
	(EU) 2016/794 of the		2016/794 of the European	
	European Parliament and of		Parliament and of the Council <sup>1</sup> to	
	the Council <sup>1</sup> to support and		support and strengthen action by the	
	strengthen action by the		competent authorities of the	
	competent authorities of the		Member States and their mutual	
	Member States and their		cooperation in preventing and	
	mutual cooperation in		combating serious crime affecting	
	preventing and combating		two or more Member States,	
	serious crime affecting two or		terrorism and forms of crime which	
	more Member States,		affect a common interest covered	
	terrorism and forms of crime		by a Union policy.	
	which affect a common			
	interest covered by a Union			
	policy.			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
10.	COM (13908/20 + COR 1)  Regulation (EU)  2016/794 of the European  Parliament and of the Council of 11 May 2016 on the  European Union Agency for  Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions  2009/371/JHA,  2009/934/JHA,  2009/935/JHA, 2009/936/JHA	EP (A9-9999/2021)	Council  Regulation (EU) 2016/794  of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).	Provisional agreement
	and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).			
11.	(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	AM 1  (2) Europe faces a security landscape in flux, with evolving and increasingly complex security threats. Criminals and terrorists exploit the <i>capabilities</i> that the digital transformation and new technologies bring about, including the inter-connectivity	(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	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	technologies bring about,	and blurring of the boundaries	the inter-connectivity and blurring	
	including the inter-	between the physical and digital world <i>and the</i>	of the boundaries between the	
	connectivity and blurring of	possibility to conceal their	physical and digital world. The	
	the boundaries between the	crimes or identities through the use of increasingly	COVID-19 crisis has added to this,	
	physical and digital world. The	sophisticated techniques.	as criminals have quickly seized	
	COVID-19 crisis has added to	Criminals have <i>proven their</i> ability to adapt their modes of	opportunities to exploit the crisis by	
	this, as criminals have quickly	operation or <i>develop</i> new	adapting their modes of operation	
	seized opportunities to exploit	criminal activities in times of crisis, including by leveraging	or developing new criminal	
	the crisis by adapting their	technology-enabled tools for	activities. Terrorism remains a	
	modes of operation or	multiplying and expanding the range and scale of the	significant threat to the freedom and	
	developing new criminal	criminal activities they engage	way of life of the Union and its	
	activities. Terrorism remains a	<i>in</i> . Terrorism remains a significant threat to the	citizens.	
	significant threat to the	freedom and way of life of the		
	freedom and way of life of the	Union and its citizens.		
	Union and its citizens.			
12.	(3) These threats spread	AM 2	(3) These threats spread across	
	across borders, cutting across a	(3) These threats spread across borders, cutting across a	borders, cutting across a variety of	
	variety of crimes that they	variety of crimes that they	crimes that they facilitate, and	
	facilitate, and manifest	facilitate, and manifest themselves in poly-criminal	manifest themselves in poly-	
	themselves in poly-criminal	organised crime groups that engage in a wide range of	criminal organised crime groups	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
organised crime groups that	criminal activities. As action at	that engage in a wide range of	
engage in a wide range of	national level <i>and cross-border</i> cooperation do not suffice to	criminal activities. As action at	
criminal activities. As action at	address these transnational	national level alone does not suffice	
national level alone does not	security challenges, Member States' law enforcement	to address these transnational	
suffice to address these	authorities have increasingly	security challenges, Member States'	
transnational security	made use of the support and expertise that Europol offers to	law enforcement authorities have	
challenges, Member States'	prevent and counter serious	increasingly made use of the	
law enforcement authorities	crime and terrorism. Since Regulation (EU) 2016/794	support and expertise that Europol	
have increasingly made use of	became applicable, the	offers to counter serious crime and	
the support and expertise that	operational importance of Europol's tasks has <i>increased</i>	terrorism. Since Regulation (EU)	
Europol offers to counter	substantially. The new threat	2016/794 became applicable, the	
serious crime and terrorism.	environment also changes the scope and type of support	operational importance of Europol's	
Since Regulation (EU)	Member States need and expect	tasks has changed substantially. The	
2016/794 became applicable,	from Europol to keep citizens safe.	new threat environment also	
the operational importance of		changes the support Member States	
Europol's tasks has changed		need and expect from Europol to	
substantially. The new threat		keep citizens safe.	
environment also changes the			
support Member States need			
and expect from Europol to			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	keep citizens safe.			
13.		AM 3		
		Recital 3 a (new) (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.		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
14.	(4) As Europe faces	AM 4	(4) As Europe faces increasing	
	increasing threats from	(4) As Europe faces increasing threats from	threats from organised crime groups	
	organised crime groups and	organised crime groups and	and terrorist attacks, an effective	
	terrorist attacks, an effective	terrorist attacks, an effective law enforcement response must	law enforcement response must	
	law enforcement response	include the availability of well-	include the availability of well-	
	must include the availability of	trained interoperable special intervention units specialised in	trained interoperable special	
	well-trained interoperable	the control of <i>man-made</i> crisis	intervention units specialised in the	
	special intervention units	situations presenting a serious direct physical threat to	control of crisis situations. In the	
	specialised in the control of	persons, property,	Union, the law enforcement units of	
	crisis situations. In the Union,	infrastructure or institutions, in particular hostage taking,	the Member State cooperate on the	
	the law enforcement units of	hijacking and similar events.	basis of Council Decision	
	the Member State cooperate	In the Union, <i>those</i> law enforcement units of the	2008/617. <sup>2</sup> Europol should be able	
	on the basis of Council	Member State cooperate on the	to provide support to these special	
	Decision 2008/617. <sup>2</sup> Europol	basis of Council Decision 2008/617 <sup>53</sup> . Europol should be	intervention units <del>, including</del> by	
	should be able to provide	able to provide support to these	providing operational, technical and	
	support to these special	special intervention units, including by providing	financial support.	
	intervention units, including	operational, technical and		
	by providing operational,	financial support. Such support is always to be complementary		
	technical and financial	to the efforts undertaken by		
	support.	Member States to ensure the security of their citizens		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
15.	<sup>2</sup> Council Decision	<sup>53</sup> Council Decision	<sup>2</sup> Council Decision	
	2008/617/JHA of 23 June	2008/617/JHA of 23 June 2008	2008/617/JHA of 23 June 2008 on	
	2008 on the improvement of	on the improvement of	the improvement of cooperation	
	cooperation between the	cooperation between the	between the special intervention	
	special intervention units of	special intervention units of the	units of the Member States of the	
	the Member States of the	Member States of the European	European Union in crisis situations	
	European Union in crisis	Union in crisis situations (OJ L	(OJ L 210, 6.8.2008).	
	situations (OJ L 210,	210, 6.8.2008, <i>p. 73</i> ).		
	6.8.2008).			
16.	(5) In recent years large	AM 5	(5) In recent years large scale	
	scale cyber attacks targeted	(5) In recent years, <i>large-scale cyber-attacks</i> , <i>including</i>	cyber attacks targeted public and	
	public and private entities	attacks originating in third	private entities alike across many	
	alike across many jurisdictions	countries, targeted public and private entities alike across	jurisdictions in the Union and	
	in the Union and beyond,	many jurisdictions in the Union	beyond, affecting various sectors	
	affecting various sectors	and beyond, affecting various sectors including transport,	including transport, health and	
	including transport, health and	health and financial services.	financial services. Cybercrime and	
	financial services. Cybercrime	The prevention, <i>detection</i> , investigation and prosecution	cybersecurity cannot be separated in	
	and cybersecurity cannot be	of such activities is supported	an interconnected environment. The	
	separated in an interconnected	by coordination and cooperation between relevant	prevention, investigation and	
	environment. The prevention,	actors, including the European	prosecution of such activities is	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
investigation and prosecution	Union Agency for	supported by coordination and	
of such activities is supported	Cybersecurity (ENISA), competent authorities for the	cooperation between relevant	
by coordination and	security of network and	actors, including the European	
cooperation between relevant	information systems (NIS authorities) as defined by	Union Agency for Cybersecurity	
actors, including the European	Directive (EU)	('ENISA'), competent authorities	
Union Agency for	2016/1148 <sup>54</sup> ,law enforcement authorities and private parties.	for the security of network and	
Cybersecurity ('ENISA'),	In order to ensure the effective	information systems ('NIS	
competent authorities for the	cooperation between all relevant actors at Union and	authorities') as defined by Directive	
security of network and	national level on cyber-attacks	(EU) 2016/1148 <sup>3</sup> , law enforcement	
information systems ('NIS	and cybersecurity threats, Europol should cooperate with	authorities and private parties. In	
authorities') as defined by	the ENISA within their	order to ensure the effective	
Directive (EU) 2016/1148 <sup>3</sup> ,	respective mandates through the exchange of information	cooperation between all relevant	
law enforcement authorities	and by providing analytical	actors at Union and national level	
and private parties. In order to	support.	on cyber attacks and security	
ensure the effective		threats, Europol should cooperate	
cooperation between all		with the ENISA through the	
relevant actors at Union and		exchange of information and by	
national level on cyber attacks		providing analytical support.	
and security threats, Europol			
should cooperate with the			
ENISA through the exchange			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	of information and by			
	providing analytical support.			
17.	<sup>3</sup> Directive (EU)	<sup>54</sup> Directive (EU) 2016/1148 of	<sup>3</sup> Directive (EU) 2016/1148	
	2016/1148 of the European	the European Parliament and of	of the European Parliament and of	
	Parliament and of the Council	the Council of 6 July 2016	the Council of 6 July 2016	
	of 6 July 2016 concerning	concerning measures for a high	concerning measures for a high	
	measures for a high common	common level of security of	common level of security of	
	level of security of network	network and information	network and information systems	
	and information systems	systems across the Union (OJ L	across the Union (OJ L 194,	
	across the Union (OJ L 194,	194, 19.7.2016, p. 1).	19.7.2016, p. 1–30).	
	19.7.2016, p. 1–30).			
18.	(6) High-risk criminals	AM 6	(6) High-risk criminals play a	
	play a leading role in criminal	(6) High-risk criminals play a leading role in criminal	leading role in criminal networks	
	networks and pose a high risk	networks and pose a high risk	and pose a high risk of serious	
	of serious crime to the Union's	of serious crime to the Union's internal security. To combat	crime to the Union's internal	
	internal security. To combat	high-risk organised crime	security. To combat high-risk	
	high-risk organised crime	groups and their leading members, Europol should be	organised crime groups and their	
	groups and their leading	able to support Member States	leading members, Europol should	
	members, Europol should be	in focusing their investigative response on identifying these persons, their criminal	be able to support Member States in	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	able to support Member States	activities and financial assets,	focusing their investigative	
	in focusing their investigative	and the members of their criminal networks, as well as	response on identifying these	
	response on identifying these	persons belonging to the	persons, their criminal activities and	
	persons, their criminal	national, political and financial institutions who are	the members of their criminal	
	activities and the members of	involved in crimes via	networks.	
	their criminal networks.	corruption schemes.		
19.	(7) The threats posed by	AM 7	(7) The threats posed by serious	
	serious crime require a	(7) The threats posed by serious crime require a	crime require a coordinated,	
	coordinated, coherent, multi-	coordinated, coherent, multi-	coherent, multi-disciplinary and	
	disciplinary and multi-agency	disciplinary and multi-agency response. Europol should be	multi-agency response. Europol	
	response. Europol should be	able to facilitate and support	should be able to facilitate and	
	able to facilitate and support	such <i>operational and strategic</i> activities driven by Member	support such intelligence-led	
	such intelligence-led security	States to identify, <i>prioritise</i> and	security initiatives driven by	
	initiatives driven by Member	address serious crime threats, such as the European	Member States to identify,	
	States to identify, prioritize	Multidisciplinary Platform	prioritize and address serious crime	
	and address serious crime	Against Criminal Threats. Europol should be able to	threats, such as the European	
	threats, such as the European	provide administrative,	Multidisciplinary Platform Against	
	Multidisciplinary Platform	logistical, financial and operational support to such	Criminal Threats. Europol should	
	Against Criminal Threats.	activities, supporting the	be able to provide administrative,	
	Europol should be able to	identification of cross-cutting priorities and the	logistical, financial and operational	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	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.	implementation of horizontal strategic goals in countering serious crime.	support to such activities, supporting the identified eation of eross-cutting priorities and the implementation of horizontal strategic goals in countering serious crime.	
20.	(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 <sup>4</sup> <sup>5</sup> , is an essential tool for maintaining a high level of security within the area of	AM 8  (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 Council <sup>55</sup> , 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	(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 <sup>45</sup> , is an essential tool for maintaining a high level of security within the area of freedom, security and justice. Europol, as a hub for	PRES suggestion (20/01/2022): use CSL text  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 <sup>45</sup> , is an essential tool for maintaining a high level of security

# COM (13908/20 + COR 1)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 realtime to SIS end-users.

organisations persons on suspected of being involved in or convicted for a criminal offence in respect of which Europol competent. is 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 thirdcountry 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

**EP** (A9-9999/2021)

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 endusers In the framework of its mandate and its task of supporting the Member States in preventing and combating serious crime and terrorism, Europol should support the Member **States in processing third-country** data and data from international organisations by proposing the

Council

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 endusers In the framework of its mandate and its task of supporting the Member States in preventing and combating serious crime and terrorism, Europol should support the Member **States in processing third-country** 

**Provisional agreement** 

agreement

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	allowing for the exchange of	possible entry by Member States	data and data from international
	personal data prior to the entry into force of Regulation	of a new category of information	organisations by proposing the
	(EU) 2016/794. Where	alerts in the interest of the Union	possible entry by Member States
	information is received from another third country, Europol	into the SIS, in order to make it	of a new category of information
	should be allowed to enter	available to the end-users of the	alerts in the interest of the Union
	alerts into SIS where such a third country, has confirmed	SIS. To that end, a periodic	into the SIS, in order to make it
	the information or where the	reporting mechanism should be	available to the end-users of the
	information provided concerns a terrorist offence or	put in place in order to ensure	SIS. To that end, a periodic
	organised crime. Europol	that Member States and Europol	reporting mechanism should be
	should be able to enter alerts in SIS in order to make them	are informed on the data inserted	put in place in order to ensure
	available directly and in real-	in the SIS. The modalities for	that Member States and Europol
	time to SIS end-users at the frontline, such as border	Member States' cooperation for	are informed on the data inserted
	guards or police officers, who	the processing of data and the	in the SIS. The modalities for
	do not have access to the Europol information system	insertion of alerts into the SIS,	Member States' cooperation for
	and the ETIAS watch-list,	notably as concerns the fight	the processing of data and the
	through which such information is also shared.	against terrorism, should be	insertion of alerts into the SIS,
	Alerts should be entered in	subject to continuous	notably as concerns the fight
	SIS by Europol in full respect of fundamental rights and	coordination amongst the	against terrorism, should be
	data protection rules.	Member States. Criteria on the	subject to continuous
		basis of which Europol would	coordination amongst the
		issue proposals for the entry of	Member States. Criteria on the

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			alerts into the Schengen	basis of which Europol would
			Information System should be	issue proposals for the entry of
			further specified by the	alerts into the Schengen
			Management Board.	Information System should be
				further specified by the
				Management Board.
21.	4 Regulation (EU)	<sup>55</sup> Regulation (EU) 2018/1862	<sup>4</sup> Regulation (EU) 2018/1862	
	, ,	of the European Parliament and	, , ,	
	2018/1862 of the European	of the Council of 28 November	of the European Parliament and of	
	Parliament and of the Council	2018 on the establishment, operation and use of the	the Council of 28 November 2018	
	of 28 November 2018 on the	Schengen Information System	on the establishment, operation and	
	establishment, operation and	(SIS) in the field of police cooperation and judicial	use of the Schengen Information	
	use of the Schengen	cooperation in criminal matters,	System (SIS) in the field of police	
	Information System (SIS) in	amending and repealing Council Decision	cooperation and judicial	
	the field of police cooperation	2007/533/JHA, and repealing	cooperation in criminal matters,	
	and judicial cooperation in	Regulation (EC) No 1986/2006 of the European Parliament and	amending and repealing Council	
	criminal matters, amending	of the Council and Commission	Decision 2007/533/JHA, and	
	and repealing Council	Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56).	repealing Regulation (EC) No	
	Decision 2007/533/JHA, and	, ,	1986/2006 of the European	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	repealing Regulation (EC) No		Parliament and of the Council and	
	1986/2006 of the European		Commission Decision 2010/261/EU	
	Parliament and of the Council		(OJ L 312, 7.12.2018, p. 56–106).	
	and Commission Decision			
	2010/261/EU (OJ L 312,			
	7.12.2018, p. 56–106).			
22	5 Regulation (EU)		<sup>5</sup> Regulation (EU) 2018/1862	
	2018/1862 of the European		of the European Parliament and of	
	Parliament and of the Council		the Council of 28 November 2018	
	of 28 November 2018 on the		on the establishment, operation and	
	establishment, operation and		use of the Schengen Information	
	use of the Schengen		System (SIS) in the field of police	
	Information System (SIS) in		cooperation and judicial	
	the field of police cooperation		cooperation in criminal matters,	
	and judicial cooperation in		amending and repealing Council	
	criminal matters, amending		Decision 2007/533/JHA, and	
	and repealing Council		repealing Regulation (EC) No	
	Decision 2007/533/JHA, and		1986/2006 of the European	
	repealing Regulation (EC) No		Parliament and of the Council and	
	1986/2006 of the European		Commission Decision 2010/261/EU	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	Parliament and of the Council		(OJ L 312, 7.12.2018, p. 56–106).	
	and Commission Decision			
	2010/261/EU (OJ L 312,			
	7.12.2018, p. 56–106).			
23.		AM 9 Recital 8 a (new)		
		(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		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		constitution.		
24.	(9) Europol has an	AM 10	(9) Europol has an important	
	important role to play in	(9) Europol has an important role to play in	role to play in support of the	
	support of the evaluation and	support of the evaluation and	evaluation and monitoring	
	monitoring mechanism to	monitoring mechanism to verify the application of the	mechanism to verify the application	
	verify the application of the	Schengen acquis as established	of the Schengen acquis as	
	Schengen acquis as	by Council Regulation (EU) No 1053/2013. Europol should	established by Council Regulation	
	established by Council	therefore, upon request,	(EU) No 1053/2013. Given the need	
	Regulation (EU) No	contribute with its expertise, analyses, reports and other	to reinforce the Union's internal	
	1053/2013. Given the need to	relevant information to the	security, Europol should contribute	
	reinforce the Union's internal	entire Schengen Evaluation Mechanism, from	with its expertise, analysis, reports	
	security, Europol should	programming to on-site visits	and other relevant information to	
	contribute with its expertise,	and the follow-up. Europol should also assist in developing	the entire evaluation and	
	analysis, reports and other	and updating the evaluation and	monitoring mechanism process,	
	relevant information to the	monitoring tools.	from programming to on-site	
	entire evaluation and		visits and the follow-up. Europol	
	monitoring process, from		should also assist in developing	
	programming to on-site visits		and updating the evaluation and	
	and the follow-up. Europol		monitoring tools.	
	should also assist in			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	developing and updating the			
	evaluation and monitoring			
	tools.			
25.	(10) Risk assessments are	AM 11	(10) Risk assessments are an	
	an essential element of	(10) Risk assessments contribute to anticipate new	essential element of foresight to	
	foresight to anticipate new	trends and threats in serious	anticipate new trends and to address	
	trends and to address new	crime and terrorism. Europol should provide threats	new threats in serious crime and	
	threats in serious crime and	assessment analyses to the	terrorism. To support the	
	terrorism. To support the	<b>Member States</b> based on the information it holds on criminal	Commission and the Member States	
	Commission and the Member	phenomena and trends, without	in carrying out effective risk	
	States in carrying out effective	prejudice to <i>Union</i> law provisions on customs risk	assessments, Europol should	
	risk assessments, Europol	management.	provide threats assessment analysis	
	should provide threats		based on the information it holds on	
	assessment analysis based on		criminal phenomena and trends,	
	the information it holds on		without prejudice to the EU law	
	criminal phenomena and		provisions on customs risk	
	trends, without prejudice to the		management.	
	EU law provisions on customs			
	risk management.			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
26.	(11) In order to help EU	AM 12	(11) In order to help EU funding	
	funding for security research	(11) In order to help EU funding for security research to	for security research to develop its	
	to develop its full potential and	develop its full potential and	full potential and address the needs	
	address the needs of law	address the needs of law enforcement, Europol should	of law enforcement, Europol should	
	enforcement, Europol should	assist the Commission in	assist the Commission in	
	assist the Commission in	identifying key research themes, drawing up and	identifying key research themes,	
	identifying key research	implementing the Union	drawing up and implementing the	
	themes, drawing up and	framework programmes for research and innovation that are	Union framework programmes for	
	implementing the Union	relevant to Europol's	research and innovation that are	
	framework programmes for	objectives. In order to avoid any conflicts of interest,	relevant to Europol's objectives.	
	research and innovation that	Europol should not receive	When Europol assists the	
	are relevant to Europol's	funding from <i>Union</i> framework programmes in	Commission in identifying key	
	objectives. When Europol	whose design or	research themes, drawing up and	
	assists the Commission in	implementation it plays a role.	implementing a Union framework	
	identifying key research		programme, it should not receive	
	themes, drawing up and		funding from that programme in	
	implementing a Union		accordance with the conflict of	
	framework programme, it		interest principle. <u>It is therefore</u>	
	should not receive funding		necessary to provide for adequate	
	from that programme in		and reliable funding of the	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	accordance with the conflict of		research and innovation efforts at	
	interest principle.		Europol so that it can assist the	
			Member States and the	
			Commission in that area.	
27.	(12) It is possible for the	AM 13	(12) It is possible for the Union	
	Union and the Members States	(12) It is possible for the Union and the Members States	and the Members States to adopt	
	to adopt restrictive measures	to adopt restrictive measures	restrictive measures relating to	
	relating to foreign direct	relating to foreign direct investment on the grounds of	foreign direct investment on the	
	investment on the grounds of	security or public order. To that	grounds of security or public order.	
	security or public order. To	end, Regulation (EU) 2019/452 of the European Parliament and	To that end, Regulation (EU)	
	that end, Regulation (EU)	of the Council <sup>57</sup> establishes a	<del>2019/452 of the European</del>	
	2019/452 of the European	framework for the screening of foreign direct investments into	Parliament and of the Council <sup>6</sup>	
	Parliament and of the Council <sup>6</sup>	the Union that provides	establishes a framework for the	
	establishes a framework for	Member States and the Commission with the means to	screening of foreign direct	
	the screening of foreign direct	address risks to security or	investments into the Union that	
	investments into the Union	public order in a comprehensive manner.	<del>provides Member States and the</del>	
	that provides Member States	Foreign direct investments in	Commission with the means to	
	and the Commission with the	emerging technologies deserve particular attention as they	address risks to security or public	
	means to address risks to	can have far-reaching	order in a comprehensive manner.	
	security or public order in a	implications for security <i>and</i> public order, <i>in particular</i>	As part of the assessment of	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
comprehensive manner. As	when such technologies are	expected implications for security	
part of the assessment of	deployed by law enforcement authorities. Given its role in	or public order, Europol should	
expected implications for	monitoring emerging	support the screening of specific	
security or public order,	technologies and its active involvement in developing new	cases of foreign direct investments	
Europol should support the	ways of using those	into the Union that concern	
screening of specific cases of	technologies for law enforcement purposes, notably	undertakings providing	
foreign direct investments into	through its Innovation Lab	technologies used or being	
the Union that concern	and Innovation Hub, Europol has extensive knowledge	developed by Europol or by	
undertakings providing	regarding the opportunities	Member States for the prevention	
technologies used or being	offered by such technologies as well as the risks associated	and investigation of crimes.	
developed by Europol or by	to their use. Europol should		
Member States for the	therefore support Member States and the Commission in		
prevention and investigation of	the screening of foreign direct		
crimes.	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		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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.		
28.	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).	<sup>57</sup> 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. <i>1</i> ).	6 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).	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
29.	(13) Europol provides		(13) Europol provides specialised	
	specialised expertise for		expertise for countering serious	
	countering serious crime and		crime and terrorism. Upon request	
	terrorism. Upon request by a		by a Member State, Europol staff	
	Member State, Europol staff		should be able to provide	
	should be able to provide		operational support to that Member	
	operational support to that		State's law enforcement authorities	
	Member State's law		on the ground in operations and	
	enforcement authorities on the		investigations, in particular by	
	ground in operations and		facilitating cross-border information	
	investigations, in particular by		exchange and providing forensic	
	facilitating cross-border		and technical support in operations	
	information exchange and		and investigations, including in the	
	providing forensic and		context of joint investigation teams.	
	technical support in operations		Upon request by a Member State,	
	and investigations, including		Europol staff should be entitled to	
	in the context of joint		be present when investigative	
	investigation teams. Upon		measures are taken in that Member	
	request by a Member State,		State and assist in the taking of	
	Europol staff should be		these investigative measures.	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	entitled to be present when		Europol staff should not have the	
	investigative measures are		power to execute investigative	
	taken in that Member State		measures.	
	and assist in the taking of			
	these investigative measures.			
	Europol staff should not have			
	the power to execute			
	investigative measures.			
30.	(14) One of Europol's	AM 14	(14) One of Europol's objectives	
	objectives is to support and	(14) One of Europol's objectives is to support and	is to support and strengthen action	
	strengthen action by the	strengthen action by the	by the competent authorities of the	
	competent authorities of the	competent authorities of the Member States and their	Member States and their mutual	
	Member States and their	mutual cooperation in	<del>cooperation in preventing and</del>	
	mutual cooperation in	preventing and combatting forms of crime which affect a	combatting forms of crime which	
	preventing and combatting	common interest covered by a	affect a common interest covered	
	forms of crime which affect a	Union policy. To strengthen that support, Europol should be	by a Union policy. To strengthen	
	common interest covered by a	able to request the competent	that support, Europol should be able	
	Union policy. To strengthen	authorities of a Member State to initiate, conduct or	to request the competent authorities	
	that support, Europol should	coordinate a criminal	of a Member State to initiate,	
	be able to request the	investigation of a crime, which affects a common interest	conduct or coordinate a criminal	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	competent authorities of a	covered by a Union policy,	investigation of a crime, which	
	Member State to initiate,	even where the crime concerned is not of a cross-	affects a common interest covered	
	conduct or coordinate a	border nature. Europol should	by a Union policy, even where the	
	criminal investigation of a	inform Eurojust and, where relevant, the European Public	erime concerned is not of a cross-	
	crime, which affects a	Prosecutor's Office ('the	<del>border nature. Europol should</del>	
	common interest covered by a	<i>EPPO'</i> ), of such requests.	inform Eurojust of such requests.	
	Union policy, even where the			
	crime concerned is not of a			
	cross-border nature. Europol			
	should inform Eurojust of such			
	requests.			
31.	(15) Publishing the identity	AM 15	(15) Publishing the identity and	
	and certain personal data of	(15) Publishing the identity and certain personal data of	certain personal data of suspects or	
	suspects or convicted	suspects or convicted	convicted individuals, who are	
	individuals, who are wanted	individuals, who are wanted based on a Member State's	wanted based on a Member State's	
	based on a Member State's	judicial decision, increases the	judicial decision, increases the	
	judicial decision, increases the	chances of locating and arresting such individuals. To	chances of locating and arresting	
	chances of locating and	support Member States in this	such individuals. To support	
	arresting such individuals. To	task, Europol should be able to publish on its website	Member States in this task, Europol	
	support Member States in this	information on Europe's most wanted fugitives for criminal	should be able to publish on its	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	task, Europol should be able to	offences in respect of which	website information on Europe's	
	publish on its website	Europol is competent, and facilitate the provision of	most wanted fugitives for criminal	
	information on Europe's most	information by the public on	offences in respect of which	
	wanted fugitives for criminal	these individuals to Europol or the competent national	Europol is competent, and facilitate	
	offences in respect of which	authorities.	the provision of information by the	
	Europol is competent, and		public to the Member States on	
	facilitate the provision of		these individuals.	
	information by the public on			
	these individuals.			
32.			(15a) When receiving personal	Written procedure 20/1/2022:
			data, Europol may be faced with	PRES compromise suggestion
			three situations. First, Europol	
			may receive personal data that	
			falls into the categories of data	(15a) When receiving personal
			subjects set out in Annex II of this	data, and after having ascertained
			Regulation. Second, Europol may	that this data falls under its tasks,
			receive investigative data that	Europol may be faced with three
			national authorities are	situations. First, Europol may
			authorised to process in a	receive personal data that falls into
			criminal investigation in	the categories of data subjects set

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		accordance with procedural	out in Annex II of this Regulation.
		requirements and safeguards	Second, Europol may receive for
		applicable under their national	research and innovation projects
		law, for which they request	as well as for investigative data that
		Europol's support for a specific	national authorities are authorised to
		criminal investigation, and that	process in a criminal investigation
		does not fall into the categories of	in accordance with procedural
		data subjects set out in Annex II	requirements and safeguards
		of this Regulation. In that case,	applicable under their national law,
		Europol should be able to process	for which they request Europol's
		that investigative data for as long	support for a specific criminal
		as it supports the specific	investigation, and that does not fall
		criminal investigation. Third, and	into the categories of data subjects
		without the request for support	set out in Annex II of this
		for a specific criminal	Regulation. In that case, Europol
		investigation, Europol may	should be able to process that
		receive personal data that might	investigative data for as long as it
		not fall into the categories of data	supports the specific criminal
		subjects set out in Annex II of this	investigation. Once confirmed that
		Regulation. In that case, Europol	personal data falls within one of
		should be able to verify if that	the data categories set out in

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		personal data corresponds to one	Annex II or that data may be
		of those categories of data	processed by Europol in one of
		subjects. In all three situations,	other the situations specified
		Europol may process the personal	above, Europol should, where
		data to support Member States in	applicable and as far as possible,
		countering serious crime and	make a clear distinction between
		terrorism. Where applicable and	the personal data of different
		as far as possible, Europol should	<del>categories of data subjects,</del> Third,
		make a clear distinction between	and without the request for support
		the operational personal data of	for a specific criminal investigation,
		different categories of data	Europol may receive personal data,
		subjects.	without the request for support for
			a specific criminal investigation,
			that might not fall into the
			categories of data subjects set out in
			Annex II of this Regulation. In that
			case, Europol should be able to
			verify if that personal data
			corresponds to one of those
			categories of data subjects. In all
			three Fourth, Europol may receive

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			personal data that is submitted
			for research and innovation
			projects, and that does not fall
			into the categories of data
			subjects set out in Annex II of this
			<b>Regulation.</b> In all <b>four</b> situations,
			Europol may process the personal
			data to support Member States in
			countering serious crime and
			terrorism. <del>Where applicable and as</del>
			<del>far as possible, Europol should</del>
			make a clear distinction between the
			<del>operational personal data of</del>
			different categories of data subjects.
			15/11/2021: COM suggestion
			linked to Art. 18(5) to use CSL text
			with a modified explanation
			regarding the distinction between

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				the personal data of different
				categories of data subjects
32a				Written procedure 20/1/2022:
				PRES suggestion linked to line 165
				(Art. 18(5bis))
				(15b) In accordance with Article
				73 of Regulation (EU) 2018/1725,
				Europol should, where applicable
				and as far as possible, make a
				clear distinction between the
				operational personal data of these
				different categories of data
				subjects."
32b				Written procedure 20/1/2022:
				PRES suggestion linked to line 272
				(Art. 26(6b))

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			(15c) In cases where Member
			States use Europol's
			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 and
			should be considered to be a
			'processor' within the meaning of
			Article 87 of Regulation (EU)
			2018/1725. In these cases, the
			requirements linked to the
			categories of data subjects set out
			in Annex II of this Regulation
			should not apply. In cases where
			Member States use Europol's
			infrastructure for exchanges of
			personal data on crimes within
			the scope of the objectives of

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				Europol and where they grant access to Europol to that data, the requirements linked to the categories of data subjects set out in Annex II of this Regulation should apply to any other processing of that data by Europol.
33.	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	AM 16  (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	(16) While respecting the principle of data minimisation 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 theose	Written procedure 20/1/2022:  PRES compromise suggestion to combine CSL/EP texts  (16) While respecting the principle of data minimisation minimisation 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,

COM (13908/20 + COR 1)**EP** (A9-9999/2021) Council **Provisional agreement** of those categories of data Europol should be able to verify if categories of data subjects set out received with the sole purpose of determining whether such subjects. To that end, Europol in Annex II of this Regulation. To personal data received in the data falls into those categories of data subjects by checking should be able to carry out a that end, Europol should be able to context of preventing and the data against data it already pre-analysis of personal data carry out a pre-analysis of personal countering crimes falling within the holds. further without received with the sole purpose analysing the data for data received with the sole purpose scope of Europol's objectives additional leads at this stage. of determining whether such of determining whether such data corresponds to one of theose Such pre-analysis should take data falls into those categories place prior to, and separate categories of data subjects set out falls into those categories of data from, Europol's data of data subjects. To this end, subjects. To this end, Europol in Annex II of this Regulation. To processing for cross-checking, Europol should be able to filter should be able to filter the data by that end, Europol should be able to strategic analysis, operational analysis or exchange of the data by checking it against checking it against data already carry out a pre-analysis of personal information and after Europol data already held by Europol. has established that the data held by Europol. Such pre-analysis data received with the sole purpose are relevant and necessary for Such pre-analysis should take should take place prior to Europol's of determining whether such data the performance of its tasks. place prior to Europol's data data processing for cross-checking, falls into those categories of data processing for cross-checking, strategic analysis, operational subjects by checking the data strategic analysis, operational analysis or exchange of against data *it* already holds, analysis or exchange of information. If the pre-analysis without further analysing the data information. If the pre-analysis indicates that personal data does not for additional leads at this stage. indicates that personal data fall into the categories of data Such pre-analysis should take place does not fall into the subjects whose data may be prior to, and separate from, categories of data subjects processed under this Regulation, Europol's data processing for crosswhose data may be processed checking, strategic analysis,

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	under this Regulation, Europol		Europol should delete that data.	operational analysis or exchange of
	should delete that data.			information and after Europol has
				established that the data are
				relevant and necessary for the
				performance of its tasks. Once
				confirmed that personal data falls
				into the categories of data subjects
				set out in Annex II, Europol
				should be able to process that
				personal data for cross-checking,
				strategic analysis, operational
				analysis or exchange of
				information. If Europol concludes
				that personal data does not fall into
				the categories of data subjects set
				out in Annex II, Europol should
				delete that data.
34.		AM 17		
J <del>4</del> .		ALVI I		
		Recital 16a (new)		

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	(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		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		relevant data.		
35.	(17) Data collected in	AM 18	(17) Data collected in criminal	
	criminal investigations have	(17) Data collected in	investigations have been increasing	
	been increasing in size and	criminal investigations have	in size and have become more	
	have become more complex.	been increasing in size and have become more complex.	complex. Member States submit	
	Member States submit large	Member States submit large	large and complex datasets to	
	and complex datasets to	and complex datasets to Europol, requesting Europol's	Europol, requesting Europol's	
	Europol, requesting Europol's	operational analysis to detect	operational analysis to detect links	
	operational analysis to detect	links to other crimes and criminals in other Member	to other crimes and criminals in	
	links to other crimes and	States and outside the Union.	other Member States and outside	
	criminals in other Member	Member States <i>can</i> detect such cross-border links <i>less</i>	the Union. Member States cannot	
	States and outside the Union.	effectively through their own	detect such cross-border links	
	Member States cannot detect	analysis of the data. Europol should <i>therefore</i> be able to	through their own analysis of the	
	such cross-border links	support Member States'	data. Europol should be able to	
	through their own analysis of	criminal investigations by processing large and complex	support Member States' criminal	
	the data. Europol should be	datasets to detect such cross-	investigations by processing large	
	able to support Member	border links where the strict requirements <i>and safeguards</i>	and complex datasets to detect such	
	States' criminal investigations	set out in this Regulation are	cross-border links where the strict	
	by processing large and	fulfilled. Where necessary to support effectively a specific	requirements set out in this	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
complex datasets to detect	criminal investigation in a	Regulation are fulfilled. Where	
such cross-border links where	Member State or where a Member State or Union body	necessary to support effectively a	
the strict requirements set out	requests a strategic analysis	specific criminal investigation in a	
in this Regulation are fulfilled.	within the mandate of Europol, Europol should be	Member State, Europol should be	
Where necessary to support	able to process those data sets	able to process those such	
effectively a specific criminal	that national authorities have acquired in the context of that	investigative data sets that national	
investigation in a Member	criminal investigation in	authorities <del>have acquired</del> <u>are</u>	
State, Europol should be able	accordance with procedural requirements and safeguards	authorised to process in the	
to process those data sets that	applicable under their national	<del>context of</del> that criminal	
national authorities have	criminal law and subsequently submitted to Europol. Where a	investigation in accordance with	
acquired in the context of that	Member State, the EPPO or	procedural requirements and	
criminal investigation in	Eurojust provide Europol with an investigative case file	safeguards applicable under their	
accordance with procedural	requesting <i>Europol to</i> support a	national <del>criminal</del> law and	
requirements and safeguards	specific criminal investigation within the mandate of Europol	subsequently submitted to Europol.	
applicable under their national	by providing operational	This should include personal data	
criminal law and subsequently	analysis, Europol should be able to process all data	where a Member State has not	
submitted to Europol. Where a	contained in that file for as long	been able to ascertain whether	
Member State provides	as it supports that specific criminal investigation.	that data falls into the categories	
Europol with an investigative		of data subjects set out in Annex	
case file requesting Europol's		<b>II of this Regulation.</b> Where a	
support for a specific criminal		Member State provides Europol	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
investigation, Europol should		with <del>an-</del> investigative <u>data</u> <del>case file</del>	
be able to process all data		requesting Europol's support for a	
contained in that file for as		specific criminal investigation,	
long as it supports that specific		Europol should be able to process	
criminal investigation. Europol		all that data contained in that file	
should also be able to process		for as long as it supports that	
personal data that is necessary		specific criminal	
for its support to a specific		investigationEuropol should also be	
criminal investigation in a		able to process personal data that is	
Member State if that data		necessary for its support to a	
originates from a third		specific criminal investigation in a	
country, provided that the third		Member State if that data originates	
country is subject to a		from a third country, provided that	
Commission decision finding		the third country is subject to a	
that the country ensures an		Commission decision finding that	
adequate level of data		the country ensures an adequate	
protection ('adequacy		level of data protection ('adequacy	
decision'), or, in the absence		decision'), or, in the absence of an	
of an adequacy decision, an		adequacy decision, an international	
international agreement		agreement concluded by the Union	
concluded by the Union		pursuant to Article 218 TFEU, or a	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	pursuant to Article 218 TFEU,		cooperation agreement allowing for	
	or a cooperation agreement		the exchange of personal data	
	allowing for the exchange of		concluded between Europol and the	
	personal data concluded		third country prior to the entry into	
	between Europol and the third		force of Regulation (EU) 2016/794,	
	country prior to the entry into		and provided that the third county	
	force of Regulation (EU)		acquired the data in the context of a	
	2016/794, and provided that		criminal investigation in accordance	
	the third county acquired the		with procedural requirements and	
	data in the context of a		safeguards applicable under its	
	criminal investigation in		national criminal law.	
	accordance with procedural			
	requirements and safeguards			
	applicable under its national			
	criminal law.			
36.			(17a) Europol should also be	
			able to process investigative data	
			that the European Public	
			Prosecutor's Office ('EPPO') is	
			authorised to process in a	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			criminal investigation in	
			accordance with procedural	
			requirements and safeguards	
			applicable under Union law and	
			national law and which was	
			submitted by EPPO within its	
			competences to Europol for	
			support.	
			<u>supporta</u>	
37.	(18) To ensure that any data	AM 19	(18) To ensure that any data	Written procedure 20/1/2022:
	processing is necessary and	(18) To ensure that any	processing is necessary and	PRES compromise suggestion to
	proportionate, Member States	personal data to be processed	proportionate, Member States	further amend the COM
	should ensure compliance with	by Europol is necessary and proportionate, Member States	should ensure compliance with	compromise suggestion below
	national and Union law when	should ensure compliance with	national and Union law when they	(linked to line 191)
	they submit an investigative	national and Union law when they submit an investigative	submit an investigative ease file	
	case file to Europol. Europol	case file containing personal	<u>data</u> to Europol. <u>Member States</u>	
	should verify whether, in order	data to Europol, including, where applicable, prior	should inform Europol when	<b>Commission compromise</b>
	to support a specific criminal	judicial authorisation. Bearing	their authorisation to process	proposal (6/12/2021):
	investigation, it is necessary	in mind that the Court of Justice of the European Union	data in the specific criminal	
	and proportionate to process	(the 'Court of Justice')	investigation in accordance with	"(18) To ensure that any data
	personal data that may not fall	considers that access to personal data with a view to its	procedural requirements and	processing is necessary and

COM (13908/20 + COR 1)**EP** (A9-9999/2021) **Provisional agreement** Council into the categories of data proportionate, retention or use affects the safeguards under the applicable Member States fundamental right to respect subjects whose data may national law has ceased to exist. should ensure compliance with for private life guaranteed by national and Union law when they generally be processed under Article 7 of the Charter of Europol should verify whether, in Fundamental Rights of the Annex II of Regulation (EU) order to support a specific criminal submit an investigative case file European ('the Union 2016/794. Europol should Charter'), Europol investigation, it is necessary and data to Europol. When submitting should verify whether, in order to proportionate to process personal document that assessment. investigative data to Europol to support a specific criminal investigation, it is necessary Europol should store such data data that may not fall into the request Europol's support for a and proportionate to process with functional separation categories of data subjects whose specific criminal investigation, personal data that may not fall into the categories of data data may generally be processed from other data and should **Member States should** subjects whose data may be only process it where under Annex II of Regulation (EU) account of consider the scale and processed under Annex II of necessary for its support to the Regulation (EU) 2016/794. 2016/794. Europol should complexity of the processing and Europol should document that specific criminal investigation, document that assessment. Europol the type and importance of the assessment. Europol should such as in case of a new lead. store such data with functional should store such data with investigation. **Member States** separation from other data and functional separation from other should inform Europol when their should only process it where necessary for its support to the data and should only process it authorisation to process data in specific criminal investigation, where necessary for its support to the specific criminal investigation such as in case of a new lead. the specific criminal investigation, in accordance with procedural such as in case of a new lead. requirements and safeguards under the applicable national law has ceased to exist. Europol should verify whether, in order to support a

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				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."
38.		AM 20		
		Recital 18 a (new)		
		(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		

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	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 county 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		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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.		
39.	(19) To ensure that a Member State can use Europol's analytical reports as part of judicial proceedings following a criminal investigation, Europol should	AM 21  (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	(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	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
be able to store the related	investigative case file upon	investigative ease file data upon	
investigative case file upon	request of that Member State, the EPPO or Eurojust until	request of that Member State for the	
request of that Member State	the judicial proceeding is	purpose of ensuring the veracity,	
for the purpose of ensuring the	<b>concluded</b> for the purpose of ensuring the veracity, reliability	reliability and traceability of the	
veracity, reliability and	and traceability of the criminal	criminal intelligence process.	
traceability of the criminal	intelligence process. Europol should store such data	Europol should store such data	
intelligence process. Europol	separately and only for as long	separately and only for as long as	
should store such data	as the judicial proceedings related to that criminal	the judicial proceedings related to	
separately and only for as long	investigation are on-going in	that criminal investigation are on-	
as the judicial proceedings	the Member State. There is a need to ensure access of	going in the Member State. There is	
related to that criminal	competent judicial authorities	a need to ensure access of	
investigation are on-going in	as well as the rights of defence, in particular the right of	competent judicial authorities as	
the Member State. There is a	suspects or accused persons or	well as the rights of defence, in	
need to ensure access of	their lawyers of access to the materials of the case. <i>To this</i>	particular the right of suspects or	
competent judicial authorities	end, Europol should log all	accused persons or their lawyers of	
as well as the rights of	evidence and the methods by which it has been produced or	access to the materials of the case.	
defence, in particular the right	acquired by Europol to allow		
of suspects or accused persons	for effective scrutiny of evidence by the defence.		
or their lawyers of access to			
the materials of the case.			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
40.	(20) Cross-border cases of	AM 22	(20) Cross-border cases of	
	serious crime or terrorism	(20) Cross-border cases of	serious crime or terrorism require	
	require close collaboration	serious crime or terrorism	close collaboration between the law	
	between the law enforcement	require close <i>cooperation</i> between the law enforcement	enforcement authorities of the	
	authorities of the Member	authorities of the Member	Member States concerned. Europol	
	States concerned. Europol	States concerned. Europol provides tools to support such	provides tools to support such	
	provides tools to support such	cooperation in investigations,	cooperation in investigations,	
	cooperation in investigations,	notably through the exchange of information. To further	notably through the exchange of	
	notably through the exchange	enhance such cooperation in	information. To further enhance	
	of information. To further	specific investigations by way of joint operational analysis,	such cooperation in specific	
	enhance such cooperation in	Member States should be able	investigations by way of joint	
	specific investigations by way	to allow other Member States to directly <i>access</i> the	operational analysis, Member States	
	of joint operational analysis,	information they provided to	should be able to allow other	
	Member States should be able	Europol, without prejudice to any general or specific	Member States to access directly	
	to allow other Member States	restrictions they put on access	the information they provided to	
	to access directly the	to that information. Any processing of personal data by	Europol, without prejudice to any	
	information they provided to	Member States in joint	restrictions they put on access to	
	Europol, without prejudice to	operational analysis should take place in <i>compliance with</i>	that information. Any processing of	
	any restrictions they put on	personal data rules in	personal data by Member States in	
	access to that information.	accordance with Directive (EU) 2016/680 of the	joint operational analysis should	
		European Parliament and of		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	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.	the Council¹a as well as the safeguards set out in this Regulation.  Ia 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).	take place in accordance with the rules and safeguards set out in this Regulation.	
41.	(21) Europol provides operational support to the criminal investigations of the competent authorities of the	AM 23  (21) Europol provides operational support to the criminal investigations of the competent authorities of the	(21) Europol provides operational support to the criminal investigations of the competent authorities of the Member States,	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
Member States, especially by	Member States, including by	especially by providing operational	
providing operational and	providing operational and forensic analysis. Member	and forensic analysis. Member	
forensic analysis. Member	States should be able to make	States should be able to make the	
States should be able to make	the results of these activities available to their relevant other	results of these activities available	
the results of these activities	authorities, including	to their relevant other authorities,	
available to their relevant	prosecutors and criminal courts, as well as defence	including prosecutors and criminal	
other authorities, including	lawyers, throughout the whole	courts, throughout the whole	
prosecutors and criminal	lifecycle of criminal proceedings. To that end,	lifecycle of criminal proceedings].	
courts, throughout the whole	Europol staff authorised by the	To that end, Europol staff should be	
lifecycle of criminal	Executive Director should be enabled to give evidence,	enabled to give evidence, which	
proceedings]. To that end,	which came to their knowledge	came to their knowledge in the	
Europol staff should be	in the performance of their duties or the exercise of their	performance of their duties or the	
enabled to give evidence,	activities, in criminal	exercise of their activities, in	
which came to their	proceedings, without prejudice to the applicable use	criminal proceedings, without	
knowledge in the performance	restrictions and national	prejudice to the applicable use	
of their duties or the exercise	procedural law.	restrictions and national criminal	
of their activities, in criminal		procedural law.	
proceedings, without prejudice			
to the applicable use			
restrictions and national			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	criminal procedural law.			
42.	(22) Europol and the	AM 24	(22) Europol and the European	
	European Public Prosecutor's	(22) Europol and the <i>EPPO</i>	Public Prosecutor's Office	
	Office ('EPPO') established	established by Council	('EPPO') established by Council	
	by Council Regulation (EU)	Regulation (EU) 2017/1939 <sup>58</sup> , should <i>conclude working</i>	Regulation (EU) 2017/1939 <sup>7</sup> ,	
	2017/1939 <sup>7</sup> , should put	arrangements setting out the	should put necessary arrangements	
	necessary arrangements in	<b>process</b> for their cooperation and, taking due account of their	in place to optimise their	
	place to optimise their	respective tasks and mandates.	operational cooperation, taking due	
	operational cooperation, taking	Europol should work closely with the EPPO and actively	account of their respective tasks and	
	due account of their respective	support the investigations of	mandates. Europol should work	
	tasks and mandates. Europol	the EPPO upon its request, including by providing	closely with the EPPO and actively	
	should work closely with the	analytical support and	support the investigations <del>and</del>	
	EPPO and actively support the	exchanging relevant information, as well as	<del>prosecutions</del> of the EPPO upon its	
	investigations and	cooperate with it, from the	request, including by providing	
	prosecutions of the EPPO	moment a suspected offence is reported to the EPPO until the	analytical support and exchanging	
	upon its request, including by	moment it determines whether	relevant information, as well as	
	providing analytical support	to prosecute or otherwise dispose of the case. Europol	cooperate with it, from the moment	
	and exchanging relevant	should, without undue delay,	a suspected offence is reported to	
	information, as well as	report to the EPPO any criminal conduct in respect of	the EPPO until the moment it	
	cooperate with it, from the	which the EPPO could exercise its competence. To enhance	determines whether to prosecute or	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
moment a suspected offence is	operational cooperation	otherwise dispose of the case.	
reported to the EPPO until the	between Europol and the EPPO, Europol should enable	Europol should, without undue	
moment it determines whether	the EPPO to have access, on	delay, report to the EPPO any	
to prosecute or otherwise	the basis of a hit/no hit system, to data <i>provided to</i> Europol <i>for</i>	criminal conduct in respect of	
dispose of the case. Europol	strategic or operational	which the EPPO could exercise its	
should, without undue delay,	analysis or cross-checking, in accordance with the safeguards	competence. To enhance	
report to the EPPO any	and data protection guarantees	operational cooperation between	
criminal conduct in respect of	provided for in this Regulation. The rules on the transmission	Europol and the EPPO, Europol	
which the EPPO could	to Union bodies set out in this	should enable the EPPO to have	
exercise its competence. To	Regulation should apply to Europol's cooperation with the	access <del>, on the basis of a hit/no hit</del>	
enhance operational	EPPO. Europol should also be	system, to data available at Europol,	
cooperation between Europol	able to support criminal investigations by the EPPO by	in accordance with the safeguards	
and the EPPO, Europol should	way of analysis of large and	and data protection guarantees	
enable the EPPO to have	complex datasets in accordance with the	provided for in this Regulation,	
access, on the basis of a hit/no	safeguards and data protection	including any restrictions	
hit system, to data available at	guarantees provided for in this Regulation.	indicated by the entity which	
Europol, in accordance with		provided the information to	
the safeguards and data		<b>Europol</b> . The rules on the	
protection guarantees provided		transmission to Union bodies set	
for in this Regulation. The		out in this Regulation should apply	
rules on the transmission to		to Europol's cooperation with the	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	Union bodies set out in this		EPPO. Europol should also be able	
	Regulation should apply to		to support criminal investigations	
	Europol's cooperation with the		by the EPPO by way of analysis of	
	EPPO. Europol should also be		large and complex datasets.	
	able to support criminal			
	investigations by the EPPO by			
	way of analysis of large and			
	complex datasets.			
43.	7 G UD 1.1	58 C 11D 1 1 (FID)	7 G 11D 1.1 (TIV)	
43.	<sup>7</sup> Council Regulation	<sup>58</sup> Council Regulation (EU)	Council Regulation (EU)	
	(EU) 2017/1939 of 12 October	2017/1939 of 12 October 2017	2017/1939 of 12 October 2017	
	2017 implementing enhanced	implementing enhanced	implementing enhanced cooperation	
	cooperation on the	cooperation on the	on the establishment of the	
	establishment of the European	establishment of the European	European Public Prosecutor's	
	Public Prosecutor's Office	Public Prosecutor's Office ('the	Office ('the EPPO') (OJ L 283,	
	('the EPPO') (OJ L 283,	EPPO') (OJ L 283, 31.10.2017,	31.10.2017, p. 1–71).	
	31.10.2017, p. 1–71).	p. 1).		
44.	(23) Europol should		(23) Europol should cooperate	
	cooperate closely with the		closely with the European Anti-	
	European Anti-Fraud Office		Fraud Office (OLAF) to detect	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	(OLAF) to detect fraud,		fraud, corruption and any other	
	corruption and any other		illegal activity affecting the	
	illegal activity affecting the		financial interests of the Union. To	
	financial interests of the		that end, Europol should transmit to	
	Union. To that end, Europol		OLAF without delay any	
	should transmit to OLAF		information in respect of which	
	without delay any information		OLAF could exercise its	
	in respect of which OLAF		competence. The rules on the	
	could exercise its competence.		transmission to Union bodies set	
	The rules on the transmission		out in this Regulation should apply	
	to Union bodies set out in this		to Europol's cooperation with	
	Regulation should apply to		OLAF.	
	Europol's cooperation with			
	OLAF.			
45.	(24) Serious crime and	AM 25	(24) Serious crime and terrorism	Written procedure 20/1/2022:
	terrorism often have links	(24) Serious crime and	often have links beyond the	PRES compromise suggestion to
	beyond the territory of the	terrorism often have links	territory of the Union. Europol can	further amend the wording
	Union. Europol can exchange	beyond the territory of the Union. Europol can exchange	exchange personal data with third	
	personal data with third	personal data with third	countries while safeguarding the	
	countries while safeguarding	countries while safeguarding the protection of privacy and	protection of privacy and	TM 26/11/2021: CSL positive

## COM (13908/20 + COR 1)**EP** (A9-9999/2021) Council **Provisional agreement** fundamental rights and freedoms of scrutiny; to check internally the protection of privacy and fundamental rights freedoms of the data subjects. fundamental rights and the data subjects. To reinforce In circumstances where it is freedoms of the data subjects. essential to the investigation of cooperation with third countries in crimes falling within the scope To reinforce cooperation with preventing and countering crimes EP compromise proposal of Europol's objectives, the Executive Director of Europol third countries in preventing falling within the scope of (25/11/2021): should be allowed to authorise and countering crimes falling Europol's objectives, the Executive a category of transfers of Serious crime and terrorism often personal data to third countries within the scope of Europol's Director of Europol should be in specific situations and on a have links beyond the territory of objectives, the Executive allowed to authorise a categoryies case-by-case basis, where such the Union. Europol can exchange Director of Europol should be category of transfers related to of transfers of personal data to third a specific situation is necessary personal data with third countries countries in specific situations and allowed to authorise categories and proportionate for the while safeguarding the protection of of transfers of personal data to on a case-by-case basis, where such investigation of the specific crime and meets all the privacy and fundamental rights and third countries in specific <del>a group of</del> transfers related to a the requirements of this freedoms of the data subjects. *In* situations and on a case-by-Regulation. same specific situation, consist of circumstances where it is essential case basis, where such a group the same categories of personal to the investigation of crimes of transfers related to a data and the same categories of falling within the scope of data subjects and are necessary specific situation are necessary Europol's objectives, the Executive and meet all the requirements and meet all the requirements of Director of Europol should be of this Regulation. this Regulation. This should cover allowed to authorise a category of situations where the transfer of transfers of personal data to third personal data is necessary in countries in specific situations and order to protect the vital interests

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		of the data subject or of another	on a case-by-case basis, where such
		person; necessary to safeguard	a group of a category of transfers
		legitimate interests of the data	relates to a the same specific
		subject; essential for the	situation, consists of the same
		prevention of an immediate and	categories of personal data and
		serious threat to the public	the same categories of data
		security of a Member State or a	subjects, is necessary and
		third country; necessary in	proportionate for the investigation
		individual cases for the purposes	of the specific crime and meets all
		of the prevention, investigation,	the requirements of this Regulation.
		detection or prosecution of	Individual transfers covered by a
		<u>criminal offences or the execution</u>	category of transfers may include
		of criminal sanctions; or	only some of these categories of
		necessary in individual cases for	personal data and categories of
		the establishment, exercise or	data subjects. A category of
		defence of legal claims relating to	transfers of personal data to third
		the prevention, investigation,	countries should be possible in
		detection or prosecution of a	specific situations <del>This should</del>
		specific criminal offence or the	cover [address] [specifically]
		execution of a specific criminal	situations where the transfer of
			personal data is necessary either

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		sanction.	in order to protect the vital
			interests of the data subject or of
			another person or essential for
			the prevention of an immediate
			and serious threat to the public
			security of a Member State or a
			third country, or ; necessary to
			safeguard legitimate interests of
			the data subject, or ; necessary in
			individual cases for the purposes
			of the prevention, investigation,
			detection or prosecution of
			criminal offences or the execution
			of criminal sanctions, or ;
			necessary in individual cases for
			the establishment, exercise or
			defence of legal claims relating to
			the prevention, investigation,
			detection or prosecution of a
			specific criminal offence or the
			execution of a specific criminal

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				sanction.
46.			(24a) Transfers not based on the	
			abovementioned authorisation by	
			the Executive Director, an	
			adequacy decision, an	
			international agreement or a	
			cooperation agreement should be	
			allowed only where appropriate	
			safeguards have been provided in	
			a legally binding instrument	
			which ensures the protection of	
			personal data or where Europol	
			has assessed all the circumstances	
			surrounding the data transfer	
			and, on the basis of that	
			assessment, considers that	
			appropriate safeguards with	
			regard to the protection of	
			personal data exist. Such legally	
			binding instruments could, for	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		example, be legally binding	
		bilateral agreements which have	
		been concluded by the Member	
		States and implemented in their	
		legal order and which could be	
		enforced by their data subjects,	
		ensuring compliance with data	
		protection requirements and the	
		rights of the data subjects,	
		including the right to obtain	
		effective administrative or	
		judicial redress. Europol should	
		be able to take into account	
		bilateral agreements concluded	
		between Member States and third	
		countries which allow for the	
		exchange of personal data when	
		carrying out the assessment of all	
		the circumstances surrounding	
		the data transfer. Europol should	
		be able to also take into account	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			the fact that the transfer of	
			personal data will be subject to	
			confidentiality obligations and the	
			principle of specificity, ensuring	
			that the data will not be processed	
			for other purposes than for the	
			purposes of the transfer. In	
			addition, Europol should take	
			into account that the personal	
			data will not be used to request,	
			hand down or execute a death	
			penalty or any form of cruel and	
			inhuman treatment. While those	
			conditions could be considered to	
			be appropriate safeguards	
			allowing the transfer of data,	
			Europol should be able to require	
			additional safeguards.	
47	(25) To support Member	AM 26	(25) To support Member States	
	States in cooperating with	(25) To support Member	in cooperating with private parties	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	private parties providing cross-	States in cooperating with	providing cross-border services	
	border services where those	private parties where those private parties hold information	where those private parties hold	
	private parties hold	relevant for preventing and	information relevant for preventing	
	information relevant for	combatting <i>serious</i> crime <i>and terrorism</i> , Europol should be	and combatting crime, Europol	
	preventing and combatting	able to receive, and in	should be able to receive, and in	
	crime, Europol should be able	exceptional circumstances, exchange personal data with	specific circumstances, exchange	
	to receive, and in specific	private parties.	personal data with private parties.	
	circumstances, exchange			
	personal data with private			
	parties.			
48	(26) Criminals increasingly	AM 27	(26) Criminals increasingly use	
	use cross-border services of	(26) Criminals increasingly	cross-border services of private	
	private parties to communicate	use the services offered by	parties to communicate and carry	
	and carry out illegal activities.	private parties to communicate and carry out illegal activities.	out illegal activities. Sex offenders	
	Sex offenders abuse children	Sex offenders <i>exploit</i> children	abuse children and share pictures	
	and share pictures and videos	and share pictures and videos constituting child sexual abuse	and videos world-wide using online	
	world-wide using online	material world-wide on online	platforms on the internet. Terrorists	
	platforms on the internet.	platforms or with peers via number-independent	abuse cross-border services by	
	Terrorists abuse cross-border	interpersonal communications	online service providers to recruit	
	services by online service	services. Terrorists utilise the services offered by online	volunteers, plan and coordinate	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	providers to recruit volunteers,	service providers to recruit	attacks, and disseminate	
	plan and coordinate attacks,	volunteers, plan and coordinate attacks, and disseminate	propaganda. Cyber criminals profit	
	and disseminate propaganda.	propaganda. Cyber criminals	from the digitalisation of our	
	Cyber criminals profit from	profit from the digitalisation of our societies <i>and from the lack</i>	societies using phishing and social	
	the digitalisation of our	of digital literacy and skills of	engineering to commit other types	
	societies using phishing and	the general population using phishing and social engineering	of cybercrime such as online scams,	
	social engineering to commit	to commit other types of	ransomware attacks or payment	
	other types of cybercrime such	cybercrime such as online scams, ransomware attacks or	fraud. As a result from the	
	as online scams, ransomware	payment fraud. As a result of	increased use of online services by	
	attacks or payment fraud. As a	the increased use of online services by criminals, private	criminals, private parties hold	
	result from the increased use	parties hold increasing amounts	increasing amounts of personal data	
	of online services by	of personal data, including subscriber, traffic and content	that may be relevant for criminal	
	criminals, private parties hold	data, that may be relevant for	investigations.	
	increasing amounts of personal	criminal investigations.		
	data that may be relevant for			
	criminal investigations.			
49	(27) Given the borderless	AM 28	(27) Given the borderless nature	
	nature of the internet, these	(27) Given the borderless	of the internet, these services can	
	services can often be provided	nature of the internet, victims,	often be provided from anywhere in	
	from anywhere in the world.	perpetrators, the online service provider and the digital	the world. As a result, victims,	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	As a result, victims,	infrastructure in which the	perpetrators, and the digital	
	perpetrators, and the digital	personal data is stored may all be subject to different national	infrastructure in which the personal	
	infrastructure in which the	jurisdictions, within the Union	data is stored and the service	
	personal data is stored and the	and beyond. Private parties may therefore hold <i>datasets</i>	provider providing the service may	
	service provider providing the	relevant for law enforcement	all be subject to different national	
	service may all be subject to	which contain personal data with links to multiple	jurisdictions, within the Union and	
	different national jurisdictions,	jurisdictions as well as personal	beyond. Private parties may	
	within the Union and beyond.	data which cannot easily be attributed to any specific	therefore hold data sets relevant for	
	Private parties may therefore	jurisdiction. National	law enforcement which contain	
	hold data sets relevant for law	authorities find it difficult to effectively analyse such multi-	personal data with links to multiple	
	enforcement which contain	jurisdictional or non-	jurisdictions as well as personal	
	personal data with links to	attributable <i>datasets</i> through national solutions. <i>Europol</i>	data which cannot easily be	
	multiple jurisdictions as well	should have measures in place	attributed to any specific	
	as personal data which cannot	to facilitate the cooperation with private parties, including	jurisdiction. National authorities	
	easily be attributed to any	with respect to the sharing of	find it difficult to effectively	
	specific jurisdiction. National	information. When private parties decide to lawfully and	analyse such multi-jurisdictional or	
	authorities find it difficult to	voluntarily share the data with	non-attributable data sets through	
	effectively analyse such multi-	law enforcement authorities, they do <i>not</i> currently have a	national solutions. When private	
	jurisdictional or non-	single point of contact with	parties decide to lawfully and	
	attributable data sets through	which they can share such datasets at Union level.	voluntarily share the data with law	
	national solutions. When		enforcement authorities, they do	
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	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	private parties decide to		currently not have a single point of	
	lawfully and voluntarily share		contact with which they can share	
	the data with law enforcement		such data sets at Union-level.	
	authorities, they do currently		Moreover, private parties face	
	not have a single point of		difficulties when receiving multiple	
	contact with which they can		requests from law enforcement	
	share such data sets at Union-		authorities of different countries.	
	level. Moreover, private			
	parties face difficulties when			
	receiving multiple requests			
	from law enforcement			
	authorities of different			
	countries.			
50.	(28) To ensure that private	AM 29	(28) To ensure that private	
	parties have a point of contact	(28) To ensure that private	parties have a point of contact at	
	at Union level to lawfully	parties have a point of contact	Union level to lawfully share multi-	
	share multi-jurisdictional data	at Union level to lawfully <i>and</i> voluntarily provide multi-	jurisdictional data sets or data sets	
	sets or data sets that could not	jurisdictional datasets or	that could not be easily attributed so	
	be easily attributed so far to	datasets that cannot be easily attributed so far to one or	far to one or several specific	
	one or several specific	several specific jurisdictions, Europol should be able to	jurisdictions, Europol should be	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	jurisdictions, Europol should be able to receive personal data directly from private	receive personal data directly from private parties for the sole purpose of establishing jurisdiction, in accordance	able to receive personal data directly from private parties.	
	parties.	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.		
51	(29) To ensure that Member	AM 30	(29) To ensure that Member	
	States receive quickly the	(29) To ensure that Member	States receive quickly the relevant	
	relevant information necessary	States receive without undue	information necessary to initiate	
	to initiate investigations to	<i>delay</i> the information necessary to initiate investigations to	investigations to prevent and	
	prevent and combat serious	prevent and combat serious	combat serious crime and terrorism,	
	crime and terrorism, Europol	crime and terrorism, Europol should be able to process and	Europol should be able to process	
	should be able to process and	analyse such <i>datasets</i> in order	and analyse such data sets in order	
	analyse such data sets in order	to identify the relevant Member States' <i>national units</i>	to identify the relevant Member	
	to identify the relevant	concerned and forward those	States and forward to the national	
	Member States and forward to	national units the personal data and any results relevant to establish jurisdiction.	law enforcement authorities	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	the national law enforcement	Europol should also be able to	concerned the information and	
	authorities concerned the	forward the personal data and results relevant to establish	analysis necessary to investigate	
	information and analysis	jurisdiction to contact points	these crimes under their respective	
	necessary to investigate these	and third countries concerned with which Europol has	jurisdictions.	
	crimes under their respective	concluded a cooperation		
	jurisdictions.	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.		
52		AM 31		
		Recital 29 a (new)		
		(29a) In certain cases and		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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.		
53	(30) To ensure that it can identify all relevant national	AM 32 (30) To ensure that <i>Europol</i>	(30) To ensure that it can identify all relevant national law	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
law enforcement authorities	can identify all relevant	enforcement authorities concerned,	
concerned, Europol should be	national <i>units</i> concerned, <i>it</i> should be able to inform	Europol should be able to inform	
able to inform private parties	private parties when the	private parties when the information	
when the information received	information received from them is insufficient to enable	received from them is insufficient	
from them is insufficient to	Europol to identify the <i>national</i>	to enable Europol to identify the	
enable Europol to identify the	units concerned. To this end, Europol should be able to	law enforcement authorities	
law enforcement authorities	inform private parties of	concerned. This would enable	
concerned. This would enable	missing information, as far as this is strictly necessary for the	private parties which have shared	
private parties which have	sole purpose of identifying the	information with Europol to decide	
shared information with	national units concerned. Special safeguards should	whether it is in their interest to	
Europol to decide whether it is	apply to such transfers where	share additional information with	
in their interest to share	the private party concerned is not established within the	Europol and whether they can	
additional information with	Union or in a third country with	lawfully do so. To this end, Europol	
Europol and whether they can	which Europol has a cooperation agreement	can inform private parties of	
lawfully do so. To this end,	allowing for the exchange of	missing information, as far as this is	
Europol can inform private	personal data, or with which the Union has concluded an	strictly necessary for the	
parties of missing information,	international agreement	identification of the relevant law	
as far as this is strictly	pursuant to Article 218 TFEU providing for appropriate	enforcement authorities. Special	
necessary for the identification	safeguards, or which is the	safeguards should apply to such	
of the relevant law	subject of an adequacy decision by the Commission, finding	transfers in particular when the	
enforcement authorities.	that the third country in	private party concerned is not	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
Special safeguards should	question ensures an adequate	established within the Union or in a	
apply to such transfers in	level of data protection compared to the level of	third country with which Europol	
particular when the private	protection provided under	has a cooperation agreement	
party concerned is not	Directive (EU) 2016/680.	allowing for the exchange of	
established within the Union		personal data, or with which the	
or in a third country with		Union has concluded an	
which Europol has a		international agreement pursuant to	
cooperation agreement		Article 218 TFEU providing for	
allowing for the exchange of		appropriate safeguards, or which is	
personal data, or with which		the subject of an adequacy decision	
the Union has concluded an		by the Commission, finding that the	
international agreement		third country in question ensures an	
pursuant to Article 218 TFEU		adequate level of data protection.	
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			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	protection.			
54	(31) Member States, third	AM 33	(31) Member States, third	
	countries, international	(31) Member States, third	countries, international	
	organisation, including the	countries, international	organisations, including the	
	International Criminal Police	organisations or private parties may share multi-jurisdictional	International Criminal Police	
	Organisation (Interpol), or	data sets or data sets that	Organisation (Interpol), or private	
	private parties may share	cannot be attributed to one or several specific jurisdictions	parties may share multi-	
	multi-jurisdictional data sets or	with Europol, where those data	jurisdictional data sets or data sets	
	data sets that cannot be	sets contain links to personal data held by private parties.	that cannot be attributed to one or	
	attributed to one or several	Where it is necessary to obtain	several specific jurisdictions with	
	specific jurisdictions with	additional information from such private parties to identify	Europol, where those data sets	
	Europol, where those data sets	all relevant Member States	contain links to personal data held	
	contain links to personal data	concerned, Europol should be able to <i>send a reasoned</i>	by private parties. Where it is	
	held by private parties. Where	request to Member States, via	necessary to obtain additional	
	it is necessary to obtain	their national units, to provide it with the necessary personal	information from such private	
	additional information from	data from private parties which	parties to identify all relevant	
	such private parties to identify	are established or have a legal representative in their territory	Member States concerned, Europol	
	all relevant Member States	to identify the national units	should be able to ask Member	
	concerned, Europol should be	concerned. The request should be as targeted as possible and	States, via their national units, to	
	able to ask Member States, via	strictly limited to what is necessary and proportionate	request private parties which are	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
their national units, to request	for Europol to identify the	established or have a legal	
private parties which are	national units concerned. The relevant personal data, which	representative in their territory to	
established or have a legal	should be the least sensitive	share personal data with Europol in	
representative in their territory	possible, should be provided to Europol in accordance with	accordance with those Member	
to share personal data with	those Member States'	States' applicable laws. Member	
Europol in accordance with	applicable laws. Under the case law of the Court of	States should assess Europol's	
those Member States'	Justice, prior authorisation	request and decide in accordance	
applicable laws. In many	from a court or an independent administrative	with their national laws whether	
cases, these Member States	authority is generally required	or not to accede to it. Data	
may not be able to establish a	for private parties to disclose personal data to Member	processing by private parties	
link to their jurisdiction other	States' competent authorities,	should remain subject to their	
than the fact that the private	except in duly justified emergency situations. In many	obligations under the applicable	
party holding the relevant data	cases, these Member States	rules, notably with regard to data	
is established under their	may not be able to establish a link to their jurisdiction other	protection, when processing such	
jurisdiction. Irrespective of	than the fact that the private	requests from competent law	
their jurisdiction with regard	party holding the relevant data is established under <i>or legally</i>	enforcement authorities. Private	
the specific criminal activity	represented in their	parties should provide the data to	
subject to the request, Member	jurisdiction. Irrespective of their jurisdiction with regard <i>to</i>	the competent law enforcement	
States should therefore ensure	the specific criminal activity	authorities which have issued the	
that their competent national	subject to the request, Member States should therefore ensure	request for further transmission	
authorities can obtain personal	that their competent national	to Europol. In many cases, these	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	data from private parties for	authorities can obtain personal	Member States may not be able to	
	the purpose of supplying	data from private parties for the purpose of supplying Europol	establish a link to their jurisdiction	
	Europol with the information	with the information necessary	other than the fact that the private	
	necessary for it to fulfil its	for it to fulfil its objectives, in full compliance with	party holding the relevant data is	
	objectives, in full compliance	procedural guarantees under	established under their jurisdiction.	
	with procedural guarantees	their national laws.	Irrespective of their jurisdiction	
	under their national laws.		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.	
55	(32) To ensure that Europol	AM 34	(32) To ensure that Europol does	
	does not keep the data longer	(32) To ensure that Europol	not keep the data <b>received directly</b>	
	than necessary to identify the	does not keep the <i>personal</i> data longer than necessary to	from private parties longer than	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
Member States concerned,	identify the Member States	necessary to identify the Member	
time limits for the storage of	concerned, time limits for the storage of personal data by	States concerned, time limits for the	
personal data by Europol	Europol should apply. Once	storage of personal data by Europol	
should apply. Once Europol	Europol has exhausted all means at its disposal to identify	should apply. Once Europol has	
has exhausted all means at its	all <i>national units</i> concerned,	exhausted all means at its disposal	
disposal to identify all	and cannot reasonably expect to identify further <i>national</i>	to identify all Member States	
Member States concerned, and	units concerned, the storage of	concerned, and cannot reasonably	
cannot reasonably expect to	this personal data is no longer necessary and proportionate for	expect to identify further Member	
identify further Member States	identifying the Member States	States concerned, the storage of this	
concerned, the storage of this	concerned. Europol should erase the personal data within	personal data is no longer necessary	
personal data is no longer	four months after the last	and proportionate for identifying	
necessary and proportionate	transmission <i>or transfer</i> has taken place, unless a national	the Member States concerned.	
for identifying the Member	unit, contact point or authority	Europol should erase the personal	
States concerned. Europol	concerned resubmits on duly justified grounds and in	data within four months after the	
should erase the personal data	compliance with Union and	last transmission to a national unit	
within four months after the	national law, the personal data as their data to Europol within	or transfer to a contact point of a	
last transmission has taken	this period. If the resubmitted	third country or an authority of a	
place, unless a national unit,	personal data has been part of a larger set of personal data,	third country has taken place,	
contact point or authority	Europol should only keep <i>those</i>	unless a national unit, contact point	
concerned resubmits the	personal data <i>which have</i> been resubmitted by a national unit,	or authority concerned resubmits	
personal data as their data to	contact point or authority	the personal data as their data to	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	Europol within this period. If	concerned.	Europol within this period. If the	
	the resubmitted personal data		resubmitted personal data has been	
	has been part of a larger set of		part of a larger set of personal data,	
	personal data, Europol should		Europol should only keep the	
	only keep the personal data if		personal data if and in so far as it	
	and in so far as it has been		has been resubmitted by a national	
	resubmitted by a national unit,		unit, contact point or authority	
	contact point or authority		concerned. Transmissions should	
	concerned.		relate to Europol disclosing	
			personal data to national units,	
			private parties or other recipients	
			established in the Union, while	
			transfers should relate to Europol	
			disclosing personal data to	
			private parties, public authorities	
			or bodies established in third	
			countries or to international	
			organisations, in accordance with	
			the applicable rules.	
56	(33) Any cooperation of	AM 35	(33) Any cooperation of Europol	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	Europol with private parties	(33) Any cooperation of	with private parties should neither	
	should neither duplicate nor	Europol with private parties should neither duplicate nor	duplicate nor interfere with the	
	interfere with the activities of	interfere with the activities of	activities of the Financial	
	the Financial Intelligence	the Financial Intelligence Units (FIUs), and should only	Intelligence Units ('FIUs'), and	
	Units ('FIUs'), and should	concern information that is not	should only concern information	
	only concern information that	already to be provided to FIUs in accordance with Directive	that is not already to be provided to	
	is not already to be provided to	2015/849 of the European	FIUs in accordance with Directive	
	FIUs in accordance with	Parliament and of the Council <sup>59</sup> . Europol should	2015/849 of the European	
	Directive 2015/849 of the	continue to cooperate with	Parliament and of the Council <sup>8</sup> .	
	European Parliament and of	FIUs in particular via the national units.	Europol should continue to	
	the Council <sup>8</sup> . Europol should		cooperate with FIUs in particular	
	continue to cooperate with		via the national units.	
	FIUs in particular via the			
	national units.			
57	<sup>8</sup> Directive (EU)	<sup>59</sup> Directive (EU) 2015/849 of the European Parliament and of	8 Directive (EU) 2015/849 of	
	2015/849 of the European	the Council of 20 May 2015 on	the European Parliament and of the	
	Parliament and of the Council	the prevention of the use of the financial system for the	Council of 20 May 2015 on the	
	of 20 May 2015 on the	purposes of money laundering	prevention of the use of the	
	prevention of the use of the	or terrorist financing, amending Regulation (EU) No 648/2012	financial system for the purposes of	
	financial system for the	of the European Parliament and of the Council, and repealing	money laundering or terrorist	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	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 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).	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).	
58	(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	AM 36  (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	(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	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
terrorist content online to	Regulation (EU) 2021/784 of	providers or exchange information	
online service providers or	the European Parliament and of the Council <sup>1a</sup> to online	with private parties in the context of	
exchange information with	service providers or when they	cyber attacks. Europol should	
private parties in the context of	exchange information with private parties in the context of	ensure by technical means that	
cyber attacks. Where Member	cyberattacks. Where Member	any such infrastructure is strictly	
States use the Europol	States use the Europol infrastructure for exchanges of	limited to providing a channel for	
infrastructure for exchanges of	personal data on crimes falling	such interactions between the law	
personal data on crimes falling	outside the scope of the objectives of Europol, Europol	enforcement authorities and a	
outside the scope of the	should not have access to that	private party, and that it provides	
objectives of Europol, Europol	data.	for all necessary safeguards	
should not have access to that		against access by a private party	
data.	<sup>1a</sup> Regulation (EU) 2021/784	to any other information in	
	of the European Parliament	Europol's systems, which is not	
	and of the Council of 29 April	related to the exchange with that	
	2021 on addressing the	private party. Where Member	
	dissemination of terrorist	States use the Europol	
	content online (OJ L 172,	infrastructure for exchanges of	
	17.5.2021, p. 79).	personal data with private parties	
		on crimes falling within the scope	
		of the objectives of Europol, they	
		may grant Europol access to such	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			exchanges. Member States may	
			also use the Europol	
			infrastructure for exchanges of	
			personal data falling outside the	
			scope of the objectives of Europol.	
			In that case Europol should not	
			have access to such exchanges.	
59	(35) Terrorist attacks trigger	AM 37	(35) Terrorist attacks trigger the	Written procedure 20/1/2022:
	the large scale dissemination	(35) Terrorist attacks trigger	large scale dissemination of terrorist	PRES compromise suggestion to
	of terrorist content via online	the <i>large-scale</i> dissemination	content via online platforms	combine CSL/EP texts (linked to
	platforms depicting harm to	of terrorist content via online platforms depicting harm to life	depicting harm to life or physical	line 108/Art. 4(1)(u))
	life or physical integrity, or	or physical integrity, or calling	integrity, or calling for imminent	
	calling for imminent harm to	for imminent harm to life or physical integrity, <i>thereby</i>	harm to life or physical integrity.	(35) Terrorist attacks trigger the
	life or physical integrity. To	allowing for the glorification	To ensure that Member States can	large-scale dissemination of
	ensure that Member States can	and provision of training for terrorism, and eventually the	effectively prevent the	terrorist content via online platforms depicting harm to life or
	effectively prevent the	radicalisation and recruitment	dissemination of such content in the	physical integrity, or calling for
	dissemination of such content	of others. Moreover, the increased use of the internet to	context of such crisis situations	imminent harm to life or physical integrity, <i>thereby allowing for the</i>
	in the context of such crisis	record or share child sexual	stemming from ongoing or recent	glorification and provision of
	situations stemming from	abuse material perpetuates the harm for the victims, as the	real-world events, Europol should	training for terrorism, and eventually the radicalisation and
	ongoing or recent real-world	material can easily be multiplied and circulated. To	be able to exchange personal data	recruitment of others. Moreover, the increased use of the internet to

## COM (13908/20 + COR 1)

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.

## **EP** (A9-9999/2021)

ensure that Member States can effectively prevent 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

## Council

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. Nothing in this Regulation should be understood as precluding the **Member States from using** removal orders as laid down in Regulation 2021/... on addressing the dissemination of terrorist content online as an instrument to address terrorist content online, or making use of the coordinative

## **Provisional agreement**

record or share child sexual abuse material perpetuates the harm for the victims, as the material can easily be multiplied and circulated. In order to prevent and counter the crimes falling within the scope of Europol's objectives, should be able to support <del>To</del> <del>ensure that</del> the Member States' actions <del>can</del> in effectively <del>prevent</del> addressing 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. *To that end*, 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

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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.	and cooperative role of Europol in ac-cordance with Art. 14 of that Regulation when member states issue such a removal order.	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. Nothing in this Regulation should be understood as precluding the Member States from using removal orders as laid down in Regulation (EU) 2021/784 on addressing the dissemination of terrorist content online as an instrument to address terrorist content online, or making use of the coordinative and cooperative role of Europol in accordance with Article 14 of that Regulation when member states issue such a removal order.
60			(35a) In order to avoid duplication of effort and possible	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			interferences with investigations	
			and to minimise the burden to the	
			hosting service providers affected,	
			Europol should assist, exchange	
			information-and cooperate with	
			the competent authorities with	
			regard to transmissions and	
			transfers of personal data to	
			private parties to prevent the	
			dissemination of online content	
			related to terrorism or violent	
			extremism.	
61	(36) Regulation (EU)	AM 38	(36) Regulation (EU) 2018/1725	Written procedure 7/1/2022:
	2018/1725 of the European	(36) Regulation (EU)	of the European Parliament and of	provisionally agreed on the basis of
	Parliament and of the Council <sup>9</sup>	2018/1725 of the European	the Council <sup>910</sup> sets out rules on the	a small addition to the COM
	<sup>10</sup> sets out rules on the	Parliament and of the Council <sup>60</sup> sets out rules on the protection	protection of natural persons with	proposal below ("chapter IX of")
	protection of natural persons	of natural persons with regard	regard to the processing of personal	
	with regard to the processing	to the processing of personal data by the Union institutions,	data by the Union institutions,	
	of personal data by the Union	bodies, offices and agencies.	bodies, offices and agencies but it	"(36) Regulation (EU) 2018/1725 of
	institutions, bodies, offices and	While Regulation (EU) 2018/1725 has been applicable	did not apply to Europol. To ensure	the European Parliament and of the

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
agencies but it did not apply to	to the processing of	uniform and consistent protection of	Council <sup>60</sup> sets out rules on the
Europol. To ensure uniform	administrative personal data by Europol that are unrelated	natural persons with regard to the	protection of natural persons with
and consistent protection of	to criminal investigations,	processing of personal data,	regard to the processing of personal
natural persons with regard to	such as staff data, Article 3(2) and Chapter IX of that	Regulation (EU) 2018/1725 should	data by the Union institutions,
the processing of personal	Regulation, which regulate the	be made applicable le to Europol in	bodies, offices and agencies. While
data, Regulation (EU)	processing of operational personal data, have so far not	accordance with Article 2(2) of that	Regulation (EU) 2018/1725 has
2018/1725 should be made	applied to Europol. To ensure	Regulation, and should be	been applicable to the processing
applicable le to Europol in	uniform and consistent protection of natural persons	complemented by specific	of administrative personal data by
accordance with Article 2(2)	with regard to the processing of	provisions for the specific	Europol that are unrelated to
of that Regulation, and should	personal data, Regulation(EU) 2018/1725 should be made	processing operations that Europol	criminal investigations, such as
be complemented by specific	applicable to Europol in	should perform to accomplish its	staff data, Article 3(2) and Chapter
provisions for the specific	accordance with Article2(2) of that Regulation, and should be	tasks.	IX of that Regulation, which
processing operations that	complemented by specific		regulate the processing of
Europol should perform to	provisions for the specific processing operations that		operational personal data, have so
accomplish its tasks.	Europol should perform to		far not applied to Europol. To
	accomplish its tasks.		ensure uniform and consistent
			protection of natural persons with
			regard to the processing of personal
			data, Chapter IX of Regulation(EU)
			2018/1725 should be made
			applicable to Europol in accordance

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				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. The increased data
				processing by Europol should be
				combined with strong data
				protection supervision and
				safeguards. The same tasks and
				powers as provided to the EDPS
				under Regulation (EU) 2018/1725
				should apply consistently to all
				processing of personal data by
				<b>Europol. However, some of those</b>
				powers are not relevant in the
				context of the processing of
				operational data by Europol."
62	9 Regulation (EU)	<sup>60</sup> Regulation (EU) 2018/1725	<sup>9</sup> Regulation (EU) 2018/1725	
	2018/1725 of the European	of the European Parliament and	of the European Parliament and of	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	Parliament and of the Council	of the Council of 23 October	the Council of 23 October 2018 on	
	of 23 October 2018 on the	2018 on the protection of	the protection of natural persons	
	protection of natural persons	natural persons with regard to	with regard to the processing of	
	with regard to the processing	the processing of personal data	personal data by the Union	
	of personal data by the Union	by the Union institutions,	institutions, bodies, offices and	
	institutions, bodies, offices and	bodies, offices and agencies	agencies and on the free movement	
	agencies and on the free	and on the free movement of	of such data, and repealing	
	movement of such data, and	such data, and repealing	Regulation (EC) No 45/2001 and	
	repealing Regulation (EC) No	Regulation (EC) No 45/2001	Decision No 1247/2002/EC (OJ L	
	45/2001 and Decision No	and Decision No	295, 21.11.2018, p. 39).	
	1247/2002/EC (OJ L 295,	1247/2002/EC (OJ L 295,		
	21.11.2018, p. 39).	21.11.2018, p. 39).		
63	Regulation (EU)		<sup>10</sup> Regulation (EU) 2018/1725	
	2018/1725 of the European		of the European Parliament and of	
	Parliament and of the Council		the Council of 23 October 2018 on	
	of 23 October 2018 on the		the protection of natural persons	
	protection of natural persons		with regard to the processing of	
	with regard to the processing		personal data by the Union	
	of personal data by the Union		institutions, bodies, offices and	
	institutions, bodies, offices and		agencies and on the free movement	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	agencies and on the free		of such data, and repealing	
	movement of such data, and		Regulation (EC) No 45/2001 and	
	repealing Regulation (EC) No		Decision No 1247/2002/EC (OJ L	
	45/2001 and Decision No		295, 21.11.2018, p. 39).	
	1247/2002/EC (OJ L 295,			
	21.11.2018, p. 39).			
64			(36a) The processing of	
			photographs should not be	
			systematically considered as	
			processing of special categories of	
			personal data, since photographs	
			are covered by the definition of	
			biometric data only when	
			processed through a specific	
			technical means allowing the	
			unique identification or	
			authentication of a natural	
			person.	
65			(36b) The prior consultation	COM compromise proposal

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		mechanism is an important	(06/12/2021):
		safeguard for new types of	((0,51) The state of the state
		processing operations. This	"(36b) The prior consultation
		should not apply to specific	mechanism is an important
		individual operational activities,	safeguard for new types of
		such as operational analysis	processing operations. This should
		projects, but to the use of new IT	not apply to specific individual
		systems for the processing of	operational activities, such as
		personal data and any substantial	operational analysis projects, but to
		changes thereto that would	the use of new IT systems for the
		_	processing of personal data and any
		involve a high risk to the rights	substantial changes thereto that
		and freedoms of data subjects.	would involve a high risk to the
		The time-period for provididng	rights and freedoms of data
		the written advice by the EDPS	subjects. The time-period for
		on such consultations should not	providing the written advice by the
		be subject to suspensions. In case	EDPS on such consultations should
		of processing activities of	
		substantial significance for	not be subject to suspensions. In
		Europol's performance of tasks,	case of processing activities of
		which are particularly urgent,	substantial significance for
		Europol may initiate processing	Europol's performance of tasks,

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		already after the prior	which are particularly urgent,
		consultation has been launched,	Europol may <u>exceptionally</u> initiate
		even if the time limit for	processing already after the prior
		providing written advice by the	consultation has been launched,
		EDPS has not yet expired.	even if the time limit for providing
		Substantial significance for	written advice by the EDPS has not
		Europol's performance of tasks	yet expired. Substantial significance
		leading to such urgency may	for Europol's performance of tasks
		arise, among others, when	leading to such urgency may arise,
		processing is necessary to prevent	among others, when processing is
		an immediate and serious threat	necessary to prevent an immediate
		to the public security of a	and serious threat to the public
		Member State or third country,	security of a Member State or third
		to prevent an imminent danger of	country, to prevent, upon request
		perpetration of a crime, including	by a Member State, an imminent
		terrorism, or to protect vital	danger of perpetration of a specific
		interests of a person. The Data	case of serious crime, including
		<b>Protection officer of Europol</b>	terrorism, or to protect vital
		should be involved in assessing	interests of a person. The Data
		the urgency and necessity of such	Protection Officer of Europol
		processing before the time limit	should be involved in assessing the

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			for the EDPS to respond to prior	urgency and necessity of such
			consultation expires. The Data	processing before the time limit for
			<b>Protection Officer should oversee</b>	the EDPS to respond to prior
			the processing in question.	consultation expires. The Data
				Protection Officer should oversee
				the processing in question. The
				EDPS may exercise all of its
				powers with respect to such
				processing."
66	(37) Given the challenges	AM 39	(37) Given the challenges that	
	that the use of new	(37) Given the challenges	the use of new technologies by	
	technologies by criminals pose	posed to the Union's security	criminals pose to the Union's	
	to the Union's security, law	by the rapid technological development and the	security, law enforcement	
	enforcement authorities are	exploitation of new	authorities are required to	
	required to strengthen their	technologies by criminals, law enforcement authorities are	strengthen their technological	
	technological capacities. To	required to strengthen their	capacities. To that end, Europol	
	that end, Europol should	technological capacities to identify, secure and analyse	should support Member States in	
	support Member States in the	the data needed to investigate	the use of emerging technologies in	
	use of emerging technologies	crimes. Europol should be able to support Member States in	preventing and countering crimes	
	in preventing and countering	the use of emerging technologies and in exploring	falling within the scope of	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
crimes falling within the scope	new approaches and	Europol's objectives, also in	
of Europol's objectives. To	developingcommontechnologicalsolutions	cooperation with relevant	
explore new approaches and	Member States to better	networks of Member States'	
develop common	prevent and counter <i>terrorism</i> and crimes falling within the	practitioners. Europol should also	
technological solutions for	scope of Europol's objectives,	work with other EU agencies in	
Member States to prevent and	while ensuring that the development, use and	the area of justice and home	
counter crimes falling within	deployment of new	affairs to drive innovation and	
the scope of Europol's	technologies is guided by the principles of transparency,	foster synergies within their	
objectives, Europol should be	explainability, fairness,	respective mandates, and support	
able to conduct research and	accountability and does not undermine fundamental rights	related forms of cooperation such	
innovation activities regarding	and freedoms and is in	as secretarial support to the 'EU	
matters covered by this	compliance with Union law. To that end, Europol should be	<b>Innovation Hub for Internal</b>	
Regulation, including with the	able to conduct research and	Security' as a collaborative	
processing of personal data	innovation <i>projects</i> regarding matters covered by this	network of innovation labs. To	
where necessary and whilst	Regulation within the binding	explore new approaches and	
ensuring full respect for	general scope of research and innovation activities defined	develop common technological	
fundamental rights. The	by the Management Board,	solutions for Member States to	
provisions on the development	which should be updated where appropriate and made	prevent and counter crimes falling	
of new tools by Europol	available to the EDPS. Those	within the scope of Europol's	
should not constitute a legal	projects are allowed to include the processing of personal data	objectives, Europol should be able	
basis for their deployment at	only where the processing of	to conduct research and innovation	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
Union or national level.	personal data is strictly	activities regarding matters covered	
	required, where the objective of the relevant project cannot	by this Regulation, including with	
	be attained through the use of	the processing of personal data	
	non-personal or anonymous data, and whilst ensuring full	where necessary and whilst	
	respect for fundamental rights,	ensuring full respect for	
	notably non-discrimination. The processing of special	fundamental rights. The provisions	
	categories of personal data for	on the development of new tools by	
	research purposes should only be allowed where it is strictly	Europol should not constitute a	
	necessary. Given the sensitivity	legal basis for their deployment at	
	of such processing, appropriate additional	Union or national level.	
	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		

COM (13908/20 + COR 1)	EP (A9-9999/2021)	Council	Provisional agreement
	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		
	<i>Charter</i> . 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		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		with other Union agencies within their respective competences in this area.		
67	(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	AM 40  (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	(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.	
	fundamental rights.	robust safeguards in terms of security, safety, <i>transparency</i> , <i>explainability</i> and fundamental rights.		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
68	(39) Europol should inform	AM 41	(39) Europol should inform the	Written procedure 20/1/2022:
68	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	(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	European Data Protection Supervisor prior to the launch of its research and innovation projects that involve the processing of personal data. It should inform or consult its Management Board, depending on specific criteria that should be set out in relevant guidelines. Europol should not process data for research and innovation without the consent of	Written procedure 20/1/2022:  PRES compromise suggestion to amend COM compromise below; inconsistency issue regarding 'consent' raised by the EP is addressed in line 349 (Art. 33a(5))  COM compromise suggestion (15/11/2021):  Europol should inform the European Data Protection
	all other fundamental rights, including of any bias in the outcome. This should include	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	the Member State, Union body, third country or international organisation that submitted the	Supervisor prior to the launch of its research and innovation projects that involve the processing of
	an assessment of the appropriateness of the personal data to be processed for the specific purpose of the project.	risks. Such an assessment would facilitate the supervisory role of the European Data Protection Supervisor, which may include the exercise of its	Member State, Union body, third country or international organisation has granted its prior	personal data. It should inform or consult its Management Board, depending on specific criteria that

COM (13908/20 + COR 1)**EP** (A9-9999/2021) **Provisional agreement** Council Such an assessment would corrective powers and may authorisation to such processing should be set out in relevant lead to a ban on processing or facilitate the supervisory role guidelines. Europol should not for the purpose of research and the prohibition of the launch of the European Data of a specific research and innovation. For each project, process data for research and innovation project. Moreover, Protection Supervisor, Europol should carry out, prior to innovation without the consent of Europol should take the including the exercise of its mandatory initial assessment the processing, an assessment of the the Member State, Union body, of the Fundamental Rights corrective powers under this impact of the envisaged processing third country or international Officer, including, where Regulation which might also operations on the protection of organisation that submitted the applicable, recommendations included personal data and all other lead to a ban on processing. data to Europol, unless that therein, into account before The development of new tools launching the project. The fundamental rights, including of Member State, Union body, third development of new tools by by Europol should be without any bias in the outcome. This country or international Europol should be without should include an assessment of the prejudice to the legal basis, prejudice to the legal basis, organisation has granted its prior including grounds for including grounds for authorisation to such processing appropriateness, necessity and processing the personal data processing the personal data concerned. that would **proportionality** of the personal for the purpose of research and subsequently be required for concerned, that would data to be processed for the specific innovation. For each project, their deployment at Union or national level. subsequently be required for purpose of the project, including Europol should carry out, prior to the processing, *a data protection* their deployment at Union or the requirement of data national level. minimisation. Such an assessment impact assessment to ensure full would facilitate the supervisory role respect with data protection and all of the European Data Protection other fundamental rights and Supervisor, including the exercise freedoms of data subjects. This of its corrective powers under this should include an assessment of the

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		Regulation which might also lead to	appropriateness, necessity and
		a ban on processing. Preference	<b>proportionality</b> of the personal
		should be given to using synthetic,	data to be processed for the specific
		pseudonymized and/or	purpose of the project, including
		anonymized personal data. The	the requirement of data
		development of new tools by	minimisation and an assessment of
		Europol should be without	any potential bias in the outcome
		prejudice to the legal basis,	and in the personal data to be
		including grounds for processing	processed for the specific purpose
		the personal data concerned, that	of the project as well as the
		would subsequently be required for	measures envisaged to address
		their deployment at Union or	those risks. Such an assessment
		national level.	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 innovation
			project. [Moreover, Europol should
			take the mandatory initial

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			assessment of the Fundamental
			Rights Officer, including, where
			applicable, the recommendations
			included therein, into account
			before launching the project].
			Preference should be given to
			using synthetic, pseudonymised
			and/or anonymised personal data.
			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.
			TM 17/11/2021: EP raised concerns
			regarding inconsistency between
			this recital and the operative part

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				(Art. 33a(5) only obliges Europol to
				'seek' consent but leaves open what
				happens if MS do not give consent)
69		AM 42		
		Recital 39 a (new)		
		(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.		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
70	(40) Providing Europol with	AM 43	(40) Providing Europol with	
	additional tools and	(40) Providing Europol with	additional tools and capabilities	
	capabilities requires	additional tools and capabilities	requires reinforcing the democratic	
	reinforcing the democratic	requires reinforcing the democratic oversight and	oversight and accountability of	
	oversight and accountability of	accountability of Europol. Joint	Europol. Joint parliamentary	
	Europol. Joint parliamentary	parliamentary scrutiny constitutes an important	scrutiny constitutes an important	
	scrutiny constitutes an	element of political monitoring	element of political monitoring of	
	important element of political	of Europol's activities. To enable effective political	Europol's activities. To enable	
	monitoring of Europol's	monitoring of the way Europol	effective political monitoring of the	
	activities. To enable effective	applies additional tools and capabilities <i>provided to it by</i>	way Europol applies additional	
	political monitoring of the way	this Regulation, Europol	tools and capabilities, Europol	
	Europol applies additional	should provide the Joint Parliamentary Scrutiny Group	should provide the Joint	
	tools and capabilities, Europol	(JPSG) with detailed annual	Parliamentary Scrutiny Group and	
	should provide the Joint	information on the development, deployment, use	the Member States with annual	
	Parliamentary Scrutiny Group	and effectiveness of these tools	information on the use of these	
	with annual information on the	and capabilities and the result thereof, <i>in particular about</i>	tools and capabilities and the result	
	use of these tools and	research and innovation	thereof.	
	capabilities and the result	projects as well as new activities or the establishment		
	thereof.	of any new specialised centres within Europol. Moreover, two		
		representatives of the JPSG,		
		one for the European		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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.		
71		AM 44  (40a) The Management Board should appoint a Fundamental Rights Officer who should be responsible to monitor that Europol		

COM (13908/20 + COR 1)	EP (A9-9999/2021)	Council	Provisional agreement
	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		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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.		
72	(41) Europol's services		(41) Europol's services provide	
	provide added value to		added value to Member States and	
	Member States and third		third countries. This includes	
	countries. This includes		Member States that do not take part	
	Member States that do not take		in measures pursuant to Title V of	
	part in measures pursuant to		Part Three of the Treaty on the	
	Title V of Part Three of the		Functioning of the European Union.	
	Treaty on the Functioning of		Member States and third countries	
	the European Union. Member		may contribute to Europol's budget	
	States and third countries may		based on separate agreements.	
	contribute to Europol's budget		Europol should therefore be able to	
	based on separate agreements.		receive contributions from Member	
	Europol should therefore be		States and third countries on the	
	able to receive contributions		basis of financial agreements within	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	from Member States and third		the scope of its objectives and tasks.	
	countries on the basis of			
	financial agreements within			
	the scope of its objectives and			
	tasks.			
73	(42) Since the objective of		(42) Since the objective of this	
	this Regulation, namely to		Regulation, namely to support and	
	support and strengthen action		strengthen action by the Member	
	by the Member States' law		States' law enforcement services	
	enforcement services and their		and their mutual cooperation in	
	mutual cooperation in		preventing and combating serious	
	preventing and combating		crime affecting two or more	
	serious crime affecting two or		Member States, terrorism and forms	
	more Member States,		of crime which affect a common	
	terrorism and forms of crime		interest covered by a Union policy,	
	which affect a common		cannot be sufficiently achieved by	
	interest covered by a Union		the Member States but can rather,	
	policy, cannot be sufficiently		due to the cross-border nature of	
	achieved by the Member		serious crime and terrorism and the	
	States but can rather, due to		need for a coordinated response to	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	the cross-border nature of		related security threats, be better	
	serious crime and terrorism		achieved at Union level, the Union	
	and the need for a coordinated		may adopt measures, in accordance	
	response to related security		with the principle of subsidiarity as	
	threats, be better achieved at		set out in Article 5 of the Treaty on	
	Union level, the Union may		European Union. In accordance	
	adopt measures, in accordance		with the principle of proportionality	
	with the principle of		as set out in that Article, this	
	subsidiarity as set out in		Regulation does not go beyond	
	Article 5 of the Treaty on		what is necessary in order to	
	European Union. In		achieve that objective.	
	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.			
74	(43) [In accordance with		(43) {In accordance with Article	
	Article 3 of the Protocol (No		3 of the Protocol (No 21) on the	
	21) on the position of the		position of the United Kingdom and	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
United Kingdom and Ireland		Ireland in respect of the area of	
in respect of the area of		freedom, security and justice,	
freedom, security and justice,		annexed to the Treaty on European	
annexed to the Treaty on		Union and the Treaty on the	
European Union and the		Functioning of the European Union,	
Treaty on the Functioning of		Ireland has notified its wish to take	
the European Union, Ireland		part in the adoption and application	
has notified its wish to take		of this Regulation. <del>] OR [In</del>	
part in the adoption and		accordance with Articles 1 and 2 of	
application of this Regulation.]		Protocol No 21 on the position of	
OR [In accordance with		the United Kingdom and Ireland in	
Articles 1 and 2 of Protocol		respect of the area of freedom,	
No 21 on the position of the		security and justice, annexed to the	
United Kingdom and Ireland		Treaty on European Union and to	
in respect of the area of		the Treaty on the Functioning of the	
freedom, security and justice,		European Union, and without	
annexed to the Treaty on		prejudice to Article 4 of that	
European Union and to the		Protocol, Ireland is not taking part	
Treaty on the Functioning of		in the adoption of this Regulation	
the European Union, and		and is not bound by it or subject to	
without prejudice to Article 4			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	of that Protocol, Ireland is not		its application.]	
	taking part in the adoption of			
	this Regulation and is not			
	bound by it or subject to its			
	application.]			
75	(44) In accordance with		(44) In accordance with	
	Articles 1 and 2 of Protocol		Articles 1 and 2 of Protocol No 22	
	No 22 on the position of		on the position of Denmark,	
	Denmark, annexed to the		annexed to the Treaty on European	
	Treaty on European Union and		Union and to the Treaty on the	
	to the Treaty on the		Functioning of the European Union,	
	Functioning of the European		Denmark is not taking part in the	
	Union, Denmark is not taking		adoption of this Regulation and is	
	part in the adoption of this		not bound by it or subject to its	
	Regulation and is not bound		application.	
	by it or subject to its			
	application.			
76	(45) The European Data	AM 45	(45) The European Data	
	Protection Supervisor was	(45) The European Data Protection Supervisor was	Protection Supervisor was	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	consulted, in accordance with	consulted, in accordance with	consulted, in accordance with	
	Article 41(2) of Regulation	Article 41(2) of Regulation (EU) 2018/1725 of the	Article 41(2) of Regulation (EU)	
	(EU) 2018/1725 of the	European Parliament and the	2018/1725 of the European	
	European Parliament and the	Council, and has delivered an opinion on 8 March 2021 <sup>1a</sup>	Parliament and the Council, and has	
	Council, and has delivered an	-	delivered an opinion on [].	
	opinion on [].	<sup>1a</sup> OJ C 143, 23.4.2021, p. 6.		
77	(46) This Regulation	AM 46	(46) This Regulation respects the	
	respects the fundamental rights	(46) This Regulation <i>fully</i>	fundamental rights and observes the	
	and observes the principles	respects the fundamental rights	principles recognised in particular	
	recognised in particular by the	and safeguards, and observes the principles recognised in	by the Charter of Fundamental	
	Charter of Fundamental Rights	particular by the Charter of	Rights of the European Union, in	
	of the European Union, in	Fundamental Rights of the European Union, in particular	particular the right to the protection	
	particular the right to the	the right to the protection of	of personal data and the right to	
	protection of personal data and	personal data and the right to privacy as protected by Articles	privacy as protected by Articles 8	
	the right to privacy as	8 and 7 of the Charter, as well	and 7 of the Charter, as well as by	
	protected by Articles 8 and 7	as by Article 16 TFEU. Given the importance of the	Article 16 TFEU. Given the	
	of the Charter, as well as by	processing of personal data for	importance of the processing of	
	Article 16 TFEU. Given the	the work of law enforcement in general, and for the support	personal data for the work of law	
	importance of the processing	provided by Europol in	enforcement in general, and for the	
		particular, this Regulation includes <i>enhanced</i> safeguards,		
		merades ennancea safeguards,		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	of personal data for the work	democratic oversight and	support provided by Europol in	
	of law enforcement in general,	accountability mechanisms, to ensure that the activities and	particular, this Regulation includes	
	and for the support provided	tasks of Europol are carried	effective safeguards to ensure full	
	by Europol in particular, this	out in full compliance with fundamental rights as enshrined	compliance with fundamental rights	
	Regulation includes effective	in the Charter, notably the	as enshrined in the Charter of	
	safeguards to ensure full	rights to equality before the law, to non-discrimination,	Fundamental Rights. Any	
	compliance with fundamental	and to an effective remedy	processing of personal data under	
	rights as enshrined in the	before the competent national court against any of the	this Regulation is limited to what is	
	Charter of Fundamental	measures taken pursuant to	strictly necessary and proportionate,	
	Rights. Any processing of	this Regulation. Any processing of personal data	and subject to clear conditions,	
	personal data under this	under this Regulation is limited	strict requirements and effective	
	Regulation is limited to what	to what is strictly necessary and proportionate, and subject to	supervision by the EDPS.	
	is strictly necessary and	clear conditions, strict		
	proportionate, and subject to	requirements and effective supervision by the EDPS.		
	clear conditions, strict	, ,		
	requirements and effective			
	supervision by the EDPS.			
78	(47) Regulation (EU)		(47) Regulation (EU) 2016/794	
	2016/794 should therefore be		should therefore be amended	
	amended accordingly,		accordingly,	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
79	HAVE ADOPTED THIS REGULATION:		HAVE ADOPTED THIS REGULATION:	
80	Article 1		Article 1	
81	Regulation (EU) 2016/794 is amended as follows:		Regulation (EU) 2016/794 is amended as follows:	
82	(1) Article 2 is amended as follows:		(1) Article 2 is amended as follows:	
83	(a) points (h) to (k) and points (m), (n) and (o) are deleted;		(a) points (h) to (k) and points (m), (n) and (o) are deleted;	Written procedure 7/1/2022:  provisional agreement to revert to the COM proposal, i.e. no deletion of point (d) (= definition of 'Union body') but systematic reference to 'Union bodies' throughout the text;  (a) points (h) to (k) and points (m),
				(n) and (o) are deleted

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				NB: references to 'Union body' are to be updated across the text.
84	(b) point (p) is replaced by the following:		(b) point (p) is replaced by the following:	
85	"(p) 'administrative personal data' means all personal data processed by Europol apart from operational data;";	(p) administrative personal data' means all personal data processed by Europol apart from operational <i>personal</i> data;	"(p) 'administrative personal data' means all personal data processed by Europol apart from operational <b>personal</b> data;";	TM 28/10/2021: provisionally agreed - use CSL text:  (p) administrative personal data' means all personal data processed by Europol apart from operational personal data;
86	(c) the following point (q) is added:	AM 48 (c) the following <i>points are</i> added:	(c) the following point (q) is added:	
87	"(q) 'investigative case file' means a dataset or multiple	AM 49  (q) 'investigative case file'	"(q) 'investigative <b>data</b> ease-file' means <b>data</b> a dataset or multiple	Rapporteur's proposal 20/01/2022: accept CSL text with

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
datasets that a Member State,	means a dataset or multiple	datasets that a Member State, the	small changes proposed by the LLs
the EPPO or a third country	datasets that a Member State,	EPPO or a third country acquired is	
acquired in the context of an	the European Public	authorised to process in the	
on-going criminal	Prosecutor's Office ('the	eontext-of an on-going criminal	"(q) 'investigative data ease file'
investigation, in accordance	EPPO'), Eurojust or a third	investigation related to one or	means data a dataset or multiple
with procedural requirements	country <i>acquires</i> in the context	more Member States, in	datasets that a Member State, the
and safeguards under the	of an on-going criminal	accordance with procedural	EPPO, <i>Eurojust</i> or a third country
applicable national criminal	investigation, in accordance	requirements and safeguards under	acquired is authorised to process
law, and submitted to Europol	with procedural requirements	the applicable Union law or	in the context of an on-going
in support of that criminal	and safeguards to respect	national <del>criminal</del> law, <del>and that it</del>	criminal investigation related to in
investigation."	fundamental rights, under the	submitted to Europol in support of	one or more Member States, in
	applicable <i>law and submits</i> to	that criminal investigation and that	accordance with procedural
	Europol in support of that	contains personal data outside the	requirements and safeguards
	criminal investigation	categories of data subjects listed	safeguards to respect fundamental
		in Annex II"	rights, under the applicable Union
			law or national <del>criminal</del> law, <del>and</del>
			that it submitted to Europol in
			support of that criminal
			investigation and that contains
			personal data outside the

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				categories of data subjects listed
				in Annex II''
				TM 26/11/2021: CSL explained
				that investigative case file could be
				misunderstood as judicial case file;
				MS use different terminology;
				might cover data from different
				cases; important for COM: link
				between data and authorisation to
				process data in national law; EP to
				check internally and propose a
				compromise
88		AM 51  (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 <sup>1a</sup> ;		2nd political trilogue (30/11/2021): provisional agreement  (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 <sup>1a</sup> ;
				· ·

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		1a Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2029 on addressing the dissemination of terrorist content online (OJ 172, 17.5.2021, p. 79).		<sup>1a</sup> Regulation (EU) 2021/784 of the European Parliament and of the Council of 29 April 2029 on addressing the dissemination of terrorist content online (OJ 172, 17.5.2021, p. 79).
89		(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 Council¹a 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		2nd political trilogue (30/11/2021): provisional agreement  'online 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 Council¹ or pornographic performance as defined in point (e) of Article 2 of that Directive

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).		
90			(c bis) the following point (r) is added:	
91		(qa) crisis situation' means an ongoing or recent realworld 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.	"(r) 'online crisis situation' means the dissemination of online content that is linked to or suspected as being carried out in the context of terrorism or violent extremism stemming from an ongoing or recent real-world event, which depicts harm to life or physical integrity or calls for imminent harm to life or physical integrity, and where the online content aims at or has the effect of seriously intimidating a population, and where there is an anticipated potential for	2nd political trilogue (30/11/2021): provisional agreement on the following wording (to be read in conjunction lines 108 and 279):  'online crisis situation' means 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 physical integrity and aims to, or has the effect of seriously intimidating a population, where there is a link or a reasonable suspicion of a link to terrorism or violent extremism and

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
92			exponential multiplication and virality across multiple online service providers."  (c ter) the following point (s) is	where there is an anticipated potential of exponential multiplication and virality across multiple online services;
93		AM 53  (qd) category of transfers of personal data' means a group of transfers of personal data which relates to the same realwold event involving harm to life or to physical integrity and which consists of the same categories of personal data and data subjects.	"'(s) 'category of transfers of personal data' means a group of transfers of personal data which all relate to the same specific situation, and which consist of the same categories of personal data and the same categories of data subjects."	TM 17/11/2021: provisionally agreed  "(s) 'category of transfers of personal data' means a group of transfers of personal data which all relate to the same specific situation, and which consist of the same categories of personal data and the same categories of data subjects."
94	(2) Article 4 is amended as follows:		(2) Article 4 is amended as follows:	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
95	(a) paragraph 1 is amended as follows:		(a) paragraph 1 is amended as follows:	
96	(i) point (h) is replaced by the following:		(i) point (h) is replaced by the following:	
97	"(h) support Member States' cross-border information exchange activities, operations and investigations, as well as joint investigation teams, and special intervention units, including by providing operational, technical and financial support;";		"(h) support Member States' cross-border information exchange activities, operations and investigations, as well as joint investigation teams, and special intervention units, including by providing operational, technical and financial support;	TM (26/11/2021): provisionally agreed to use CSL text  "(h) support Member States' cross-border information exchange activities, operations and investigations, as well as joint investigation teams, and special intervention units, including by providing operational, technical and financial support;"
98			(h bis) support Member States' special intervention units as referred to in Council Decision 2008/617/JHA by providing administrative and financial support.";	TM (26/11/2021): provisionally agreed to use CSL text  (h bis) support Member States' special intervention units as referred to in Council Decision

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				2008/617/JHA by providing administrative and financial support.";
99	(ii) point (j) is replaced by the following:		(ii) point (j) is replaced by the following:	
100	"(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;	"(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;";	TM (26/11/2021): provisionally agreed to merge EP/CSL texts:  "(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 falling within their competences"
101	(iii) point (m) is replaced by		(iii) point (m) is replaced by the	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	the following:		following:	
102	"(m) support Member	AM 55	"(m) support Member States'	Written procedure 7/1/2022:
	States' actions in preventing	(m) support Member States'	actions in preventing and combating	provisionally agreed
	and combating forms of crime	actions in and combating forms	forms of crime listed in Annex I	
	listed in Annex I which are	of crime listed in Annex I which are facilitated, promoted	which are facilitated, promoted or	
	facilitated, promoted or	or committed using the	committed using the internet,	EP compromise proposal
	committed using the internet,	internet, including, in cooperation with Member	including, in cooperation with	<u>(29/11/2021):</u>
	including, in cooperation with	States, <i>support</i> the coordination	Member States and upon their	
	Member States, the	of <i>Member States</i> law enforcement authorities'	<u>request</u> , the <del>coordination of</del>	support Member States' actions,
	coordination of law	response to cyberattacks, the	assistance to law enforcement	while respecting the right to
	enforcement authorities'	taking down of terrorist content online <i>and child sexual abuse</i>	<b>competent</b> authorities' response to	privacy and the protection of
	response to cyberattacks, the	material, and the referral of	cyberattacks of suspected criminal	personal data, in preventing and
	taking down of terrorist	online content to the online service providers concerned for	origin, the taking down of	combating forms of crime listed in
	content online, and the making	their voluntary consideration of	coordination of removal orders	Annex I which are facilitated,
	of referrals of internet content,	the compatibility of the referred internet content with their own	for terrorist content online by	promoted or committed using the
	by which such forms of crime	terms and conditions, while	Member States authorities in	internet, including by:
	are facilitated, promoted or	respecting the right to privacy and the protection of personal	accordance with Art. 14 of	i. assisting competent
	committed, to the online	data;	Regulation 2021/ [the TCO-	authorities, upon their
	service providers concerned		<b>Regulation</b> ], and the making of	<u>request</u> , <i>in</i> respond <i>ing</i> to cyberattacks <u>of suspected</u>
	for their voluntary		referrals of internet content, by	criminal origin, ii. cooperation

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	consideration of the compatibility of the referred internet content with their own terms and conditions;";		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;";	with Member States with regard to, coordinating removal orders for terrorist content online by Member States competent authorities in accordance with Art. 14 of Regulation (EU) 2021/784, and making referrals of online content to the online service providers concerned for their voluntary consideration of the compatibility of the referred internet that content with their own terms and conditions, while respecting the right to privacy and the protection of personal data;";
103	<ul><li>(iv) the following points (q) to</li><li>(r) are added:</li></ul>	AM 56  (iv) the following points (q) to (ub) are added:	(iv) the following points (q) to (r) are added:	
104	"(q) support Member States in identifying persons whose	AM 57  (q) support Member States in identifying persons	"(q) support Member States in identifying persons whose	Written procedure 20/1/2022: PRES compromise suggestion

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
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 investigations;	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;	involvement in serious 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 investigations regarding those persons;	"(q) support Member States in identifying persons whose criminal activities linked to in serious erimes falling within the scope of Europol's mandate, as listed in Annex I, and constitute a high risk for security, and facilitate joint, coordinated and prioritised investigations regarding those persons;
			TM (26/11/2021): EP/CSL to check merger of EP/CSL texts:  "(q) support Member States in identifying persons whose linked to serious crimes falling within the scope of Europol's mandate, as

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				listed in Annex I, and constitutesing a high risk for security, and facilitate joint, coordinated and prioritised investigations regarding those persons;
105	(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	(r) enter <i>alerts</i> into the Schengen Information System, in accordance with Regulation (EU) 2018/1862 of the European Parliament and of the Council <sup>Ia</sup> , 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	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	Presidency suggestion (20/01/22): use CSL text in exchange for concessions on other points  Support Member States in processing data transmitted by third countries or international organisations to Europol on persons involved in terrorism or in serious and organised crime and propose the possible entry by the Member States, at their discretion and subject to their verification and analysis, of

Europol is competent and of respect of which Europol is from third countries or international information alerts	• 41 • 4
a amendant and of villaids it is	in the interest
which it is aware on the basis   competent and of which it is aware on the basis of aware on the basis of   of the Union into the union of the Union into th	the Schengen
of information received from information received from third Article 17(1)(b) Support Member Information System	m, in
third countries or international organisations which fulfil one States in processing data  States in processing data	Regulation (EU)
organisations within the of the conditions listed in transmitted by third countries or 2018/1862 of the E	<mark>European</mark>
meaning of Article 17(1)(b); Article 25(1) of this Regulation or a third country international organisations to	e Council. A
which does not fulfil one of Europol on persons involved in periodic reporting	<u>mechanism</u>
the conditions listed in Article 25(1) of this Regulation, terrorism or in serious and shall be put in place.	ce in order to
provided that the information organised crime and propose the inform other Mem	nber States and
has been confirmed by a third country which fulfils those possible entry by the Member Europol on the out	tcome of the
conditions or provided that the States, at their discretion and verification and an	nalysis and on
information relates to a subject to their verification and whether or not the	e data has been
crime; analysis, of information alerts in inserted in the SIS	<mark>S, within a</mark>
the interest of the Union into the period of 12 month	hs from the
1a Regulation (EU) 2018/1862 Schengen Information System, in communication by	Europol of its
of the European Parliament and of the Council of 28 accordance with Regulation (EU) information to the	<u>Member</u>
November 2018 on the 2018/1862 of the European States; The Manage	gement Board
establishment, operation and use of the Schengen  Parliament and the Council. A  shall further specification.	fy the criteria
Information System (SIS) in periodic reporting mechanism on the basis of whi	ich Europol
the field of police cooperation and judicial cooperation in shall be put in place in order to issues proposals for	or possible entry
criminal matters, amending inform other Member States and of alerts into the So	<u>chengen</u>

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	and repealing Council	<b>Europol on the outcome of the</b>	<u>Information System. Member</u>
	Decision 2007/533/JHA, and repealing Regulation (EC) No	verification and analysis and on	States shall inform Europol of
	1986/2006 of the European	whether or not the data has been	any information alert issued and
	Parliament and of the Council and Commission Decision	inserted in the SIS, within a	of any hit on such information
	2010/261/EU (OJ L 312,	period of 12 months from the	alerts, and may inform, through
	7.12.2018, p. 56).;	communication by Europol of its	<b>Europol, the third country or</b>
		information to the Member	international organisation from
		<b>States</b> ; The Management Board	which the information leading to
		shall further specify the criteria	the alert originates on hits on
		on the basis of which Europol	such alerts, in accordance with
		issues proposals for possible entry	the procedure set out in
		of alerts into the Schengen	Regulation (EU) 2018/1862 of the
		Information System. Member	<b>European Parliament and the</b>
		States shall inform Europol of	Council.;
		any information alert issued and	
		of any hit on such information	
		alerts, and may inform, through	COM compromise proposal
		Europol, the third country or	(26/11/2021):
		international organisation from	(r) enter <b>alerts</b> data into the
		which the information leading to	(r) enter <b>alerts</b> data into the Schengen Information System, in
		the alert originates on hits on	accordance with Regulation (EU)

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		such alerts, in accordance with	2018/1862 of the European
		the procedure set out in	Parliament and of the Council*,
			following upon request by at least
		Regulation (EU) 2018/1862 of the	one Member State, following consultation with the Member
		<b>European Parliament and the</b>	States in accordance with Article 7
		Council.;	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 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
			<b>country which fulfils those</b>
			<u>conditions</u> or international
			organisations within the meaning of
			Article 17(1)(b). Europol shall
			inform all Member States on

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				inserting such alerts in the SIS;
				<sup>1a</sup> 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	(s) support the	AM 59	(s) support the implementation	TM 26/11/2021: provisionally
	implementation of the	(s) support the	of the evaluation and monitoring	agreed to use EP text

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	evaluation and monitoring mechanism under Regulation (EU) No 1053/2013 within the scope of Europol's objectives as set out in Article 3;	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;	mechanism under Regulation (EU) No 1053/2013 within the scope of Europol's objectives as set out in Article 3;	(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;
107	(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	(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	(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 in the development, training, testing and validation of algorithms for the development of tools, and	Written procedure 20/1/2022: PRES compromise suggestion to further amend the text  (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

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
of algorithms for the	enforcement.	disseminate the results of these	implementing its research and
development of tools.		activities to the Member States in	innovation activities regarding
		accordance with Article 67, and	matters covered by this Regulation,
		contribute to the coordination of	including <i>projects for</i> the
		activities of Union agencies	development, training, testing and
		established on the basis of Title V	validation of algorithms for the
		of the TFEU in the field of	development of specific tools for
		research and innovation within	the use of law enforcement, and
		their mandates in close	disseminate the results of these
		cooperation with Member States.	activities to the Member States in
			accordance with Article 67, and
			contribute to creating synergies
			between the research and
			innovation activities of Union
			bodies and agencies, that are
			relevant for Europol's objectives as
			set out in Article 3, including
			through the EU Innovation Hub
			for internal security, and in close
			cooperation with Member States."

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			TM 03/12/2021: reference to Art.
			4(1)(t) should be added in line 117;
			CSL to confirm that compromise
			proposal on line 107 is fine;
			TM 26/11/2021: new COM
			proposal; Positive scrutiny by CSL
			and EP - COM to suggest wording
			to clarify link between lines
			107+117
			(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

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				innovation activities regarding
				matters covered by this Regulation,
				including <i>projects for</i> the
				development, training, testing and
				validation of algorithms for the
				development of specific tools for
				the use of law enforcement, and
				disseminate the results of these
				activities to the Member States in
				accordance with Article 67, and
				contribute to creating synergies
				between the research and
				innovation activities of Union
				bodies and agencies that are
				relevant for Europol's objectives as
				set out in Article 3 in close
				cooperation with Member States."
108	(u) support Member	AM 61	(u) support, <u>upon their</u>	Written procedure 7/1/2022:
	States' actions in preventing	deleted	request, Member States' actions in	provisionally agreed;
	the dissemination of online		preventing the dissemination of	(u) support, <i>upon their request</i> ,

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	content related to terrorism or		online content in an online crisis	Member States' actions in
	violent extremism in crisis		situation, in particular by	addressing preventing the
	situations, which stems from		providing private parties with the	dissemination of online content
	an ongoing or recent		information necessary to identify	online crisis situations, in
	real-world event, depicts harm		relevant online content. Related	particular by providing private
	to life or physical integrity or		to terrorism or violent extremism	parties with the information
	calls for imminent harm to life		<u>in crisis situations, which stems</u>	necessary to identify relevant
	or physical integrity, and aims		from an ongoing or recent	online content.
	at or has the effect of seriously		real-world event, depicts harm to	
	intimidating a population, and		life or physical integrity or calls	
	where there is an anticipated		<del>for imminent harm to life or</del>	
	potential for exponential		physical integrity, and aims at or	
	multiplication and virality		has the effect of seriously	
	across multiple online service		intimidating a population, and	
	providers.		where there is an anticipated	
			<del>potential for exponential</del>	
			multiplication and virality across	
			multiple online service providers.	
108a				Written procedure 7/1/2022:
				provisionally agreed;

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				(ua) support Member States' actions in preventing addressing the dissemination of online child sexual abuse material.
109		(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 crossborder investigations by Member States into the money laundering activities of transnational criminal organisations and terrorism financing;		Written procedure 7/1/2022:  provisionally agreed  (ua) cooperate, in accordance with Article 12 of Directive 2019/1153, 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 analysis to Member States to support cross-border investigations into the money laundering activities of transnational criminal organisations and terrorism financing;
110		AM 63 (ub) monitor, analyse and		Written procedure 20/1/22:
		appraise red alerts, published by Interpol at the request of		Council remains opposed. To be

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	third countries, and notify Member States, the European External Action Service, and the Commission in the case of		discussed at the political trilogue
	reasonable suspicion that an alert was issued in violation of Article 3 of the Interpol constitution."		TM 12/11/2021: to be revisited at a later stage
			EP insists on necessity to task
			Europol with the monitoring of red
			alerts; CSL/COM oppose addition
			TM 28/10/2021: CSL explained
			that MS are not in favour of
			including this new task; took note of
			EP explanations;
			COM sees the necessity to prevent
			politically motivated alerts; Interpol
			has set up an internal ex ante
			control system which is more useful
			than ex post control; serious doubts

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				regarding compliance of this task
				with Europol's role as defined in the
				Treaty; will provide an information
				note
111	* Regulation (EU) 2018/1862		* Regulation (EU) 2018/1862 of the	
	of the European Parliament		European Parliament and of the	
	and of the Council of 28		Council of 28 November 2018 on	
	November 2018 on the		the establishment, operation and use	
	establishment, operation and		of the Schengen Information	
	use of the Schengen		System (SIS) in the field of police	
	Information System (SIS) in		cooperation and judicial	
	the field of police cooperation		cooperation in criminal matters,	
	and judicial cooperation in		amending and repealing Council	
	criminal matters, amending		Decision 2007/533/JHA, and	
	and repealing Council		repealing Regulation (EC) No	
	Decision 2007/533/JHA, and		1986/2006 of the European	
	repealing Regulation (EC) No		Parliament and of the Council and	
	1986/2006 of the European		Commission Decision 2010/261/EU	
	Parliament and of the Council		(OJ L 312, 7.12.2018, p. 56).";	
	and Commission Decision			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	2010/261/EU (OJ L 312,			
	7.12.2018, p. 56).";			
112	(b) in paragraph 2, the second		(b) in paragraph 2, the second	
	sentence is replaced by the		sentence is replaced by the	
	following:		following:	
110				
113	"Europol shall also assist in		"Europol shall also assist in the	
	the operational		operational implementation of those	
	implementation of those		priorities, notably in the European	
	priorities, notably in the		Multidisciplinary Platform Against	
	European Multidisciplinary		Criminal Threats, including by	
	Platform Against Criminal		facilitating and providing	
	Threats, including by		administrative, logistical, financial	
	facilitating and providing		and operational support to Member	
	administrative, logistical,		States-led operational and strategic	
	financial and operational		activities.";	
	support to Member States-led			
	operational and strategic			
	activities.";			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
114	(c) in paragraph 3, the following sentence is added:		(c) in paragraph 3, the following sentence is added:	
115	"Europol shall also provide threats assessment analysis supporting the Commission and the Member States in carrying out risk assessments.";		"Europol shall also provide threats assessment analysis <u>based on the information it holds on criminal phenomena and trends to</u> support <del>ing</del> supporting the Commission and the Member States in carrying out risk assessments.";	2nd political trilogue 30/11/21: provisional agreement on CSL wording:  Europol shall also provide threats assessment analysis based on the information it holds on criminal phenomena and trends to supporting supporting the Commission and the Member States in carrying out risk assessments.
116	(d) the following paragraphs 4a and 4b are inserted:		(d) the following paragraphs 4a and 4b are inserted:	
117	"4a. Europol shall assist the Commission in identifying key research themes, drawing up and implementing the Union	AM 64  4a. Europol shall assist the Commission in identifying key research themes, drawing up and implementing the Union	"4a. Europol shall assist <u>the</u> <u>Member States and</u> the  Commission in identifying key research themes <sub>5</sub> . <u>Europol shall</u>	Written procedure 7/1/2022: PRES compromise suggestion to further amend the text

CO	OM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
frances action ach in A assisting them imp	amework programmes for search and innovation tivities that are relevant to hieve the objectives set out Article 3. When Europol sists the Commission in entifying key research emes, drawing up and aplementing a Union amework programme, the gency shall not receive anding from that programme.	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.	assist the Commission in 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. Europol may engage with relevant projects of such Union framework programmes in accordance with Article 4(1)(t).	"Europol shall assist the Member  States and the Commission in identifying key research themes.  Europol shall assist the Commission in 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 relevant, Europol may shall disseminate the results of its these activities as part of its contribution to creating synergies between the research and innovation activities of Union bodies and agencies in accordance with Article 4(1)(t).

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				Europol shall take all necessary
				measures to avoid conflicts of
				interest. 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. implementation of a
				Union framework programme, it
				shall not receive funding from that
				<del>programme</del> .
				Where appropriate, Europol may
				consult the Joint Research Centre
				when defining and conceptualising
				research and innovation activities
				regarding matters covered by this
				Regulation."
110	41. Francis 1 1 11	AM 65	4b. Europol shall support the	XXI 144
118	4b. Europol shall support	4b. Europol shall support	1 11	Written procedure 20/1/22:

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
the screening of specific cases	the Commission and Member	screening of specific cases of	Presidency compromise
of foreign direct investments	<b>States</b> in the screening of specific cases of foreign direct	foreign direct investments into the	suggestion
into the Union under	investments into the Union	Union under Regulation (EU)	
Regulation (EU) 2019/452 of	under Regulation (EU) 2019/452 of the European	2019/452 of the European	4b. Europol shall support the
the European Parliament and	Parliament and of the Council <sup>1a</sup>	Parliament and of the Council* that	Member States in the screening of
of the Council* that concern	that concern undertakings providing technologies,	concern undertakings providing	specific cases of foreign direct investments into the Union under
undertakings providing	including software or critical	technologies used or being	Regulation (EU) 2019/452 of the
technologies used or being	technologies that could be used to facilitate terrorism,	developed by Europol or by	European Parliament and of the Council* that concern undertakings
developed by Europol or by	used by Europol or by Member	Member States for the prevention	providing technologies, including
Member States for the	States for the prevention and investigation of crimes covered	and investigation of crimes covered	software, used or being developed by Europol or by Member States
prevention and investigation of	by Article 3 on the expected	by Article 3 on the expected	for the prevention and investigation
crimes covered by Article 3 on	implications for security.	implications for security.	of crimes covered by Article 3 on the expected implications for
the expected implications for			security.
security.	<sup>1a</sup> Regulation (EU) 2019/452		
security.	of the European Parliament		COM
	and of the Council of 19 March 2019 establishing a		COM compromise suggestion
	framework for the screening		<u>(6/12/2021):</u>
	of foreign direct investments into the Union (OJ L 791,		4b. Europol shall support the
	21.3.2019, p. 1).		screening of specific cases of
	· · · · ·		foreign direct investments into the
			Union under Regulation (EU)

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				2019/452 of the European
				Parliament and of the Council* that
				concern undertakings providing
				technologies used <u>or being</u>
				developed by Europol or by
				Member States for the prevention
				and investigation of crimes covered
				by Article 3 on the expected
				implications for security.
				<b>TM 26/11/2021</b> : EP would like to
				keep the text
				Receptific text
119	* Regulation (EU) 2019/452		* Regulation (EU) 2019/452 of the	
	of the European Parliament		European Parliament and of the	
	and of the Council of 19		Council of 19 March 2019	
	March 2019 establishing a		establishing a framework for the	
	framework for the screening of		screening of foreign direct	
	foreign direct investments into		investments into the Union (OJ L	
	the Union (OJ L 79I,		79I, 21.3.2019, p. 1)."	
	21.3.2019, p. 1)."			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
120	(e) in paragraph 5, the following sentence is added:		(e) in paragraph 5 is amended as  follows, the following sentence is added:	
121	"Europol staff may assist the competent authorities of the Member States, at their request and in accordance with their national law, in the taking of investigative measures."		"Europol shall not apply coercive measures in carrying out its tasks.  Europol staff may provide  operational support to assist the competent authorities of the Member States during investigative measures, at their request and in accordance with their national law, in particular by facilitating cross-border information exchange, providing forensic and technical support and being present when investigative measures are taken the taking of investigative	Written procedure 7/1/2022  Provisionally agreed to to use CSL text.
			<u>measures</u> . <u>Europol staff shall not</u> <u>have the power to execute</u>	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			investigative measures."	
122		AM 66		
		(e a) the following paragraph 5a is added:		
123		"5a. Europol shall respect the fundamental rights and freedoms enshrined in the Charter in the performance of its tasks."		TM 26/11/2021: provisionally agreed to use EP wording  Europol shall respect the fundamental rights and freedoms enshrined in the Charter in the
				performance of its tasks."
124	(3) in Article 6, paragraph 1 is replaced by the following:	AM 67 deleted	(3) in Article 6, paragraph 1 is replaced by the following:	Political
125	"1. In specific cases where Europol considers that a criminal investigation should be initiated into a crime falling within the scope of its	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	Political

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	objectives, it shall request the		competent authorities of the	
	competent authorities of the		Member State or Member States	
	Member State or		concerned via the national units to	
	Member States concerned via		initiate, conduct or coordinate such	
	the national units to initiate,		a criminal investigation."	
	conduct or coordinate such a		G	
	criminal investigation."			
126		AM 68		Political
		(-3) In Article 6, the following		
		paragraph 1a is inserted		
127		"1 a. Without prejudice to		Political
127		paragraph 1, where Europol		Tonucai
		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		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		criminal investigation."		
128		AM 69 (3a) In Article 6, paragraph 2 is replaced by the following:		Political
129		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.		Written procedure 20/1/2022: Technical alignment pending the outcome of the discussion on article 6.
130		AM 70  (3 b) In Article 6(3), the introductory part is replaced by the following:		
131		"3. If the competent authorities of a Member State decide not to accede to a request made by Europol pursuant to <i>paragraphs 1 and 1a</i> , they shall inform Europol of the reasons for their decision		Written procedure 20/1/2022: Technical alignment pending the outcome of the discussion on article 6.

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		without undue delay, preferably within one month of receipt of the request. However, the reasons may be withheld if providing them would:"		
132		AM 71 (3c) In Article 6, paragraph 4 is replaced by the following:		
133		"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 of a competent authority of a Member State pursuant to paragraph 2;"		Written procedure 20/1/2022: PRES compromise suggestion  "4. Europol shall immediately inform Eurojust and, where relevant, the EPPO, of any request made pursuant to paragraphs and 1a and 1a and of any decision of a competent authority of a Member State pursuant to paragraph 2;"
134	(4) In Article 7, paragraph 8 is replaced by the following:		(4) In Article 7, paragraph 8 is replaced by the following:	
135	"8. Member States shall	AM 72	"8. Member States shall ensure	TM 12/11/2021: provisionally

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
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.	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 <i>reply to duly justified requests made by</i> Europol in accordance with Article 12 of Directive (EU) 2019/1153 of the European Parliament and the Council**, via their national unit <i>or</i> , <i>if allowed by that Member State</i> , <i>by direct contact with Europol</i> regarding financial information and analyses, within the limits	that their financial intelligence units established pursuant to_Directive (EU) 2015/849-2005/60/EC of the European Parliament and of the Council are entitled 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, in particular via their national unit or, if provided for by the national law of that Member State, by direct contacts between the financial intelligence unit and Europol, regarding financial information and analyses, within the limits of their mandate and	agreed - Use CONS text:  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 entitled 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, in particular_via their national unit or, if provided for by the national law of that Member State, by direct contacts between
	of their mandate and competence."	competence and subject to national procedural safeguards.	the financial intelligence unit and Europol, regarding financial information and analyses, within the

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				limits of their mandate and competence and subject to national procedural safeguards.
136				
137	* 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	* 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) 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).	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
138	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)."	** 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).	** 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)."	
139		AM 73  (4a) In Article 11(1), point  (a) is replaced by the following:		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
140		"(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) 2019/715¹a and the related Commission guidelines for the single programming document containing Europol's multiannual programming and its annual work programme for the following year.  Ia 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)."		Written procedure 7/1/2022:  provisionally agreed to use EP text  "(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) 2019/715¹a and the related Commission guidelines for the single programming document containing Europol's multiannual programming and its annual work programme for the following year.  ———————————————————————————————————

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				European Parliament and of the
				Council (OJ L 122, 10.5.2019, p.
				1)."
141		AM 74   (4b)   In   Article   11(1)the		
		following point (ua) is added:		
142		"(ua) appoint a Fundamental Rights Officer who shall be functionally independent in		
		the performance of his or her duties"		
143		AM 75		
		(4c) In Article 12, paragraph 1 is replaced by the following:		
144		"1. The Management Board		Written procedure 20/1/2022:
		shall, by 30 November each year, adopt a <i>single</i>		PRES compromise suggestion to
		<i>programming</i> document		slightly amend the EP wording
		containing Europol's		
		multiannual programming and annual work programme, based		(equivalent text in Frontex
		on a draft put forward by the		

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
COM (13908/20 + COR 1)	EP (A9-9999/2021)  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.	Council	Provisional agreement Regulation):  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  Europol shall provide a thorough justification. The same obligation shall apply to the elements raised

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				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.
				TM 06/12/2021:
				CSL: concerns that this addition
				will bind Europol, COM: acceptable
		AM 76		
145		(4d) In Article 12(2), the		
		first subparagraph is replaced		
		by the following:		
146		The multiannual programming shall set out the overall		Written procedure 7/1/2022:
		strategic programming,		provisionally agreed to use EP text
		including the objectives, expected results and		"The multiannual programming
		performance indicators. It shall		shall set out the overall strategic

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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.		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."
147		AM 77  (4e) In Article 14, paragraph 4 is replaced by the following:		
148		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		Written procedure 20/1/2022: PRES compromise suggestion
		of the Management Board as observers without voting rights.		"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

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			JPSG shall be invited to all two
			ordinary meetings per year of the
			Management Board as observers
			without voting rights to discuss the
			following political matters: of
			shared interest :, including
			<ul> <li>the consolidated annual activity report for the previous year,</li> <li>the single programming document for the following year and the annual budget."</li> <li>JPSG written questions and answers</li> <li>External relations and partnership matters.</li> <li>The Management Board, together with the representatives of the JPSG, may determine other matters of political interest to be discussed.</li> </ul>

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				TM 06/12/2021: Part of the governance package
149		AM 78  (4f) In Article 16, paragraph 3 is replaced by the following:		
150		3. The Council <i>and the JPSG</i> may invite the Executive Director to report on the performance of his or her duties.		Written procedure 7/1/2022:  provisionally agreed to use EP text  3. The Council <i>and the JPSG</i> may invite the Executive Director to report on the performance of his or her duties.
151		AM 79  (4g) In Article 16(5), point (d) is replaced by the following		
152		(d) preparing the draft <i>single programming document containing the</i> multiannual programming and annual work programmes and submitting <i>it</i>		Written procedure 7/1/2022:  provisionally agreed to use EP text  (d) preparing the draft single

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		to the Management Board, after having consulted the Commission <i>and the JPSG</i> ;		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;
153			(4 bis) In Article 16(5), a new point (o bis) is added:	
154			"(o bis) informing the Management Board regarding the memoranda of understanding signed with private parties;"	Written procedure 7/1/2022: provisionally agreed to use CSL text  "(o bis) informing the Management Board regarding the memoranda of understanding signed with private parties;"
155	(5) Article 18 is amended as follows:		(5) Article 18 is amended as follows:	
156	(a) paragraph 2 is amended as follows:		(a) paragraph 2 is amended as follows:	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
157	(i) point (d) is replaced by the following wording:		(i) point (d) is replaced by the following wording:	
158	"(d) facilitating the exchange of information between Member States, Europol, other Union bodies, third countries, international organisations and private parties;"		"(d) facilitating the exchange of information between  Member States, Europol, other  Union bodies, third countries, international organisations and private parties;"	
159	(ii), the following points (e) and (f) are added:		(ii), the following points (e) and (f) are added:	
160	"(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 <i>projects</i> regarding matters covered by this Regulation for the development, training, testing and validation of algorithms for the development of <i>specific</i> tools <i>for the use of law enforcement</i> ;	"(e) research and innovation regarding matters covered by this Regulation for the development, training, testing and validation of algorithms for the development of tools and for other research and innovation activities relevant to achieve the objectives set out in	Written procedure 7/1/2022: provisionally agreed  (e) research and innovation <i>projects</i> regarding matters covered by this Regulation for the development, training, testing and validation of algorithms <i>for the development of</i>

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			Article 3;	specific tools and other specific research and innovation projects relevant to achieve the objectives set out in Article 3 in accordance with the conditions set out in Article 33a;
161	(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."	(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.	upon their request, 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."	TM 17/11/2021: provisional agreement to merge EP/CSL texts:  (f) supporting Member States, upon their request, 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.
162	(b) the following		(b) the following paragraph	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	paragraph 3a is inserted:		3a is inserted:	
163	"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."	AM 82  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.	"3a. If necessary to reach the objectives of Europol's research and innovation projects,  Pprocessing of personal data for the purpose of research and innovation as referred to in point (e) of paragraph 2 shall be performed only 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."	agreement to use CSL compromise text of 10/11/2021 merging both texts  If necessary to reach the objectives of Europol's research and innovation projects, processing of personal data for the purpose of research and innovation as referred to in point (e) of paragraph 2 shall be performed only by means of Europol's research and innovation projects with clearly defined purposes and objectives, duration and scope of the personal data processing involved and shall be subject to the additional specific safeguards set out in Article 33a, in

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				respect of which the additional
				specific safeguards set out in
				Article 33a shall apply the duration
				and scope of the personal data
				processing.
164	(c) paragraph 5 is replaced by		(c) paragraph 5 is replaced by the	
	the following:		following:	
165	"5. Without prejudice to	AM 83	"5. Without prejudice to Article	Written procedure 7/1/2022:
	Article 8(4) and Article 18a,	5. Without prejudice to	8(4) and Article 18a, categories of	provisionally agreed (CSL agrees to
	categories of personal data and	Article 8(4), Article 18(2)(e) and Article 18a, categories of	personal data and categories of data	drop par. 5bis and to include text
	categories of data subjects	personal data and categories of	subjects whose data may be	into new recital 15b in line 32a)
	whose data may be collected	data subjects whose data may be collected and processed for	collected and processed for each	
	and processed for each	each purpose referred to in	purpose referred to in <b>points</b> (a) to	
	purpose referred to in	paragraph 2 are listed in Annex	(d) and (f) of paragraph 2 are listed	5. Without prejudice to Article 8(4),
	paragraph 2 are listed in	II.	in Annex II. <u>In accordance with</u>	<b>Article 18(2)(e)</b> and Article 18a,
	Annex II."		Article 73 of Regulation (EU)	and without prejudice to data
			2018/1725, Europol shall, where	processing pursuant to Article
			applicable and as far as possible,	26(6b) where Europol's

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		make a clear distinction between	infrastructure is used for bilateral
		the operational personal data of	exchanges and Europol has no
		these different categories of data	access to the content of the data,
		subjects."	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.
			New paragraph 5bis:
			In accordance with Article 73 of
			Regulation (EU) 2018/1725,
			Europol shall, where applicable
			and as far as possible, make a
			clear distinction between the
			operational personal data of these
			different categories of data
			subjects."

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
166	(d) the following paragraph 5a is inserted:	AM 84  Deleted	(d) the following paragraph 5a is inserted:	TM 17/11/2021: provisional agreement to move wording down to par. 6a(new) - merge CSL/EP text (line 173)
167	"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.	Deleted	"5a. Prior to the processing of data under paragraph 2 of this Article, and where necessary for the purpose of determining whether personal data complies with the requirements of paragraph 5 of this Article.  Europol may temporarily process personal data received pursuant to Article 17(1) and (2) for the that purpose of determining whether such data comply with the requirements of paragraph 5 of this Article, including by checking the	TM 17/11/2021: provisional agreement to move wording down to par. 6a(new) - merge CSL/EP text (line 173)

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			data against all data that Europol	
			already processes in accordance	
			with paragraph 5.	
168	The Management Board,	deleted	The Management Board, acting on	TM 17/11/2021: provisional
	acting on a proposal from the		a proposal from the Executive	agreement to move wording down
	Executive Director and after		Director and after consulting the	to par. 6a(new) - merge CSL/EP
	consulting the EDPS, shall		EDPS, shall further specify the	text (line 173)
	further specify the conditions		conditions relating to the <b>provision</b>	
	relating to the processing of		and processing of such data.	
	such data.			
169	Europol may only process	Deleted	Europol may only process personal	TM 17/11/2021: provisional
	personal data pursuant to this		data pursuant to this paragraph for a	agreement to move wording down
	paragraph for a maximum		maximum period of one year 18	to par. 6a(new) - merge CSL/EP
	period of one year, or in		months, or in justified cases for a	text (line 173)
	justified cases for a longer		longer period with the prior	
	period with the prior		authorisation of the EDPS, where	
	authorisation of the EDPS,		necessary for the purpose of this	
	where necessary for the		Article. Such personal data shall	
	purpose of this Article. Where		be functionally separated from	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	the result of the processing		other data. Where the result of the	
	indicates that personal data do		processing indicates that personal	
	not comply with the		data do not comply with the	
	requirements of paragraph 5 of		requirements of paragraph 5 of this	
	this Article, Europol shall		Article, Europol shall delete that	
	delete that data and inform the		data and inform the provider of the	
	provider of the data		data accordingly where relevant."	
	accordingly."			
170		AM 85	(e) Paragraph 6 is amended as	TM 17/11/2021: provisional
		(5 a) paragraph 6 is replaced	<u>follows:</u>	agreement to use EP wording
		by the following:		(5 a) paragraph 6 is replaced by the following:
171		6. Europol may temporarily process data for the purpose of	"6. Europol may temporarily	TM 17/11/2021: provisional
		determining whether such data	process data for the purpose of	agreement to use EP wording for
		are relevant to its tasks and, if so, for which of the purposes	determining whether such data are	the first sentence, second sentence
		referred to in paragraph 2. The	relevant to its tasks and, if so, for	covered in new paragraph 6b (line
		Management Board, acting on a proposal from the Executive	which of the purposes referred to in	175a)
		Director and after consulting the EDPS, shall further specify	paragraph 2. The Management	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		the conditions relating to the	Board, acting on a proposal from	
		processing of such data, in particular with respect to access	the Executive Director and after	
		to and use of the data, as well	consulting the EDPS, shall further	6. Europol may temporarily process
		as time limits for the storage and deletion of the data, which	specify the conditions relating to	data for the purpose of determining
		may not exceed six months,	the processing of such data, in	whether such data are relevant to its
		having due regard to the principles referred to in Article	particular with respect to access to	tasks and, if so, for which of the
		71 of Regulation	and use of the data, as well as time	purposes referred to in paragraph 2.
		(EU)2018/1725 ."	limits for the storage and deletion of	
			the data, which may not exceed six	
			months, having due regard to the	
			principles referred to in <b>Regulation</b>	
			(EU) 2018/1725 <del>Article 28</del> ."	
172		AM 86		TM 17/11/2021: provisional
		da. the following		agreement to create new par.
		paragraph 6a is inserted:		6a(new) (moved down from par. 5a)
				•
				- use EP text
173		"6a. Prior to the processing of data under paragraph 2 of this	Prior to the processing of data under	Written procedure 20/1/2022:
		Article, Europol may	paragraph 2 of this Article, and	PRES compromise proposal;
		exceptionally temporarily process personal data received	where necessary for the purpose	rapporteur's suggestion to amend:

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	pursuant to Article 17(1) and	of determining whether personal	"Prior to the processing of data
	(2) for the sole purpose of determining whether such	data complies with the	under paragraph 2 of this Article,
	data comply with the	requirements of paragraph 5 of	and where strictly necessary and
	requirements of paragraph 5 of this Article, including by	this Article, Europol may	proportionate for the purpose of
	checking the data against all	temporarily process personal data	determining whether personal
	data that Europol already processes in accordance with	received pursuant to Article 17(1)	data complies with the
	paragraph 5.	and (2) for the that purpose of	requirements of paragraph 5 of
		determining whether such data	<u>this Article,</u> Europol may
		comply with the requirements of	<i>[exceptionally]</i> temporarily process
		<del>paragraph 5 of this Article</del> ,	personal data received pursuant to
		including by checking the data	Article 17(1) and (2) for that sole
		against all data that Europol already	purpose, including by checking the
		processes in accordance with	data against all data that Europol
		paragraph 5.	already processes in accordance
			with paragraph 5."
			TM 17/11/2021: EP proposal to
			merge CSL/EP texts, leave
			'exceptionally' for later; Council

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				suggestion to replace the word
				[exceptionnally] by "where strictly
				<b>necessary</b> "; to be confirmed by the
				Council and EP
				Council and El
174		The Management Board, acting on a proposal from the	The Management Board, acting on	TM 17/11/2021: provisional
		Executive Director and after	a proposal from the Executive	agreement
		consulting the EDPS, shall further specify the conditions	Director and after consulting the	
		relating to the temporary	EDPS, shall further specify the	Deleted and moved to paragraph 6b
		processing of such data.	conditions relating to the <b>provision</b>	(line 175a)
			and processing of such data.	
175		Europol may only process	Europol may only process personal	Written procedure 20/1/2022:
		personal data pursuant to this paragraph for a maximum	data pursuant to this paragraph for a	PRES compromise suggestion
		period of one year, which may be extended once by up to six	maximum period of one year 18	1 1 1 20
		months in duly justified cases	<b>months</b> , or in justified cases for a	
		where proportionate and	longer period with the prior	"Europol may only process personal
		necessary for the purpose of	authorisation of the EDPS, where	
		this Article. <u>Europol shall</u> inform the EDPS of any	·	data pursuant to this paragraph for a
		extension of the maximum	necessary for the purpose of this	maximum period of one year 18
		processing period. Where the	Article. Such personal data shall	months, or in justified cases for a
		temporary processing is no longer proportionate and	be functionally separated from	longer period where necessary for
		necessary for the purpose of		

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	this Article, and in any case	other data. Where the result of the	the purpose of this Article. <u>Europol</u>
	after the end of the maximum processing period, Europol	processing indicates that personal	shall inform the EDPS of any
	shall permanently delete the	data do not comply with the	extension of the maximum
	personal data that does not comply with the requirements	requirements of paragraph 5 of this	processing period. The total
	of paragraph 5 of this Article	Article, Europol shall delete that	period of processing shall not
	and the results of the processing, and inform the	data and inform the provider of the	exceed a period of three years.
	provider of the data	data accordingly where relevant.	Such personal data shall be
	accordingly.		functionally separated from other
			data. Where the result of the
			processing indicates Europol
			<u>concludes</u> 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
			where relevant."
			COM compromise proposal
			(6/12/2021):
			(U/12/2U21)•

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			"Europol may only process personal
			data pursuant to this paragraph for a
			maximum period of one year 18
			months, or in justified cases for a
			longer period with the prior
			authorisation of the EDPS, where
			necessary for the purpose of this
			Article. The total period of
			processing shall not exceed a
			maximum period of three years.
			Such personal data shall be
			<u>functionally separated from other</u>
			data. 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 where relevant."

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
175a				Written procedure (20/1/2022):
				PRES compromise suggestion
				6b. 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 <i>pursuant to</i>
				paragraphs 6 and 6a, in particular
				with respect to <i>the provision</i> , access
				to and use of the data, as well as
				time limits for the storage and
				deletion of the data, which may not
				exceed the respective time-limits set
				out in paragraphs 6 and 6a, having
				due regard to the principles referred
				to in Article 71 of Regulation
				(EU)2018/1725.
				TM 17/11/2021: EP/CSL

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				provisionally agree to insert new para 6b to cover similar provisions previously set out in lines 171 and 174; EP asked for clarification on addition of 'provision' by CSL; wording to be confirmed by the Council;
176	(6) The following Article 18a is inserted:		(6) The following Article 18a is inserted:	
177	"Article 18a		"Article 18a	
178	Information processing in support of a criminal investigation	AM 87  Processing of personal data in support of a criminal investigation	Information processing in support of a criminal investigation	TM 26/11/2021: provisionally agreed to use EP text  Processing of personal data in support of a criminal investigation
179	1. Where necessary for	AM 88	1. Where necessary for the	TM 26/11/2021: provisionally

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	the support of a specific criminal investigation, Europol may process personal data outside the categories of data subjects listed in Annex II where:	1. Where necessary for the support of <i>an ongoing</i> specific criminal investigation, Europol may process personal data outside the categories of data subjects listed in Annex II where:	support of a specific criminal investigation within the scope of Europol's objectives as set out in Article 3, Europol may process personal data outside the categories of data subjects listed in Annex II where:	1. Where necessary for the support of a specific <i>ongoing</i> criminal investigation within the scope of Europol's objectives as set out in Article 3, Europol may process personal data outside the categories of data subjects listed in Annex II where:
180	(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	(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	(a) a Member State or the EPPO provides an investigative data ease file to Europol pursuant to point (a) or point (b) 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), or in exceptional	TM 26/11/2021: provisionally agreed to merge EP/CSL text  (a) a Member State, the EPPO or Eurojust provides an investigative data to Europol pursuant to points (a) or (b) of Article 17(1) requesting Europol to support that ongoing specific criminal

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	pursuant to point (c) of Article 18(2); and		and duly justified cases, upon request by a that Member State, for cross-checking pursuant to point (a) of Article 18(2); and	investigation within the mandate of Europol  (i) by way of operational analysis pursuant to point (c) of Article 18(2), or  (ii) in exceptional and duly justified cases, by way of cross-checking pursuant to point (a) of Article 18(2);
181	(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.	(b) Europol <i>concludes</i> 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 <i>and sent to the EDPS for information</i> .	(b) Europol assesses that it is not possible to carry out the operational analysis or cross-checking of the investigative case file in support of the specific criminal investigation without processing personal data that does not comply with the requirements of Article 18(5). This assessment shall be recorded.	PRES compromise suggestion  (20/1/2022):  (b) Europol assesses that it is not possible to carry out the operational analysis or cross-checking of the investigative case file in support of the specific criminal investigation 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 when Europol ceases to support the related specific criminal investigation.

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				2 <sup>nd</sup> political trilogue (30/11/2021): provisional agreement except the last phrase on EDPS information which will be part of the EDPS package
182		AM 91  (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).		TM 26/11/2021: provisionally agreed to delete EP text as strategic analysis does not justify processing of big data provided in the context of criminal investigations (rather the outcome of operational analysis);
183			1a. The Member State providing the investigative data to Europol shall inform Europol when its authorisation to process that data in the specific criminal investigation in accordance with procedural requirements and safeguards under its applicable	Written procedure 7/1/2022: provisionally agreed  2. The Member State providing the investigative data to Europol shall inform Europol when its authorisation to process that data in the specific criminal investigation in accordance with

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			national law has ceased to exist.  When the EPPO provides investigative data to Europol, the EPPO shall inform Europol when the authorisation to process that data in the specific criminal investigation in accordance with procedural requirements and safeguards under the applicable Union law and national law has ceased to exist.	procedural requirements and safeguards under its applicable national law has ceased to exist.  When the EPPO or Eurojust provide investigative data to Europol, they the EPPO shall inform Europol when the authorisation to process that data in the specific criminal investigation in accordance with procedural requirements and safeguards under the applicable Union law and national law has ceased to exist.
184	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	AM 92  2. Europol may process personal data contained in an investigative case <i>file</i> for as long as it supports the on-going specific criminal investigation for which the investigative case file was provided by a Member	2. Europol may process  personal data contained in an investigative data ease file in accordance with Article 18(2) for as long as it supports the on-going specific criminal investigation for	TM 26/11/2021: provisionally agreed merge EP/CSL text  3. Europol may process personal data contained in an investigative data ease file in accordance with

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	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.	State, the EPPO or Eurojust in accordance with paragraph 1, and only for the purpose of supporting that investigation.	which the investigative data ease file was provided by a Member State or the EPPO in accordance with paragraph 1, and only for the purpose of supporting that investigation.	Article 18(2) for as long as it supports the on-going specific criminal investigation for which the investigative data ease 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.
185	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.	AM 93  Deleted	The Management Board, acting on a proposal from the Executive Director and after consulting the EDPS, shall further specify the conditions relating to the <b>provision</b> and processing of such data.	TM 26/11/2021: provisionally agreed  CSL text merged with lines 186, 190 and 191; see line 191 below
186	Without prejudice to the processing of personal data under Article 18(5a), personal	AM 94  Deleted	Without prejudice to the processing of personal data under Article 18(5a), personal data outside the	TM 26/11/2021: provisionally agreed  CSL text to be merged with lines

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	data outside the categories of		categories of data subjects listed in	185, 190 and 191; see line 191
	data subjects listed in Annex II		Annex II shall be functionally	below
	shall be functionally separated		separated from other data and may	
	from other data and may only		only be <del>accessed</del> <b>processed</b> where	
	be accessed where necessary		necessary and proportionate for	
	for the support of the specific		the support of the <b>ongoing</b> specific	
	criminal investigation for		criminal investigation for which	
	which they were provided.		they were provided, including for	
			the purpose of ensuring the	
			veracity, reliability and	
			traceability of the criminal	
			intelligence process.	
187		AM 95		TM 26/11/2021: provisionally
		2a. Where Europol reaches		agreed covered in line 192
		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		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		personal data shall be permanently deleted.		
188	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-	3. Upon request of the 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.	3. Upon request of the Member State or the EPPO that provided an investigative data ease file to Europol pursuant to paragraph 1, Europol may store that investigative data ease file and the outcome of its processing 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 concerning that criminal investigation are on-going in that Member State or by the EPPO.	TM 26/11/2021: provisionally agreed merge EP/CSL text  4. Where a Member State, the EPPO, or Eurojust that provided an investigative data ease file to Europol pursuant to paragraph 1, Europol may store that investigative data ease file and the outcome of its processing operational analysis beyond the storage processing period set out in paragraph 2, upon the request of the provider of that investigative data, and for the sole purpose of ensuring the veracity, reliability and traceability of the criminal intelligence process, and only for as long as the judicial

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	going in that Member State.			proceedings <u>concerning the</u> criminal investigation are on-going <u>for which that data was provided.</u>
189	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.	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.	That Member State or the EPPO, or, with their agreement, another Member State in which judicial proceedings are ongoing with respect to a related criminal investigation, may also request Europol to store the investigative case file data 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 judicial proceedings following concerning a related criminal investigation are on-going	TM 26/11/2021: provisionally agreed merge EP/CSL text  That Member State, the EPPO,  Eurojust, or, with their agreement, another Member  State in which judicial proceedings are ongoing with respect to a related criminal investigation, may also request  Europol to store the investigative data case file and the outcome of its operational analysis beyond the storage processing period set out in paragraph 2 for the sole purpose of ensuring the veracity, reliability and traceability of the criminal

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			in that another Member State.	intelligence process, and only for as
				long as judicial proceedings
				<b><u>following</u></b> concerning a related
				criminal investigation are ongoing
				in <u>that other another</u> Member
				State.
190	The Management Board,	AM 98	The Management Board, acting on	TM 26/11/2021: provisionally
	acting on a proposal from the	deleted	a proposal from the Executive	agreed merged with lines 185, 186
	Executive Director and after		Director and after consulting the	and 191; see line 191 below
	consulting the EDPS, shall		EDPS, shall further specify the	
	further specify the conditions		conditions relating to the processing	
	relating to the processing of		of such data. Such personal data	
	such data. Such personal data		shall be functionally separated from	
	shall be functionally separated		other data and may only be	
	from other data and may only		accessed where necessary for the	
	be accessed where necessary		purpose of ensuring the veracity,	
	for the purpose of ensuring the		reliability and traceability of the	
	veracity, reliability and		criminal intelligence process.	
	traceability of the criminal			
	intelligence process.			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
191	COM (13908/20 + COR 1)	EP (A9-9999/2021)  AM 99  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	Council	Provisional agreement  2nd trilogue (30/11/2021): scale and complexity criterion needs further technical discussion (linked to line 37)  COM compromise proposal (6/12/2021) for a new paragraph 6 (paragraph 5 same as previously):  5. Without prejudice to the processing of personal data under Article 18(6a), personal data outside the categories of data subjects listed in Annex II shall be functionally
		were provided and for the purpose of ensuring the		separated from other data and may
		veracity, reliability and traceability of the criminal		only be <u>accessed processed</u> where necessary <b>and proportionate</b> for
		intelligence process and shall be kept in accordance with		the purposes of paragraphs 3 and 4
		paragraph 3.		of this Article.

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				"6. The Management Board, acting on a proposal from the Executive
				Director and after consulting the EDPS, shall further specify the
				and processing of personal data in accordance with paragraphs 3
				and 4, in particular regarding the scale and complexity of the
				processing and the type and importance of the investigations."
				TM 26/11/2021: provisionally agreed to merge with CSL text in lines 185, 186 and 190 (par. 5+6)
192	4. Paragraphs 1 to 3 shall also apply where Europol receives personal data from a third country with which there	AM 100  4. Paragraphs 1 to 3a shall also apply to personal data contained in an investigative case file provided to Europol	4. Paragraphs 1 to 3 shall also apply where Europol receives personal data from a third country with which there is an agreement	Written procedure 7/1/2022:  Presidency compromise  suggestion

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
is an agreement concluded	by a third country as referred	concluded either on the basis of	
either on the basis of Article	to in points (a), (b) and (c) of Article 25(1) for operational	Article 23 of Decision	
23 of Decision 2009/371/JHA	analysis that supports a specific	2009/371/JHA in accordance with	2nd trilogue 30/11/2021:
in accordance with point (c) of	criminal investigation in <i>one or more</i> Member States that	point (c) of Article 25(1) of this	provisionally agreed except text in
Article 25(1) of this	Europol supports, provided that	Regulation or on the basis of Article	<u>vellow:</u>
Regulation or on the basis of	the third county acquired the data in the context of a	218 TFEU in accordance with point	
Article 218 TFEU in	criminal investigation in	(b) of Article 25(1) of this	
accordance with point (b) of	accordance with procedural requirements and safeguards	Regulation, ex which is the subject	7. Paragraphs 1 to 5 shall also apply
Article 25(1) of this	applicable under its national	of an adequacy decision as referred	where Europol receives personal
Regulation, or which is the	criminal law. Where a third country provides an	to in point (a) of Article 25(1) of	data from a third country with
subject of an adequacy	investigative case file to	this Regulation, or in the case of	which there is an agreement
decision as referred to in point	Europol, the EDPS shall be informed. Europol shall verify	which appropriate safeguards	concluded either on the basis of
(a) of Article 25(1) of this	that the amount of personal	with regard to the protection of	Article 23 of Decision
Regulation, and such third	data is not manifestly disproportionate in relation to	operational personal data exist or	2009/371/JHA in accordance with
country provides an	the specific investigation in a	are provided for in a legally	point (c) of Article 25(1) of this
investigative case file to	Member State that Europol supports, and that there are no	binding instrument in accordance	Regulation or on the basis of Article
Europol for operational	objective elements indicating	with Article 25(4a) of this	218 TFEU in accordance with point
analysis that supports the	that the case file has been obtained by the third country in	<b>Regulation</b> , and such third country	(b) of Article 25(1) of this
specific criminal investigation	manifest violation of	provides <del>an</del> investigative <u>data</u> <del>case</del>	Regulation, or which is the subject
in a Member State or in	fundamental rights. Where Europol reaches the conclusion	<b>file</b> to Europol for operational	of an adequacy decision as referred
Member States that Europol	that there are preliminary	analysis that <del>supports</del> <b>contributes</b>	to in point (a) of Article 25(1) of

COM (13908/20 + COR 1)**EP** (A9-9999/2021) Council **Provisional agreement** supports. Where a third to the specific criminal this Regulation, or in the case of indications that such data is disproportionate or collected in country provides an investigation in one or several a which appropriate safeguards violation of fundamental rights, investigative case file to Europol shall not process it and Member States or in Member States with regard to the protection of delete the data. Personal data Europol, the EDPS shall be that Europol supports. Where a operational personal data exist or processed pursuant to this informed. Europol shall verify paragraph may only third country provides an are provided for in a legally accessed by Europol where that the amount of personal investigative case file to Europol. binding instrument in accordance necessary for the support of the specific criminal investigation the EDPS shall be informed. data is not manifestly with Article 25(4a) of this in one or more Member States disproportionate in relation to **Europol shall verify that the Regulation,** and such third country for which it was provided. It shall be shared only within the the specific investigation in a amount of personal data is not provides an investigative data case Union or, where necessary, Member State that Europol manifestly disproportionate in **file** to Europol for operational with international supports, and that there are no organisations as referred to in relation to the specific analysis that supports contributes points (b) and (c) of Article objective elements indicating investigation in a Member State to the specific criminal *25(1)*. that the case file has been that Europol supports, and that investigation in one or more obtained by the third country there are no objective elements several a Member States or in in manifest violation of indicating that the ease file has Member States that Europol fundamental rights. Where been obtained by the third supports, *provided that the third* Europol, or the EDPS, reaches country in manifest violation of country acquired the data in the the conclusion that there are fundamental rights Any transfer context of a criminal investigation preliminary indications that of data shall take place in in accordance with procedural such data is disproportionate accordance with paragraphs 5, 8 requirements and safeguards or collected in violation of and 9 of Article 23. Where applicable under its national

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
fundamental rights, Europol		Europol, or the EDPS, reaches the	criminal law. Where a third country
shall not process it. Data		conclusion that there are	provides <b>an</b> investigative <b>data ease</b>
processed pursuant to this		preliminary is any indications that	<u>file</u> to Europol, <u>the DPO EDPS may</u>
paragraph may only be		such data is disproportionate or	where relevant notify the EDPS.
accessed by Europol where		collected in <b>obvious</b> violation of	Europol shall verify that the amount
necessary for the support of		fundamental rights, Europol shall	of personal data is not manifestly
the specific criminal		not process it. Data processed	disproportionate in relation to the
investigation in a Member		pursuant to this paragraph may only	specific investigation in a Member
State or in Member States. It		be accessed by Europol where	State that Europol supports. Where
shall be shared only within the		necessary for the support of the	Europol, or the EDPS, reaches the
Union.";		specific criminal investigation in a	conclusion that there are
		Member State or in Member States.	preliminary is an indications that
		It shall be shared only within the	such data is manifestly
		Union.";	disproportionate or was collected in
			obvious 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

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				one or more <del>a Member State or in</del>
				Member States for which it was
				provided. It shall be shared only
				within the Union.
193			(6 bis) In Article 19, paragraphs	TM 26/11/2021: provisionally
			1 and 2 are amended as follows:	agreed to use CSL text
194			"1. A Member State, a Union	TM 26/11/2021: provisional
			body, a third country or an	agreement to use CSL text
			international organisation providing	
			information to Europol shall	
			determine the purpose or purposes	A Member State, a Union body, a
			for which it is to be processed, as	third country or an international
			referred to in Article 18. If it has	organisation providing information
			not done so, Europol, in agreement	to Europol shall determine the
			with the provider of the information	purpose or purposes for which it is
			concerned, shall process the	to be processed, as referred to in
			information in order to determine	Article 18. If it has not done so,
			the relevance of such information as	Europol, in agreement with the
			well as the purpose or purposes for	provider of the information

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			which it is to be further processed.	concerned, shall process the
			Europol may process information	information in order to determine
			for a purpose different from that for	the relevance of such information as
			which information has been	well as the purpose or purposes for
			provided only if authorised so to do	which it is to be further processed.
			by the provider of the information.	Europol may process information
			Information provided for the	for a purpose different from that for
			purposes referred to in points (a)	which information has been
			to (d) of Article 18(2) may also be	provided only if authorised so to do
			processed by Europol for the	by the provider of the information.
			purpose of Article 18(2)(e) in	Information provided for the
			accordance with the procedures	purposes referred to in points (a)
			laid down in Article 33a.	to (d) of Article 18(2) may also be
				processed by Europol for the
				purpose of Article 18(2)(e) in
				accordance with the procedures
				laid down in Article 33a.
195			2. Member States, Union	Written procedure (25/11/2021):

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			bodies, third countries and	provisional agreement to accept
			international organisations may	CSL text
			indicate, at the moment of	
			providing information to Europol,	
			any restriction on access thereto or	2. Member States, Union
			the use to be made thereof, in	bodies, third countries and
			general or specific terms, including	international organisations may
			as regards its transfer,	indicate, at the moment of providing
			<u>transmission</u> , erasure or	information to Europol, any
			destruction. Where the need for	restriction on access thereto or the
			such restrictions becomes apparent	use to be made thereof, in general or
			after the information has been	specific terms, including as regards
			provided, they shall inform Europol	its transfer, transmission, erasure
			accordingly. Europol shall comply	or destruction. Where the need for
			with such restrictions."	such restrictions becomes apparent
				after the information has been
				provided, they shall inform Europol
				accordingly. Europol shall comply
				with such restrictions."
196	(7) Article 20 is amended		(7) Article 20 is amended as	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	as follows:		follows:	
197	<ul><li>(a) the following paragraph 2a</li><li>is inserted:</li><li>"2a. In the framework of</li></ul>	AM 101	<ul><li>(a) the following paragraph 2a is inserted:</li><li>"2a. In the framework of</li></ul>	Written procedure (25/11/2021):
	conducting 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).";	2a. In the framework of conducting 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).	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 joint operational analysis in specific investigations, without prejudice to any restrictions of Article 19(2) and following procedures to be set out in the guidelines referred to in Article 18(7).";	provisional agreement to merge EP/CSL wording  In the framework of conducting 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 joint operational analysis in specific investigations,

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				without prejudice to any restrictions of Article 19(2) and following procedures to be set out in the guidelines referred to in Article 18(7).";
199	(b) in paragraph 3, the introductory phrase is replaced by the following:		(b) in paragraph 3, the introductory phrase is replaced by the following:	
200	"3. In accordance with national law, the information referred to in paragraphs 1, 2 and 2a shall be accessed and further processed by Member States only for the purpose of preventing and combating, and for judicial proceedings related to:";		"3. In accordance with national law, the information referred to in paragraphs 1, and-2 and 2a shall be accessed and further processed by Member States only for the purpose of preventing, detecting, investigating and prosecuting and combating, and for judicial proceedings related to:";	Written procedure (25/11/2021): provisional agreement to use CSL text  "3. In accordance with national law, the information referred to in paragraphs 1, and 2 and 2 a shall be accessed and further processed by Member States only for the purpose of preventing, detecting, investigating and prosecuting and combating, and for judicial

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				proceedings related to:";
201	(c) the following paragraph 5		(c) the following paragraph 5 is	
	is added:		<del>added:</del>	
202	"5. When national law	AM 102	"5. When national law allows	TM: 06/12/2021
	allows for Europol staff to	5. When national	for Europol staff to provide	provisionally agreed to delete
	provide evidence which came	<pre>procedural law allows for Europol staff to provide</pre>	evidence which came to their	provisionally agreed to defete
	to their knowledge in the	evidence <i>that has come</i> to their	knowledge in the performance of	CSL: issue is covered by Art. 19 of
	performance of their duties or	knowledge in the performance of their duties or the exercise of	their duties or the exercise of	the Staff Regulations; provision
	the exercise of their activities,	their activities, only Europol	their activities, only Europol staff	would offer confusion as it would
	only Europol staff authorised	staff authorised by the Executive Director to do so	authorised by the Executive	only apply goes beyond the rules
	by the Executive Director to	shall be able to give such	Director to do so shall be able to	applying to other EU officials;
	do so shall be able to give such	evidence in <i>criminal</i> proceedings in the Member	give such evidence in judicial	under staff regulation authorisation
	evidence in judicial	States.;	proceedings in the Member	could technically be refused
	proceedings in the Member		States.";	
	States.";			
203	(8) The following Article		(8) The following Article 20a is	
	20a is inserted:		inserted:	
204	"Article 20a		"Article 20a	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
205	Relations with the European		Relations with the European	
	<b>Public Prosecutor's Office</b>		Public Prosecutor's Office	
206	1. Europol shall establish		Europol shall establish and	
	and maintain a close		maintain a close relationship with	
	relationship with the European		the European Public Prosecutor's	
	Public Prosecutor's Office		Office (EPPO). In the framework of	
	(EPPO). In the framework of		that relationship, Europol and the	
	that relationship, Europol and		EPPO shall act within their	
	the EPPO shall act within their		respective mandate and	
	respective mandate and		competences. To that end, they	
	competences. To that end, they		shall conclude a working	
	shall conclude a working		arrangement setting out the	
	arrangement setting out the		modalities of their cooperation.	
	modalities of their			
	cooperation.			
207	2. Europol shall actively	AM 103	2. <b>Upon request by the EPPO</b>	TM 17/11/2021: provisionally
	support the investigations and	2. Proceeding a request	in accordance with Article 102 of	agreed:
	prosecutions of the EPPO and	by the EPPO, Europol shall	<b>Regulation (EU) 2017/1939,</b>	
	cooperate with it, in particular	actively support the investigations of the EPPO and	Europol shall <del>actively</del> support the	2 H (1 4 FPP)
	through exchanges of	cooperate with it, in particular through exchanges of	investigations and prosecutions of	2. <u>Upon request by the EPPO</u>

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	information and by providing analytical support.	information and by providing analytical support, until the moment it determines whether to prosecute or otherwise dispose of the case.	the EPPO and cooperate with it, in particular through exchanges of by providing information and by providing analytical support.	in accordance with Article 102 of Regulation (EU) 2017/1939, Europol shall actively support the investigations and prosecutions of the EPPO and cooperate with it, in particular through exchanges of by providing information and by providing analytical support, until the moment the EPPO determines whether to prosecute or otherwise dispose of the case.
208	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	AM 104  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	information to the EPPO under paragraph 2, Europol shall take all appropriate measures to enable the EPPO to have indirect access to data related to offences within its the EPPO's mandate, to information provided for the	Written procedure 20/1/2022: Presidency compromise suggestion further amending the COM compromise text  3. "In order to provide information to the EPPO under paragraph 2, Europol shall take all appropriate

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
mutandis with the exception of	its paragraphs 2 and 8.	purposes of points (a), (b) and (c) of	measures to enable the EPPO to
its paragraph 2.		Article 18(2) on the basis of a hit/no	have indirect access to data related
		hit system, without prejudice to	to offences within the EPPO's
		any restrictions indicated in	mandate, provided for the purposes
		accordance with Article 19(2) by	of points (a), (b) and (c) of Article
		the Member State, Union body,	18(2) on the basis of a hit/no hit
		third country or international	system, which only notifies
		organisation which provided the	Europol in the case of a hit and
		information in question. Article	without prejudice to any
		21 shall apply mutatis mutandis	restrictions indicated by the
		with the exception of its paragraph	Member State, Union body, third
		<b>⊋</b> .	<u>country</u> or <u>international</u>
			organisation providing the
			information in question, in
			accordance with Article 19(2). In
			the case of a hit, Europol shall
			initiate the procedure by which the
			information that generated the hit
			may be shared, in accordance with
			the decision of the provider of the
			information to Europol, and only

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			to the extent that the data
			generating the hit are relevant for
			the request submitted pursuant to
			paragraph 2."
			TM 26/11/2021: CSL cannot accept
			deletion of reference to third
			countries and international
			organisations
			TM 17/11/2021: EP requests
			deletion of third countries and
			international organisations given
			that they have no legal obligation to
			provide relevant information to
			EPPO, otherwise OK with COMP;
			CSL to check internally
			CSL to check internally

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
209	4. Europol shall without		4. Europol shall without undue	Written procedure 20/1/2022:
	undue delay report to the EPPO any criminal conduct in		delay report to the EPPO any criminal conduct in respect of	PRES compromise suggestion
	respect of which the EPPO		which the EPPO could exercise its	4. Europol shall without undue
	could exercise its		competence in accordance with	delay report to the EPPO any
	competence."		Article 22, Article 25(2) and (3) of	criminal conduct in respect of
			Regulation (EU) 2017/1939 and	which the EPPO could exercise its
			without prejudice to any	competence in accordance with
			restrictions indicated in	Article 22, Article 25(2) and (3) of
			accordance with Article 19(2) of	Regulation (EU) 2017/1939 and
			this Regulation by the Member	without prejudice to any
			State, Union body, third country	restrictions indicated in
			or international organisation	accordance with Article 19(2) of
			providing the information in	this Regulation by the Member
			question. Europol shall notify the	State or Union body, third
			Member States concerned	country or international
			without delay."	organisation providing the
				information in question. Europol
				shall notify the Member States
				concerned without delay."

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			Where the information concerning
			criminal conduct in respect of
			which the EPPO could exercise its
			competence has been provided to
			Europol by a Member State that
			indicated restrictions on the use of
			such information in accordance
			with Article 19(2), Europol shall
			notify the EPPO of the existence of
			that restriction and refer the matter
			to the Member State concerned
			which shall engage directly with
			the EPPO in order to comply with
			its obligations pursuant to Article
			24(1) and (4) of Council
			Regulation (EU) 2017/1939.
			TM 26/11/2021: CSL cannot accept

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			deletion of reference to third
			countries and international
			organisations
			TM 17/11/2021: EP requests
			deletion of third countries and
			international organisations given
			that they have no legal obligation to
			provide relevant information to
			EPPO, otherwise OK with COMP;
			CSL to check internally
			4. Europol shall without undue
			delay report to the EPPO any
			criminal conduct in respect of
			which the EPPO could exercise its
			competence in accordance with
			Article 22, Article 25(2) and (3) of
			Regulation (EU) 2017/1939 and

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			without prejudice to any
			restrictions indicated in
			accordance with Article 19(2) of
			this Regulation by the Member
			State, or Union body, third
			<u>country or international</u>
			organisation providing the
			information in question. Europol
			shall notify the Member States
			concerned without delay."
			Where the information concerning
			criminal conduct in respect of
			which the EPPO could exercise its
			competence has been provided to
			Europol by a Member State that
			indicated restrictions on the use of
			such information in accordance
			with Article 19(2), Europol shall

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				notify the EPPO of the existence of that restriction and refer the matter to the Member State concerned which shall engage directly with the EPPO in order to comply with its obligations pursuant to Article 24(1) and (4) of Council Regulation (EU) 2017/1939.
210	(9) In Article 21, the following paragraph 8 is added:		(9) In Article 21, the following paragraph 8 is added:	
211	"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	AM 105  8. If during information-processing activities in respect of <i>a specific</i> 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	"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	Written procedure (25/11/2021):  provisional agreement to combine  EP/CSL text  If during information-processing activities in respect of <i>a specific</i> investigation or project Europol identifies information relevant to

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	its own initiative without		without undue delay provide OLAF	possible illegal activity affecting the
	undue delay provide OLAF		with that information without	financial interest of the Union,
	with that information."		prejudice to any restrictions	Europol shall without undue delay
			indicated by the Member States	provide OLAF with that
			in accordance with Article 19(2).	information without prejudice to
			<b>Europol shall notify the Member</b>	any restrictions indicated by the
			States concerned without delay."	Member States in accordance with
				Article 19(2). Europol shall notify
				the Member States concerned
				without delay.
212		AM 106	(9 bis) In Article 23, paragraph 7	
212			is replaced by the following:	
		(9a) In Article 23, paragraph 7 is replaced by the following:	is replaced by the following:	
213		7. Onward transfers of personal data held by Europol by	"7. Onward transfers of	Written procedure (25/11/2021):
		Member States, Union bodies,	personal data held by Europol by	provisional agreement (EP/CSL
		third countries, international organisations <i>and private</i>	Member States, Union bodies, third	texts are identical)
		parties shall be prohibited,	countries, and international	
		unless Europol has given its	organisations and private parties	"7. Onward transfers of

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		prior explicit authorisation.	shall be prohibited, unless Europol	personal data held by Europol by
			has given its prior explicit	Member States, Union bodies, third
			authorisation."	countries, and international
				organisations and private parties
				shall be prohibited, unless Europol
				has given its prior explicit
				authorisation."
214			(9 bis) The title of Section 2 is	Written procedure (25/11/2021):
			amended as follows:	provisional agreement to use CSL
				text
				The title of Section 2 is replaced
				by the following:
215			TRANSMISSION, TRANSFER AND	Written procedure (25/11/2021):
			EXCHANGE OF PERSONAL DATA	provisional agreement to use CSL
				text
				1. TRANSMISSION, TRANSFER
				1. IKANSMISSION, IKANSFER

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				AND EXCHANGE OF  PERSONAL DATA
216	(10) Article 24 is replaced by the following:		(10) Article 24 is replaced by the following:	
217	"Article 24		"Article 24	
218	Transmission of operational personal data to Union institutions, bodies, offices and agencies	AM 107  Transmission of personal data to Union institutions, bodies, offices and agencies	Transmission of operational personal data to Union institutions, bodies, offices and agencies	TM 12/11/2021: provisionally agreed to use EP text  Transmission of personal data to Union institutions and bodies, offices and agencies
219	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	AM 108  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	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	TM 12/11/2021: provisionally agreed  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 or body, office or agency if the personal data

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	other Union institution, body, office or agency	personal data are necessary and proportionate for the legitimate performance of tasks of the other Union institution, body, office or agency.		are necessary <i>and proportionate</i> for the legitimate performance of tasks of the other Union institution <i>or</i> body, office or agency.  NB: 'Union institution, body, office
				or agency' was replaced by 'Union institution or body' in line with agreement to drop definition of 'Union body' in Art. 2 and apply the definition of Union institutions or bodies' from EUDPR.
220	2. Where the operational	AM 109	2. Where the operational personal	TM 12/11/2021: provisionally
	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.	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.	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.	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 or body, office or agency. If doubts arise as to this necessity of the transmission of the personal data, Europol shall seek

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				further information from the
				recipient.
				NB: 'Union institution, body, office
				or agency' was replaced by 'Union
				institution or body' in line with
				agreement to drop definition of
				'Union body' in Art. 2 and apply
				the definition of Union institutions
				or bodies' from EUDPR.
221	Europol shall verify the		Europol shall verify the competence	TM 12/11/2021: provisionally
	competence of the other Union		of the other Union institution, body,	agreed - delete text as covered by
	institution, body, office or		office or agency. If doubts arise as	line 220
	agency. If doubts arise as to		to this necessity of the transmission	
	this necessity of the		of the personal data, Europol shall	
	transmission of the personal		seek further information from the	
	data, Europol shall seek		recipient.	
	further information from the			
	recipient.			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
222	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.	AM 110  The recipient Union institution, body, office or agency shall ensure that the necessity of the transmission of the personal data can be subsequently verified.	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.	TM 12/11/2021: provisionally agreed  The recipient Union institution or body shall ensure that the necessity of the transmission of the personal data can be subsequently verified.  (NB: 'Union institution, body, office or agency' was replaced by 'Union institution or body' in line with agreement to drop definition of 'Union body' in Art. 2 and apply the definition of Union institutions or bodies' from EUDPR.)
223	3. The recipient Union institution, body, office or agency shall process the operational personal data only for the purposes for which they were transmitted."	AM 111  3. The recipient Union institution, body, office or agency shall process the personal data only for the purposes for which they were transmitted.	3. The recipient Union institution, body, office or agency shall process the operational personal data only for the purposes for which they were transmitted."	TM 12/11/2021: provisionally agreed  3. The recipient Union institution <i>or body</i> shall process the personal data only for the purposes for which they were transmitted.

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				(NB: 'Union institution, body, office or agency' was replaced by 'Union institution or body' in line with agreement to drop definition of 'Union body' in Art. 2 and apply the definition of Union institutions or bodies' from EUDPR.)
224	(11) Article 25 is amended as follows:		(11) Article 25 is amended as follows:	
225			(-a) In paragraph 1, the introductory phrase and point (a) are replaced by the following:	TM 12/11/2021: provisionally agreed - use CSL wording  (-a) In paragraph 1, the introductory phrase and point (a) are replaced by the following:
226			"1. Subject to any possible restrictions pursuant to Article 19(2) or (3) and without prejudice to Article 67, Europol	TM 12/11/2021: provisionally agreed - use CSL wording  1. Subject to any possible

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			may transfer personal data to an competent authority of a third country or to an international organisation, insofar as such transfer is necessary for the performance of Europol's tasks, on the basis of one of the following:	restrictions pursuant to Article 19(2) or (3) and without prejudice to Article 67, Europol may transfer personal data to an competent authority of a third country or to an international organisation, insofar as such transfer is necessary for the performance of Europol's tasks, on the basis of one of the following:
227			(a) a decision of the Commission adopted in accordance with Article 36 of Directive (EU) 2016/680, finding that the third country or a territory or a processing sector within that third country or the international organisation in question ensures an adequate level of protection('adequacy decision') or in the absence of such a decision,	TM 17/11/2021: provisionally agreed - no AM to the Europol regulation  (a) a decision of the Commission adopted in accordance with Article 36 of Directive (EU) 2016/680, finding that the third country or a territory or a processing sector within that third country or the international

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			appropriate safeguards have been	organisation in question ensures an
			provided for or exist in	adequate level of
			accordance with paragraph 4a of	protection('adequacy decision')
			this Article, or in the absence of	
			both an adequacy decision and of	
			such appropriate safeguards, a	
			derogation applies pursuant to	
			paragraph 5 or 6 of this Article;"	
228		AM 112		2 <sup>nd</sup> trilogue (30/11/2021):
		(-a) paragraph 3 is deleted		provisional agreement to use EP
		( w) Pun ug. up. v v v v v v v v v v v v v v v v v v v		text
				(-a) paragraph 3 is deleted
				(-u) paragraph 3 is accerca
229		AM 113	(-a bis) A new paragraph 4a. is	<u>TM 17/11/2021</u> : provisionally
		(-aa) the following paragraph	<u>inserted</u>	agreed only if CSL insists to keep
		4a is inserted:		4a;
				(-aa) the following paragraph 4a is inserted:
230		"4a. In the absence of an adequacy decision, Europol	"4a. In the absence of an	TM 17/11/2021: provisionally
		may transfer personal data to	adequacy decision, the	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		a third country or an international organisation where:	Management Board may authorise Europol to transfer operational personal data to a competent authority of a third country or to an international organisation where:	4a. In the absence of an adequacy decision, the Management Board may authorise Europol to transfer operational personal data to a competent authority of a third country or to an international organisation where:
231		(a) appropriate safeguards with regard to the protection of personal data are provided for in a legally binding instrument; or	(a) appropriate safeguards with regard to the protection of operational personal data are provided for in a legally binding instrument; or	TM 17/11/2021: provisionally agreed  (a) appropriate safeguards with regard to the protection of operational personal data are provided for in a legally binding instrument; or
232		(b) Europol has assessed all the circumstances surrounding the transfer of	(b) Europol has assessed all the circumstances surrounding	<u>TM 17/11/2021</u> : provisionally

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	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	the transfer of operational personal data and has concluded that appropriate safeguards exist with regard to the protection of operational personal data."	(b) Europol has assessed all the circumstances surrounding the transfer of operational personal data and has concluded that appropriate safeguards exist with regard to the protection of operational personal data."

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		transferred."		
233	(a) In paragraph 5, the introductory phrase is replaced by the following:		(a) In paragraph 5, the introductory phrase is replaced by the following:	
234	"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:";	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:	"By way of derogation from paragraph 1, the Executive Director may authorise the transfer or a categoryies of transfers of personal data to a competent authority of a third countryies or to an international organisations on a case-by-case basis if the transfer is:";	TM 17/11/2021: provisionally agreed  By way of derogation from paragraph 1, the Executive Director may, in duly justified cases, authorise the transfer or a category of transfers of personal data to a competent authority of a third country or to an international organisation on a case-by-case basis if the transfer is, or the related transfers are:
235			(a bis) In paragraph 5, point (b) is amended as follows:	TM 17/11/2021: provisionally agreed to use CSL text

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				(a bis) In paragraph 5, point (b) is amended as follows:
236			"(b) necessary to safeguard legitimate interests of the data subject where the law of the Member State transferring the personal data so provides;"	TM 17/11/2021: provisional agreement to use CSL text  "(b) necessary to safeguard legitimate interests of the data subject where the law of the Member State transferring the personal data so provides;"
237				TM 17/11/2021: provisional agreement not to change par. 6 since CSL insists on keeping par. 4a, and therefore no amendments to par. 6 as per the Commission's suggestion should be considered.

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			COM compromise proposal
			<u>(08/11/2021):</u>
			(a bis) Paragraph 6 is replaced by
			the following:
			By way of derogation from
			paragraph 1, the Management
			Board may, in agreement with the
			EDPS, authorise for a period not
			exceeding one year, which shall be
			renewable, a set of transfers, in
			accordance a set of transfers of
			personal data to third countries or
			international organisations for one
			of the objectives listed in with
			points (a) to (e) of paragraph 5,
			taking into account the existence of
			adequate safeguards with respect to
			the protection of privacy and
			fundamental rights and freedoms of

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				individuals. Such authorisation shall be for a fixed period, which shall normally not exceed one year but can be longer if necessary. This period can be renewed/further extended in agreement with the EDPS. Such authorisation shall be duly justified and documented.
238	(b) In paragraph 8, the following sentence is deleted:	AM 115  (b) paragraph 8 is replaced by the following	(b) Paragraph 8 is replaced by the following:	
239	"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	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 authority, about the justification for the	"8. Europol shall inform the EDPS about categories of transfers under point (b) of paragraph 4a. Where a transfer is based on paragraph 4a or 5, such a transfer shall be documented and the documentation shall be made	TM 17/11/2021: provisional agreement - use CSL text  8. Europol shall inform the EDPS about categories of transfers under point (b) of

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	date and time of the transfer,	transfer and about the	available to the EDPS on request.	paragraph 4a. Where a transfer is
	and information about the	operational personal data transferred."	The documentation shall include a	based on paragraph 4a or 5, such a
	receiving competent authority,		record of the date and time of the	transfer shall be documented and
	about the justification for the		transfer, and information about the	the documentation shall be made
	transfer and about the		receiving competent authority,	available to the EDPS on request.
	operational personal data		about the justification for the	The documentation shall include a
	transferred."		transfer and about the operational	record of the date and time of the
			personal data transferred."	transfer, and information about the
				receiving competent authority,
				about the justification for the
				transfer and about the operational
				personal data transferred.
240	(12) Article 26 is amended		(12) Article 26 is amended as	
	as follows:		follows:	
241			(-a) In paragraph 1, point (c) is	(-a) In paragraph 1, point (c) is
			amended as follows:	amended as follows:
242			"(c) an authority of a third	TM 17/11/2021: provisional
			country or an international	agreement to use CSL text;
			organisation which is the subject of	consequential alignment with

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			an adequacy decision as referred to	<u>25(4a):</u>
			in point (a) of Article 25(1) of this	
			Regulation, ex with which the	
			Union has concluded an	"(c) an authority of a third
			international agreement pursuant to	country or an international
			Article 218 TFEU or in the case of	organisation which is the subject of
			which appropriate safeguards	an adequacy decision as referred to
			with regard to the protection of	in point (a) of Article 25(1) of this
			operational personal data exist or	Regulation, of with which the
			are provided for in a legally	Union has concluded an
			binding instrument in accordance	international agreement pursuant to
			with Article 25(4a) of this	Article 218 TFEU or in the case of
			Regulation."	which appropriate safeguards
				with regard to the protection of
				operational personal data exist or
				are provided for in a legally
				binding instrument in accordance
				with Article 25(4a) of this
				Regulation."
243	(a) paragraph 2 is replaced by		(a) paragraph 2 is replaced by the	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	the following:		following:	
244	"2. Europol may receive	AM 117	"2. Europol may receive personal	<u>TM 17/11/2021</u> : provisional
	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	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	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	Europol may receive Where  Europol receives personal data directly from private parties, it may and process those personal data in accordance with Article 18 in order to identify allthe national units
	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	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 <i>necessary</i> 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	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 point (a) of paragraph 1. Europol shall forward the personal data and any relevant results from the <i>necessary</i> processing of that— <i>data necessary</i> data for the purpose of establishing jurisdiction immediately to the national units concerned. Europol may forward the personal data and relevant results from the <i>necessary</i>

COM (13908/20 + COR 1)**EP** (A9-9999/2021) **Provisional agreement** Council purpose of establishing concerned as referred to in points processing of that data *necessary* the respective national units concerned, or it is not possible iurisdiction in accordance with (b) and (c) of paragraph 1. Once If for the purpose of establishing to identify further national units Article 25 to contact points concerned, it shall erase the **Europol cannot identify any** jurisdiction, in accordance with data, unless a national unit, Article 25 to contact points and and authorities concerned as national units concerned, or has contact point or authority referred to in points (b) and (c) concerned resubmits already Europol has identified and authorities concerned, as referred to personal data to Europol in of paragraph 1. Once Europol forwarded the relevant personal in points (b) and (c) of paragraph 1. accordance with Article 19(1) within four months after the has identified and forwarded data to all the **identified** respective If Europol cannot identify any transmission or transfer takes the relevant personal data to national units concerned - or and it national units concerned, or has place. all the respective national units is not possible to identify further already Once Europol has identified and forwarded the concerned, or it is not possible national units concerned, it shall to identify further national erase the data, unless the national relevant personal data to all the units concerned, it shall erase unit, contact point or authority **identified** respective national units the data, unless a national unit, concerned resubmits the personal concerned, or and it is not possible data to Europol in accordance with contact point or authority to identify further national units concerned resubmits the Article 19(1) within four months concerned, it shall erase the data, unless-a the national unit, contact personal data to Europol in after the transfer takes place. accordance with Article 19(1) Criteria as to whether the point or authority concerned within four months after the resubmits the personal data to national unit of the Member State transfer takes place." of establishment of the relevant Europol in accordance with Article 19(1) within four months after the private party constitutes a national unit concerned shall be *transmission or* transfer takes

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			set out in the guidelines referred	place. Criteria as to whether the
			<u>to in Article 18(7)</u> ."	national unit of the Member State
				of establishment of the relevant
				private party constitutes a
				national unit concerned shall be
				set out in the guidelines referred
				to in Article 18(7)."
245			(a bis) the following paragraph 2a	TM 12/11/2021: provisional
			is added:	agreement to use CSL text
				(a bis) the following paragraph 2a
				is added:
246			"2a. Any cooperation of	<b>TM 12/11/2021:</b> provisional
			<b>Europol with private parties shall</b>	agreement to use CSL text
			neither duplicate nor interfere	2a. Any cooperation of
			with the activities of Member	Europol with private parties shall
			States' financial intelligence units	neither duplicate nor interfere
			established pursuant to Directive	with the activities of Member
			(EU) 2015/849 of the European	States' financial intelligence units
			Parliament and of the Council,	established pursuant to Directive
			and shall not concern information	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			that is to be provided to financial intelligence units for the purposes of that Directive."	(EU) 2015/849 of the European Parliament and of the Council, and shall not concern information that is to be provided to financial intelligence units for the purposes of that Directive.
247	(b) paragraph 4 is replaced by the following:		(b) paragraph 4 is replaced by the following:	
248	"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	4. If Europol receives personal data from a private party in a third country, Europol may forward those data <i>and the result of its analysis and verification</i> only to a Member State <i>or</i> 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	"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 of which is the subject of an adequacy decision as referred to in point (a) of Article	TM 17/11/2021: provisionally agreed – use Council compromise suggestion below without "international organisations"  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
	is the subject of an adequacy	as referred to in point (a) of Article 25(1) of this	25(1) of this Regulation or in the	concerned with which an agreement

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
decision as referred to in point	Regulation. Where the	case of which appropriate	on the basis of Article 23 of
(a) of Article 25(1) of this	conditions set out under paragraphs 5 and 6 of Article	safeguards with regard to the	Decision 2009/371/JHA or on the
Regulation. Where the	25 are fulfilled, Europol may	protection of operational personal	basis of Article 218 TFEU has been
conditions set out under	transfer the result of its analysis and verification of such data <i>to</i>	data exist or are provided for in a	concluded-or- which is the subject
paragraphs 5 and 6 of Article	the third country concerned.	legally binding instrument in	of an adequacy decision as referred
25 are fulfilled, Europol may		accordance with Article 25(4a) of	to in point (a) of Article 25(1) of
transfer the result of its		<u>this Regulation</u> . Where the	this Regulation or in the case of
analysis and verification of		conditions set out under paragraphs	which appropriate safeguards
such data with the third		5 and 6 of Article 25 are fulfilled,	with regard to the protection of
country concerned."		Europol may transfer the result of	operational personal data exist or
		its analysis and verification of such	are provided for in a legally
		data with to the third country	binding instrument in accordance
		concerned."	with Article 25(4a) of this
			<b>Regulation</b> . 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 to the third country
			concerned.

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				N.B.: consequential amendments would be needed under point 186 for Article 26a(2) and under point 191m for article 26b(2)
249	(c) paragraphs 5 and 6 are replaced by the following:		(c) paragraphs 5 and 6 are replaced by the following:	
250	"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:	AM 119 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:	"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:	TM 12/11/2021: provisionally agreement to use EP wording  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:

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
251	(a) the transmission or transfer		(a) the transmission or transfer is	<u>TM 17/11/2021</u> : provisional
	is undoubtedly in the interests		undoubtedly in the interests of the	agreement to use CSL wording
	of the data subject, and either		data subject, <del>and either the data</del>	
	the data subject has given his		subject has given his or her	
	or her consent; or		<del>consent</del> ; or	(a) the transmission or transfer is
				undoubtedly in the interests of the
				data subject, and either the data
				subject has given his or her
				eonsent; or
252	(b) the transmission or transfer		(b) the transmission or transfer is	
	is absolutely necessary in the		absolutely necessary in the interests	
	interests of preventing the		of preventing the imminent	
	imminent perpetration of a		perpetration of a crime, including	
	crime, including terrorism, for		terrorism, for which Europol is	
	which Europol is competent;		competent; or	
	or			
253	(c) the transmission or transfer	AM 120	(c) the transmission or transfer of	TM 12/11/2021: provisional
	of personal data which are	(c) the transmission or	personal data which are publicly	agreement to use EP text
	publicly available is strictly	transfer of personal data <i>that</i> are publicly available is strictly	available is strictly necessary for	
	necessary for the performance	necessary for the performance	the performance of the task set out	(c) the transmission or transfer

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	of the task set out in point (m) of Article 4(1) and the following conditions are met:	of the task set out in point (m) of Article 4(1) and the following conditions are met:	in point (m) of Article 4(1) and the following conditions are met:	of personal data <i>that</i> 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:
254	(i) the transmission or transfer concerns an individual and specific case;		(i) the transmission or transfer concerns an individual and specific case;	
255	(ii) no fundamental rights and freedoms of the data subjects concerned override the public interest necessitating the transmission or transfer in the case at hand; or		(ii) no fundamental rights and freedoms of the data subjects concerned override the public interest necessitating the transmission or transfer in the case at hand; or	
256	(d) the transmission or transfer of personal data is strictly necessary for Europol to inform that private party that the information received is insufficient to enable Europol		(d) the transmission or transfer of personal data is strictly necessary for Europol to inform that private party that the information received is insufficient to enable Europol to identify the national units	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	to identify the national units		concerned, and the following	
	concerned, and the following		conditions are met:	
	conditions are met:			
257	(i) the transmission or		(i) the transmission or transfer	
	transfer follows a receipt		follows a receipt of personal data	
	of personal data directly		directly from a private party in	
	from a private party in		accordance with paragraph 2 of this	
	accordance with		Article;	
	paragraph 2 of this			
	Article;			
258	(ii) the missing		(ii) the missing information, which	
	information, which		Europol may refer to in these	
	Europol may refer to in		notifications, has a clear link with	
	these notifications, has a		the information previously shared	
	clear link with the		by that private party;	
	information previously			
	shared by that private			
	party;			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
259	(iii) the missing information, which Europol may refer to in these notifications, is strictly limited to what is necessary for Europol		(iii)the missing information, which Europol may refer to in these notifications, is strictly limited to what is necessary for Europol to identify the national units concerned.	
	to identify the national units concerned.			
260	6. With regard to points (a),		6. With regard to points (a), (b) and	<u>TM 17/11/2021</u> : provisional
	(b) and (d) of paragraph 5 of		(d) of paragraph 5 of this Article, if	agreement to use CSL wording
	this Article, if the private party		the private party concerned is not	(consequential alignment with
	concerned is not established		established within the Union or in a	<u>25(4a)):</u>
	within the Union or in a		country with which Europol has a	
	country with which Europol		cooperation agreement allowing for	
	has a cooperation agreement		the exchange of personal data, with	6. With regard to points (a), (b) and
	allowing for the exchange of		which the Union has concluded an	(d) of paragraph 5 of this Article, if
	personal data, with which the		international agreement pursuant to	the private party concerned is not

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	Union has concluded an		Article 218 TFEU, or which is the	established within the Union or in a
	international agreement		subject of an adequacy decision as	country with which Europol has a
	pursuant to Article 218 TFEU		referred to in point (a) of Article	cooperation agreement allowing for
	or which is the subject of an		25(1) of this Regulation or in the	the exchange of personal data, with
	adequacy decision as referred		case of which appropriate	which the Union has concluded an
	to in point (a) of Article 25(1)		safeguards with regard to the	international agreement pursuant to
	of this Regulation, the transfer		protection of operational personal	Article 218 TFEU, ex-which is the
	shall only be authorised by the		data exist or are provided for in a	subject of an adequacy decision as
	Executive Director if the		legally binding instrument in	referred to in point (a) of Article
	transfer is:		accordance with Article 25(4a) of	25(1) of this Regulation or in the
			this Regulation, the transfer shall	case of which appropriate
			only be authorised by the Executive	safeguards with regard to the
			Director if the transfer is:	protection of operational personal
				data exist or are provided for in a
				legally binding instrument in
				accordance with Article 25(4a) of
				this Regulation, the transfer shall
				only be authorised by the Executive
				Director if the transfer is:
261	(a) necessary in order to		(a) necessary in order to protect the	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	protect the vital interests of the data subject or another person; or		vital interests of the data subject or another person; or	
262	(b) necessary in order to safeguard legitimate interests of the data subject; or		(b) necessary in order to safeguard legitimate interests of the data subject; or	
263	(c) essential for the prevention of an immediate and serious threat to public security of a Member State or a third country; or		(c) essential for the prevention of an immediate and serious threat to public security of a Member State or a third country; or	
264	(d) necessary in individual cases for the purposes of the prevention, investigation, detection or prosecution of criminal offences for which Europol is competent; or	AM 121  (d) necessary in individual cases for the purposes of the prevention, investigation, detection or prosecution of <i>a specific</i> criminal <i>offence</i> for which Europol is competent; or	(d) necessary in individual cases for the purposes of the prevention, investigation, detection or prosecution of criminal offences for which Europol is competent; or	TM 12/11/2021: provisionally agreed - use EP text  (d) necessary in individual cases for the purposes of the prevention, investigation, detection or prosecution of <i>a specific</i> criminal

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				offence for which Europol is competent; or
265	(e) necessary in individual cases for the establishment, exercise or defence of legal claims relating to the prevention, investigation, detection or prosecution of a specific criminal offence for which Europol is competent.		(e) necessary in individual cases for the establishment, exercise or defence of legal claims relating to the prevention, investigation, detection or prosecution of a specific criminal offence for which Europol is competent.	
266	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).	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).	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).	COM compromise proposal 26/11/2021: use CSL wording  "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)."

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				TDN 102/11/2001
				TM 26/11/2021: not acceptable for
				CSL; make it part of EDPS
				package; COM: informing EDPS
				about each transfer goes too far;
				TM 12/11/2021: EP insists to
				inform EDPS about individual
				transfers - annual report concerning
				transfers is not sufficient; COM
				questions whether this addition is
				needed as EDPS has access to all
				information in any case and par. 6 is
				an additional safeguard to par. 5;
				Council to abook intermally
				Council to check internally whether EP text can be accepted.
				whether EF text can be accepted.
267	Transfers shall not be	AM 123	Transfers shall not be systematic,	TM 17/11/2021: provisionally

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	systematic, massive or structural."	deleted	massive or structural."	agreed - delete and replace by broader prohibition in line 269, to be confirmed by CSL
268	(d) the following paragraphs 6a and 6b are inserted:	AM 124  (d) the following paragraphs -6a, 6a and 6b are inserted:	(d) the following paragraphs 6a and 6b are inserted:	Written procedure (25/11/2021): provisional agreement to use EP text  (d) the following paragraphs - 6a, 6a and 6b are inserted:
269		"-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."		TM 17/11/2021: provisionally agreed - delete 267 and replace by broader prohibition  6a. Without prejudice to points (a), (c) and (d) of paragraph 5 and 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.

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	jurisdiction over the specific	Irrespective of their jurisdiction	over the specific crime in relation to	agreed to use EP text
	crime in relation to which	over the specific crime in relation to which Europol seeks	which Europol seeks to identify the	
	Europol seeks to identify the	to identify the national units	national units concerned, Member	Irrespective of their jurisdiction
	national units concerned,	concerned, Member States shall ensure that their competent	States shall ensure that their	over the specific crime in relation to
	Member States shall ensure	national authorities can	competent national authorities can	which Europol seeks to identify the national units concerned, Member
	that their competent national	lawfully process such requests in accordance with their	lawfully process such requests in	States shall ensure that their
	authorities can lawfully	national laws for the purpose of	accordance with their national laws	competent national authorities can lawfully process such requests in
	process such requests in	supplying Europol with the information necessary for it to	for the purpose of supplying	accordance with their national laws
	accordance with their national	fulfil its objectives.	Europol with the information	for the purpose of supplying Europol with the information
	laws for the purpose of		necessary for it to fulfil its	necessary for it to fulfil its
	supplying Europol with the		objectives.	objectives.
	information necessary for it to			
	fulfil its objectives.			
272	6b. Europol's infrastructure	AM 127	6b. Europol's infrastructure may be	Written procedure 7/1/2022: new
	may be used for exchanges	6b. Europol's infrastructure	used for exchanges between the	recital 15c to complement this
	between the competent	may be used for exchanges between the competent	competent authorities of Member	provision (line 32b) to ensure that
	authorities of Member States	authorities of Member States	States and private parties in	the exemption from the Annex II
	and private parties in	and private parties in accordance with the respective	accordance with the respective	obligation under Art. 18(5) only
	accordance with the respective	Member States' national laws.	Member States' national laws, and	applies when Europol is a processor
	Member States' national laws.	In cases where Member States use this infrastructure for exchanges of personal data on	those exchanges may also cover	<u>TM 17/11/2021</u> : provisional

CON	M (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
In ca	ases where Member States	crimes falling outside the scope	crimes falling outside the scope of	agreement to merge EP and CSL
use t	this infrastructure for	of the objectives of Europol, Europol shall not have access	the objectives of Europol. In cases	texts
exch crime scope Euro	this infrastructure for nanges of personal data on nes falling outside the pe of the objectives of opol, Europol shall not be access to that data."	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.	where Member States use this infrastructure for exchanges of personal data on crimes falling within the scope of Europols objectives, they may grant Europol access to such data. 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."	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, and those exchanges may also cover crimes falling outside the scope of the objectives of Europol. In cases where Member States use this infrastructure for exchanges of personal data on crimes falling within the scope of Europol's objectives, they may grant Europol access to such data. In cases where Member States use this infrastructure for exchanges of personal data on crimes falling

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				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.
273	(e) paragraphs 9 and 10 are		(e) paragraphs 9 and 10 are deleted;	
	deleted;			
	,			
274			(d) a new paragraph 11 is inserted:	<u>TM 17/11/2021</u> : provisionally
				agreed - use CSL text

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				(d) a new paragraph 11 is inserted:
275			"11. Europol shall draw up an	Written procedure 7/1/2022:
			annual report to the Management	technical adjustment relating to
			<b>Board on the personal data</b>	<u>line 519</u>
			exchanged with private parties	
			pursuant Articles 26 and 26a on	
			the basis of quantitative and	<u>TM 17/11/2021</u> : provisionally
			qualitative evaluation criteria	agreed - use CSL text
			defined by the Management	
			Board, including specific	
			examples of cases demonstrating	"11. Europol shall draw up an
			why these requests were	annual report to the Management
			necessary for Europol to fulfil its	Board on the personal data
			objectives and tasks. The report	exchanged with private parties
			shall take into account the	pursuant Articles 26, and 26a and
			obligations of discretion and	<b>26b</b> on the basis of quantitative
			confidentiality and the examples	and qualitative evaluation criteria
			shall be anonymized insofar as	defined by the Management
			personal data is concerned. The	<b>Board, including specific</b>
			annual report shall be sent to the	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			European Parliament, the Council, the Commission and national parliaments."	examples of cases demonstrating why these requests were necessary for Europol to fulfil its objectives and tasks. The report shall take into account the obligations of discretion and confidentiality and the examples shall be anonymized insofar as personal data is concerned. The annual report shall be sent to the European Parliament, the Council, the Commission and national parliaments."
276	(13) the following Article 26a is inserted:		(13) the following Article 26a is inserted:	
277	"Article 26a		"Article 26a	
278	Exchanges of personal data with private parties in crisis		Exchanges of personal data with private parties in <u>online</u> crisis	Written procedure (25/11/2021): provisional agreement to use CSL text:

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	situations		situations	Exchanges of personal data with private parties in <u>online</u> crisis situations
279	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).	AM 128  1. Europol may receive personal data directly from private parties and process those personal data in accordance with Article 18 to prevent the <i>online</i> dissemination of <i>terrorist</i> content in crisis situations as set out in point (u) of Article 4(1).	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 <b>online</b> crisis situations as set out in point (u) of Article 4(1).	2nd trilogue (30/11/2021):  provisional agreement: to be read in conjunction with compromise proposals on lines 91/108:  "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 online crisis situations as set out in point (u) of Article 4(1)".
280	2. If Europol receives	AM 129	2. If Europol receives personal data	TM 17/11/2021: provisionally

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
personal data from a private	2. If Europol receives	from a private party in a third	agreed to use CSL text and merge
party in a third country,	personal data from a private party in a third country,	country, Europol may forward those	with EP addition:
Europol may forward those	Europol may forward those	data only to a Member State, or to a	
data only to a Member State,	data only to <i>the</i> Member State, or to <i>the</i> third country	third country concerned with which	
or to a third country concerned	concerned with which an	an agreement on the basis of Article	2. If Europol receives personal data
with which an agreement on	agreement on the basis of Article 23 of Decision	23 of Decision 2009/371/JHA or on	from a private party in a third
the basis of Article 23 of	2009/371/JHA or on the basis	the basis of Article 218 TFEU has	country, Europol may forward those
Decision 2009/371/JHA or on	of Article 218 TFEU has been concluded or which is the	been concluded, er-which is the	data only to a Member State, or to a
the basis of Article 218 TFEU	subject of an adequacy decision	subject of an adequacy decision as	third country concerned with which
has been concluded or which	as referred to in point (a) of Article 25(1) of this	referred to in point (a) of Article	an agreement on the basis of Article
is the subject of an adequacy	Regulation. Where the	25(1) of this Regulation or in the	23 of Decision 2009/371/JHA or on
decision as referred to in point	conditions set out under paragraphs 5 and 6 of Article	case of which appropriate	the basis of Article 218 TFEU has
(a) of Article 25(1) of this	25 of this Regulation are	safeguards with regard to the	been concluded, or which is the
Regulation. Where the	fulfilled, Europol may transfer the result of its analysis and	protection of operational personal	subject of an adequacy decision as
conditions set out under	verification of such data to the	data exist or are provided for in a	referred to in point (a) of Article
paragraphs 5 and 6 of Article	third country concerned.	legally binding instrument in	25(1) of this Regulation or in the
25 are fulfilled, Europol may		accordance with Article 25(4a) of	case of which appropriate
transfer the result of its		<b>this Regulation</b> . Where the	safeguards with regard to the
analysis and verification of		conditions set out under paragraphs	protection of operational personal
such data with the third		5 and 6 of Article 25 are fulfilled,	data exist or are provided for in a
country concerned.		Europol may transfer the result of	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			its analysis and verification of such data with to the third country concerned.	legally binding instrument in accordance with Article 25(4a) 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 with to the third country concerned.
281	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	AM 130  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 <i>online</i> dissemination of <i>terrorist</i> content as set out in point (u)of Article 4(1), and no fundamental rights and	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	Written procedure 7/1/2022:  provisionally agreed  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

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	for preventing the	3	or violent extremism as set out in	of such data is strictly necessary for
	dissemination of online	concerned override the public interest necessitating the	point (u) of Article 4(1), and no	preventing addressing online crisis
	content related to terrorism or	transmission or transfer in the	fundamental rights and freedoms of	situations the dissemination of
	violent extremism as set out in	case at hand.	the data subjects concerned override	online content related to terrorism
	point (u) of Article 4(1), and		the public interest necessitating the	or violent extremism as set out in
	no fundamental rights and		transmission or transfer in the case	point (u) of Article 4(1), and no
	freedoms of the data subjects		at hand.	fundamental rights and freedoms of
	concerned override the public			the data subjects concerned override
	interest necessitating the			the public interest necessitating the
	transmission or transfer in the			transmission or transfer in the case
	case at hand.			at hand.
282	4. If the private party		4. If the private party concerned is	TM 17/11/2021: provisionally
	concerned is not established		not established within the Union or	agreed to use CSL text
	within the Union or in a		in a country with which Europol has	(consequential alignment with
	country with which Europol		a cooperation agreement allowing	25(4a))
	has a cooperation agreement		for the exchange of personal data,	
	allowing for the exchange of		with which the Union has	
	personal data, with which the		concluded an international	4. If the private party concerned is
	Union has concluded an		agreement pursuant to Article 218	not established within the Union or
	international agreement		TFEU, or which is the subject of an	in a country with which Europol has

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	pursuant to Article 218 TFEU		adequacy decision as referred to in	a cooperation agreement allowing
	or which is the subject of an		point (a) of Article 25(1) of this	for the exchange of personal data,
	adequacy decision as referred		Regulation or in the case of which	with which the Union has
	to in point (a) of Article 25(1)		appropriate safeguards with	concluded an international
	of this Regulation, the transfer		regard to the protection of	agreement pursuant to Article 218
	shall be authorised by the		operational personal data exist or	TFEU <sub>2</sub> or which is the subject of an
	Executive Director.		are provided for in a legally	adequacy decision as referred to in
			binding instrument in accordance	point (a) of Article 25(1) of this
			with Article 25(4a) of this	Regulation or in the case of which
			<b>Regulation</b> , the transfer shall be	appropriate safeguards with
			authorised by the Executive	regard to the protection of
			Director.	operational personal data exist or
				are provided for in a legally
				binding instrument in accordance
				with Article 25(4a) of this
				Regulation, the transfer shall be
				authorised by the Executive
				Director.
283			4a. Europol shall assist, exchange	Written procedure 20/1/2022:
			information and cooperate with	PRES cannot agree with the COM

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		the competent authorities with	proposal of 29/11/2021 and
		regard to the transmission or	suggests using CSL text
		transfer of personal data to	
		private parties under paragraphs	
		3 or 4 of this Article, in particular	4a. Europol shall assist, exchange
		to avoid duplication of effort,	information and cooperate with
		enhance coordination and avoid	the competent authorities with
		interference with investigations in	regard to the transmission or
		different Member States.	transfer of personal data to
			private parties under paragraphs
			3 or 4 of this Article, in particular
			to avoid duplication of effort,
			enhance coordination and avoid
			interference with investigations in
			different Member States.
			COM proposal (29/11/2021)
			4a. Europol shall assist, exchange
			information and cooperate with

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				the competent authorities with regard to the transmission or transfer of personal data to private parties under paragraphs  3 or 4 of this Article, in particular to avoid duplication of effort; enhance coordination and avoid interference with investigations in different Member States.  provision goes too far for EP; EP wants concise wording that stresses avoiding interference with investigations; COM to provide compromise wording
294	5 Europal may request	AM 121	5 Europal may request Member	Weitten procedure 7/1/2022
284	5. Europol may request Member States, via their national units, to obtain personal data from private	AM 131  5. Europol may request Member States, via their national units, to obtain personal data from private	5. Europol may request Member States, via their national units, to obtain personal data from private parties, which are established or	Written procedure 7/1/2022: provisionally agreed based on alignment with relevant texts in

COM (13908/20 + COR 1)EP (A9-9999/2021) **Provisional agreement** Council parties, which are established parties, which are established have a legal representative in their lines 108/270: or have a legal representative in or have a legal representative territory, under their applicable their territory, under their applicable laws, for the purpose in their territory, under their **national** laws, for the purpose of of sharing it with Europol, on applicable laws, for the sharing it with Europol, on the 5. Europol may request Member the condition that the requested purpose of sharing it with personal data is strictly limited condition that the requested States, via their national units, to to what is necessary for Europol, on the condition that personal data is strictly limited to obtain personal data from private Europol for preventing the dissemination the requested personal data is what is necessary for Europol for online parties, which are established or terrorist content as set out in strictly limited to what is preventing the dissemination of have a legal representative in their point (u) of Article 4(1). necessary for Europol for Irrespective of their jurisdiction online content related to terrorism territory, under their applicable with regard to preventing the dissemination or violent extremism as set out in national laws, for the purpose of dissemination of the content in of online content related to relation to which Europol point (u) of Article 4(1). sharing it with Europol, on the requests the personal data, Irrespective of their jurisdiction terrorism or violent extremism condition that the requested Such a Member States shall ensure that as set out in point (u) of the competent national with regard to the dissemination of request shall be reasoned and as authorities can lawfully process Article 4(1). Irrespective of the content in relation to which targeted as possible and such such requests in accordance with their national laws for the their jurisdiction with regard Europol requests the personal data, personal data isshall be the least purpose of supplying Europol Member States shall ensure that the to the dissemination of the sensitive possible and strictly with the information necessary content in relation to which for it to fulfil its objectives. competent national authorities can limited to what is necessary and Europol requests the personal lawfully process such requests in proportionate for Europol for data. Member States shall accordance with their national laws preventing addressing online crisis ensure that the competent for the purpose of supplying situations the dissemination of national authorities can Europol with the information

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	lawfully process such requests		necessary for it to fulfil its	online content related to terrorism
	in accordance with their		objectives.	or violent extremism as set out in
	national laws for the purpose			point (u) of Article 4(1).
	of supplying Europol with the			Irrespective of their jurisdiction
	information necessary for it to			with regard to the dissemination of
	fulfil its objectives.			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.
285	6. Europol shall ensure that	AM 132	6. Europol shall ensure that detailed	TM 12/11/2021: provisionally
	detailed records of all transfers	6. Europol shall ensure	records of all transfers of personal	agreed - use EP wording
	of personal data and the	that detailed records of all transfers of personal data and the grounds for such transfers	data and the grounds for such	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	grounds for such transfers are recorded in accordance with this Regulation and communicated upon request to the EDPS pursuant to Article 40.	are recorded in accordance with this Regulation and communicated upon request to the EDPS pursuant to Article 39a.	transfers are recorded in accordance with this Regulation and communicated upon request to the EDPS pursuant to Article 40.	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.
286	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."		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."	
287		AM 133 (13 a) the following Article 26b is inserted:		2 <sup>nd</sup> trilogue (30/11/2021): provisional agreement to incl. Art. 26b (13 a) the following Article 26b is inserted:
288		"Article 26b -		2 <sup>nd</sup> trilogue (30/11/2021): provisional agreement to incl. Art. 26b

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
289		Exchanges of personal data with private parties to prevent the online dissemination of child sexual abuse material		Written procedure (7/1/2022): provisional agreement  Exchanges of personal data with private parties to address the online dissemination of child sexual abuse material
290		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).		Political trilogue (30/11/2021): provisional agreement to use slightly modified EP text  1. Europol may receive personal data directly from private parties and process those personal data in accordance with Article 18 to prevent address the online dissemination of child sexual abuse material, as set out in point (ua) of Article 4(1).
291		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		Political trilogue (30/11/2021): provisional agreement to use slightly modified EP text  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

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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.		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.
292		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		Political trilogue (30/11/2021): provisional agreement to use slightly modified EP text  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 addressing the online

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		no fundamental rights and freedoms of the data subjects concerned override the public interest necessitating the transmission or transfer in the case at hand.		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.
293		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.		Political trilogue (30/11/2021): provisional agreement to use EP text  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.

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
293a	CON (13708/20 + CON 1)	E1 (A)-7777/2021)	Council	Written procedure 7/1/2022: provisionally agreed to align with Article 26a(4) (line 283) - tbc by EP  4a. Europol shall assist, exchange information and cooperate with the competent authorities with regard to the transmission or transfer of personal data to private parties under paragraphs 3 or 4 of this Article, in particular
294		5. Europol may request Member States, via their		to avoid duplication of effort, enhance coordination and avoid interference with investigations in different Member States.  Political trilogue (30/11/2021):
		national units, to obtain personal data from private parties, which are established or have a legal representative		provisional agreement to use slightly reworded EP text

COM (13908/20 + COR 1	EP (A9-9999/2021)	Council	Provisional agreement
	in their territory, under their applicable laws, for the purpose of sharing it with		Aligned with lines 270/284.
	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		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 Such a request shall be reasoned and as targeted as possible and such personal data shall be the least sensitive possible and strictly limited to what is necessary and proportionate for Europol to prevent address the online dissemination of child sexual abuse material, as set out in point (ua) of Article 4(1). Irrespective of their jurisdiction
	fulfil its objectives.		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

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				supplying Europol with the information necessary for it to fulfil its objectives.
295		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.		Political trilogue (30/11/2021): provisional agreement to use EP text  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.
296		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."		Political trilogue (30/11/2021): provisional agreement to use EP text  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."

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
297			(13 bis) In Article 27, paragraphs 1 and 2 are amended as follows:	TM 17/11/2021 - provisionally agreed to use CSL text  (13 bis) In Article 27, paragraphs 1 and 2 are amended as follows:
298			"1. Insofar as is necessary in order for Europol to perform its tasks, Europol may receive and process information originating from private persons. Personal data originating from private persons may only be processed by Europol on condition that they are received via:	
299			(a) a national unit in accordance with national law;	
300			(b) the contact point of a third country or an international	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			organisation with which Europol	
			has concluded, before 1 May 2017,	
			a cooperation agreement allowing	
			for the exchange of personal data in	
			accordance with Article 23 of	
			Decision 2009/371/JHA; or	
301			(c) an authority of a	<u>TM 17/11/2021</u> - provisionally
			third country or an international	agreed to use CSL text
			organisation which is the subject of	(consequential alignment with
			an adequacy decision as referred to	25(4a))
			in point (a) of Article 25(1), or with	
			which the Union has concluded an	
			international agreement pursuant to	(c) an authority of a third
			Article 218 TFEU or in the case of	country or an international
			which appropriate safeguards	organisation which is the subject of
			with regard to the protection of	an adequacy decision as referred to
			operational personal data exist or	in point (a) of Article 25(1), or with
			are provided for in a legally	which the Union has concluded an
			binding instrument in accordance	international agreement pursuant to
			with Article 25(4a) of this	Article 218 TFEU or in the case of

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			Regulation.	which appropriate safeguards
				with regard to the protection of
				operational personal data exist or
				are provided for in a legally
				binding instrument in accordance
				with Article 25(4a) of this
				Regulation.
302			2. If Europol receives	TM 17/11/2021 - provisionally
			information, including personal	agreed to use CSL text
			data, from a private person residing	(consequential alignment with
			in a third country with which there	25(4a))
			is no international agreement	
			concluded either on the basis of	
			Article 23 of	2. If Europol receives
			Decision 2009/371/JHA or on the	information, including personal
			basis of Article 218 TFEU, ex	data, from a private person residing
			which is not the subject of an	in a third country with which there
			adequacy decision as referred to in	is no international agreement
			point (a) of Article 25(1) of this	concluded either on the basis of
			Regulation or in the case of which	Article 23 of

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			appropriate safeguards with	Decision 2009/371/JHA or on the
			regard to the protection of	basis of Article 218 TFEU, ex
			operational personal data exist or	which is not the subject of an
			are provided for in a legally	adequacy decision as referred to in
			binding instrument in accordance	point (a) of Article 25(1) of this
			with Article 25(4a) of this	Regulation or in the case of which
			<b>Regulation</b> , Europol may only	appropriate safeguards with
			forward that information to a	regard to the protection of
			Member State or to a third country	operational personal data exist or
			concerned with which such an	are provided for in a legally
			international agreement has been	binding instrument in accordance
			concluded."	with Article 25(4a) of this
				Regulation, Europol may only
				forward that information to a
				Member State or to a third country
				concerned with which such an
				international agreement has been
				concluded."
202			(12 ton) The 4:41e of Observer VII.	W.:44(05/14/0004)
303			(13 ter) The title of Chapter VI is	Written procedure (25/11/2021):
			amended as follows:	provisional agreement to use CSL

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				(13 ter)The title of Chapter VI is amended as follows:
304			DATA PROTECTION SAFEGUARDS	Written procedure (25/11/2021): provisional agreement to use CSL text  DATA PROTECTION
305	(14) the following Article 27a is inserted:		(14) the following Article 27a is inserted:	
306	"Article 27a		"Article 27a	
307	Processing of personal data by Europol		Processing of personal data by Europol	
308	1. This Regulation, Article 3 and Chapter IX of Regulation (EU) 2018/1725 of the		1. This Regulation, Article 3 and Chapter IX of Regulation (EU) 2018/1725 of the European	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	European Parliament and of		Parliament and of the Council*	
	the Council* shall apply to the		shall apply to the processing of	
	processing of operational		operational personal data by	
	personal data by Europol.		Europol.	
309	Regulation (EU) 2018/1725,		Regulation (EU) 2018/1725, with	
	with the exception of its		the exception of its Chapter IX,	
	Chapter IX, shall apply to the		shall apply to the processing of	
	processing of administrative		administrative personal data by	
	personal data by Europol.		Europol.	
310	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.	AM 134  Deleted	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.	TM 12/11/2021: provisionally agreed - deletion
311	3. References to 'personal data' in this Regulation shall	AM 135  3. References to 'personal	3. References to 'personal data' in this Regulation shall be understood	TM 12/11/2021: provisionally agreed: use EP text

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	be understood as references to 'operational personal data', unless indicated otherwise.	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.	as references to 'operational personal data', unless indicated otherwise.	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.
312	4. Europol shall determine the time limits for the storage of administrative personal data in its rules of procedure.		4. The Management Board shall adopt rules to Europol shall determine the time limits for the storage of administrative personal data in its rules of procedure.	TM 12/11/2021: provisionally agreed - use CSL text  4. The Management Board shall adopt rules to Europol shall determine the time limits for the storage of administrative personal data in its rules of procedure.
313	* Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23		* Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	October 2018 on the		protection of natural persons with	
	protection of natural persons		regard to the processing of personal	
	with regard to the processing		data by the Union institutions,	
	of personal data by the Union		bodies, offices and agencies and on	
	institutions, bodies, offices and		the free movement of such data, and	
	agencies and on the free		repealing Regulation (EC) No	
	movement of such data, and		45/2001 and Decision No	
	repealing Regulation (EC) No		1247/2002/EC (OJ L 295,	
	45/2001 and Decision No		21.11.2018, p. 39)."	
	1247/2002/EC (OJ L 295,			
	21.11.2018, p. 39)."			
314	(15) Article 28 is deleted;		(15) Article 28 is deleted;	
315	(16) Article 30 is amended		(16) Article 30 is amended as	
	as follows:		follows:	
21.5				
316	(a) in paragraph 2, the first	AM 136	(a) in paragraph 2, the first sentence	
	sentence is replaced by the	(a) paragraph 2 is replaced	is replaced by the following:	
	following:	by the following		
317	"2. Processing of personal	AM 137	"2. Processing of personal data, by	Written procedure 20/1/2022:

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
data, by automated or other	2. Processing of personal	automated or other means,	PRES compromise suggestion to
means, revealing racial or	data, by automated or other means, revealing racial or	revealing racial or ethnic origin,	further amend the text below
ethnic origin, political	ethnic origin, political	political opinions, religious or	
opinions, religious or	opinions, religious or philosophical beliefs, or trade	philosophical beliefs or trade union	
philosophical beliefs or trade	union membership, and the	membership and processing of	TM 06/12/2021:
union membership and	processing of genetic data, biometric data for the purpose	genetic data and biometric data for	
processing of genetic data and	of uniquely identifying a	the purpose of uniquely identifying	CSL could accept EP wording; to
biometric data for the purpose	natural person, or data concerning health or	a natural person or data concerning	check internally
of uniquely identifying a	concerning natural persons'	a person's health or sex life or	2. Processing of personal data,
natural person or data	sex life or sexual orientation shall be allowed only where	sexual orientation shall be allowed	by automated or other means, revealing racial or ethnic origin,
concerning a person's health	strictly necessary and	only where strictly necessary and	political opinions, religious or
or sex life or sexual orientation	proportionate for research and innovation projects pursuant	proportionate for preventing or	philosophical beliefs, or trade union membership, <i>and the</i> processing of
shall be allowed only where	to Article 33a and for	combating crime that falls within	genetic data, biometric data for the
strictly necessary and	operational purposes, within the mandate of Europol, and	Europol's objectives and if those	purpose of uniquely identifying a natural person, or data concerning
proportionate for preventing or	only for preventing or	data <u>, except biometric data,</u>	health or concerning natural
combating crime that falls	combating crime that falls within Europol's objectives as	supplement other personal data	persons' sex life or sexual orientation shall be allowed only
within Europol's objectives	set out in Article 3. Such	processed by Europol.";	where strictly necessary and
and if those data supplement	processing shall also be subject to appropriate		proportionate for research and innovation projects pursuant to
other personal data processed	safeguards with regard to the		Article 33a and for operational
by Europol.";	rights and freedoms of the data subject, and, with the		purposes, within the mandate of Europol, and only for preventing or
	exception of biometric data		combating crime that falls within

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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;		Europol's objectives as set out in Article 3. Such processing shall also be subject to appropriate safeguards laid down in this regulation 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;
318		AM 138  (aa) the following paragraph 2a is inserted:		
319		"2a. The Data Protection Officer shall be informed without undue delay in the case of processing of personal data pursuant to this Article."		Written procedure 20/1/2022:  provisionally agreed to use EP  text

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				'2a. The Data Protection Officer shall be informed without undue delay in the case of processing of personal data pursuant to this Article.'
320	(b) in paragraph 3, the first sentence is replaced by the following:		(b) in paragraph 3, the first sentence is replaced by the following:	Written procedure (25/11/2021):  provisional agreement to use CSL  text  (b) in paragraph 3, the first sentence  is replaced by the following:
321	"Only Europol shall have direct access to personal data as referred to in paragraphs 1 and 2, except for the cases outlined in Article 20 (2a)."		"Only Europol shall have direct access to personal data as referred to in paragraphs 1 and 2, except where necessary for the cases outlined in Article 20(1) and 20(2a), or for a research and innovation project involving specifically authorised staff of Member States' competent	Written procedure (25/11/2021): provisional agreement to use CSL text  "Only Europol shall have direct access to personal data as referred to in paragraphs 1 and 2, except where necessary for the cases outlined in Article 20(1) and

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			authorities and Union agencies	20(2a), or for a research and
			established on the basis of Title V	innovation project involving
			of the TFEU in accordance with	specifically authorised staff of
			Article 33a(1)(c). The Executive	Member States' competent
			Director shall duly authorise a	authorities and Union agencies
			limited number of Europol officials,	established on the basis of Title V
			and where relevant also Member	of the TFEU in accordance with
			State officials, to have such access	Article 33a(1)(c). The Executive
			if it is necessary for the	Director shall duly authorise a
			performance of their tasks"	limited number of Europol officials,
				and where relevant also Member
				State officials, to have such access
				if it is necessary for the
				performance of their tasks"
322	(c) paragraph 4 is deleted;		(c) paragraph 4 is deleted;	
323	(d) paragraph 5 is replaced by		(d) paragraph 5 is replaced by the	
323	the following:		following:	
	the following.		Tonowing.	
324	"5. Personal data as referred to	AM 139	"5. Personal data as referred to in	TM 17/11/2021: provisionally
	in paragraphs 1 and 2 shall not	5. Personal data as	paragraphs 1 and 2 shall not be	agreed to use EP text + addition

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	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.";	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 <i>fall</i> within Europol's objectives and in accordance with Chapter V.";	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.";	requested by COM (06/12/2021)  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 required under Union law or strictly necessary and proportionate in individual cases concerning crimes that fall within Europol's objectives and in accordance with Chapter V.";
325	(17) Article 32 is replaced by the following:		(17) Article 32 is replaced by the following:	
326	"Article 32		"Article 32	
327	Security of processing		Security of processing	
328	Europol and Member States		Europol and Member States shall	Written procedure (25/11/2021):

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	shall establish mechanisms to		establish mechanisms to ensure that	provisional agreement to use CSL
	ensure that security measures		security measures referred to in	text
	referred to in Article 91 of Regulation (EU) 2018/1725 are addressed across information system boundaries.";		Article 91 of Regulation (EU) 2018/1725 regarding Europol and in Article 29 of Directive (EU) 2016/680 regarding the Member States are addressed across information system boundaries.";	Europol and Member States shall establish mechanisms to ensure that security measures referred to in Article 91 of Regulation (EU) 2018/1725 regarding Europol and in Article 29 of Directive (EU) 2016/680 regarding the Member States are addressed across information system boundaries.";
329	(18) Article 33 is deleted;		(18) Article 33 is deleted;	
330	(19) the following Article 33a is inserted:		(19) the following Article 33a is inserted:	
331	"Article 33a		"Article 33a	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
332	Processing of personal data for research and innovation		Processing of personal data for research and innovation	
333		-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:		provisional agreement:  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,

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			which may include
			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.

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
334		(a) the processing of personal data is strictly required and duly justified to achieve the objectives of the project;		Covered in line 333
335		(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.		Covered in line 333
336		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.		Covered in line 333
337	1. For the processing of personal data performed by means of Europol's research and		1. For the processing of personal data performed by means of Europol's research and innovation projects as referred to in	TM 17/11/2021: provisionally agreed (identical)

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
innovation projects as referred to in point (e) of Article 18(2), the following additional safeguards shall apply:		point (e) of Article 18(2), the following additional safeguards shall apply:	2. For the processing of personal data performed by means of Europol's research and innovation projects as referred to in point (e) of Article 18(2), the following additional safeguards shall apply:
338 (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	(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 processing activity, setting out the objectives, scope and	(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 <a href="mailto:new-technological">new-technological</a> solutions and ensuring accuracy of the project results, a description of the personal data to be processed, a description of the retention period	Written procedure (25/11/2021) provisionally agreed to use COM COMP proposal (tbc: FRO as part of the governance package)  (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]

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
processed, a description of the	the necessity and	and conditions for access to the	Officer], based on
retention period and conditions	proportionality to process the personal data, a description of	personal data, a data protection	i. a description of the specific
for access to the personal data,	the <i>categories of</i> personal data	impact assessment of the risks to all	objectives of the project and
a data protection impact	to be processed, a description of compliance with the data	rights and freedoms of data	the way in which the project
assessment of the risks to all	protection principles laid down	subjects, including of any bias in	assists Europol or national law enforcement authorities
rights and freedoms of data	in Article 71 of Regulation (EU) 2018/1725, of the	the outcome, and the measures	in its tasks,
subjects, including of any bias	retention period and conditions	envisaged to address those risks;	ii. a description of the
in the outcome, and the	for access to the personal data, a data protection impact		envisaged processing activity, setting out the
measures envisaged to address	assessment of the risks to all		objectives, scope and
those risks;	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.		duration of the processing and the necessity and proportionality to process the personal data, such as for exploring and testing innovative new technological solutions and ensuring accuracy of the project results,  iii. a description of the categories of personal data
			to be processed,  iv. a description of compliance with the data protection principles laid down in Article 71 of Regulation

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				<ul> <li>(EU) 2018/1725, of the retention period and conditions for access to the personal data, and</li> <li>v. a data protection impact assessment, including the risks to all rights and freedoms of data subjects, the risk of any bias in the personal data to be used for the training of algorithms and in the outcome of the</li> </ul>
				processing, and the measures envisaged to address those risks as well as to avoid violations of fundamental rights.
339		(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		Written procedure 7/1/2022: Presidency compromise suggestion to delete the EP amendment_on the basis of the PRES compromise suggestion for FRO

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		before launching the project.		
340	(b) (b) the Management		(b) (b) the Management Board	TM 17/11/2021: Provisional
340	Board and the EDPS shall be		and the EDPS shall be informed	agreement to use CSL text:
				agreement to use CSL text.
	informed prior to the launch of		prior to the launch of the project;	
	the project; (c) any personal		the Management Board shall be	
	data to be processed in the		either consulted or informed	b) <del>the Management Board and</del> the
	context of the project shall be		prior to the launch of the project,	EDPS shall be informed prior to the
	temporarily copied to a		in accordance with criteria laid	launch of the project; the
	separate, isolated and		down in the guidelines referred to	Management Board shall be
	protected data processing		<u>in article 18(7);</u>	either consulted or informed
	environment within Europol			prior to the launch of the project,
	for the sole purpose of			in accordance with criteria laid
	carrying out that project and		(c) any personal data to be	down in the guidelines referred to
	only authorised staff of		processed in the context of the	<u>in article 18(7)</u>
	Europol shall have access to		project shall be temporarily copied	
	that data;		to a separate, isolated and protected	
			data processing environment within	(c) any personal data to be
			Europol for the sole purpose of	processed in the context of the
			carrying out that project and only	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			specifically authorised staff of	project shall be temporarily copied
			Europol and, subject to technical	to a separate, isolated and protected
			security measures, specifically	data processing environment within
			authorised staff of Member	Europol for the sole purpose of
			States' competent authorities and	carrying out that project and only
			Union agencies established on the	specifically authorised staff of
			basis of Title V of the TFEU, shall	Europol and, subject to technical
			have access to that data;	security measures, specifically
				authorised staff of Member
				States' competent authorities and
				<b>Union agencies established on the</b>
				basis of Title V of the TFEU, shall
				have access to that data;
341	(c) (d) any personal data		(c) (d) any personal data	
	processed in the context of the		processed in the context of the	
	project shall not be		project shall not be transmitted,	
	transmitted, transferred or		transferred or otherwise accessed by	
	otherwise accessed by other		other parties;	
	parties;			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
342	(d) (e) any processing of personal data in the context of the project shall not lead to measures or decisions affecting the data subjects;		(d) (e) any processing of personal data in the context of the project shall not lead to measures or decisions affecting the data subjects;	
343	(e) (f) any personal data processed in the context of the project shall be deleted once the project is concluded or the personal data has reached the end of its retention period in accordance with Article 31;		(e) (f) any personal data processed in the context of the project shall be deleted erased once the project is concluded or the personal data has reached the end of its retention period in accordance with Article 31;	TM 17/11/2021: provisionally agreed to use CSL text  (e) (f) any personal data processed in the context of the project shall be deleted erased once the project is concluded or the personal data has reached the end of its retention period in accordance with Article 31;
344	(f) (g) 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	AM 143  (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	(f) (g) the logs of the processing of personal data in the context of the project shall be kept for the duration of the project and 12 years after the project is	TM 26/11/2021: provisionally agreed to use COM compromise wording  (f) (g) the logs of the

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	project is concluded, solely for	project is concluded, solely for	concluded, solely for the purpose of	processing of personal data in the
	the purpose of and only as	the purpose of and only as long as necessary for verifying the	and only as long as necessary for	context of the project shall be kept
	long as necessary for verifying	accuracy of the outcome of the	verifying the accuracy of the	for the duration of the project and
	the accuracy of the outcome of	data processing, accuracy of the outcome of the data	outcome of the data processing.	<b><u>42</u></b> years after the project is
	the data processing.	processing, and to allow the EDPS to conduct supervision		concluded, solely for the purpose of
		and audits to ensure that all		and only as long as necessary for
		the conditions and safeguards		verifying the accuracy of the
		provided for in this Article have been met.		outcome of the data processing.
345		AM 144		TM 17/11/2021: provisionally
		1a.TheManagementBoardshallestablisha		agreed.
		binding general scope for the		
		research and innovation projects of Europol. The document shall be updated		3. The Management Board shall
		where appropriate. The		establish a binding general scope
		document shall be made available to the EDPS for the		for the research and innovation
		purpose of its supervisory role.		projects of Europol. The document
				shall be updated where appropriate.
				The document shall be made

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				available to the EDPS for the purpose of its supervisory role.
346			2. Preference should be given to using synthetic, pseudonymized and/or anonymized personal data.	TM 17/11/2021: provisionally agreed to delete as partly covered by recital 39 and Art. 33a(1)
347	3. 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 JPSG upon request.	3. 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.";	Written procedure 7/1/2022: provisionally agreed  4. 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

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			to the JPSG upon request. Upon
			request, Europol shall make the
			description available to interested
			parties, including Member States
			and the JPSG.
			TM 26/11/2021: CSL against
			allowing JPSG access to the report;
			very technical; part of the
			governance package; COM had the
			intention that the report will be
			made available to those concerned;
			COM to propose wording that those
			concerned, incl. MS and JPSG,
			should receive this report;
			TM 17/11/2021: CSL to consider
			COM suggestion to use EP text
			without 'explainability' as
			explainability is one of the
			'safeguards provided for in this

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				Article'
348		AM 146  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.		TM 17/11/2021: provisional agreement to delete this text as proposed by COM since these audits could undermine the role of the EDPS
349			4. If the data to be processed for a research and innovation project have been provided by a Member State, a Union body, a third country or an international organisation, Europol shall seek consent from that Member State, Union body, third country or international organisation, unless the Member State, Union body,	2nd trilogue (30/11/2021): provisional agreement  5. If the data to be processed for a research and innovation project have been provided by a Member State, a Union body, a third country or an international organisation, Europol shall seek consent from that Member State, Union body,

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			third country or international	third country or international
			organisation has granted its prior	organisation in accordance with
			authorisation to such processing	Article 19(2), unless the Member
			for the purpose of Article	State, Union body, third country or
			18(2)(e), either in general terms	international organisation has
			or subject to specific conditions.	granted its prior authorisation to
			Such consent may be withdrawn	such processing for the purpose of
			at any time.	Article 18(2)(e), either in general
				terms or subject to specific
				conditions. Europol shall not
				process data for research and
				innovation without the consent of
				the Member State, Union body,
				third country or international
				organisation. Such consent may be
				withdrawn at any time."
350	(20) Article 34 is amended as		(20) Article 34 is amended as	
330	follows:		follows:	
	TOHOWS.		IOHOWS.	
351	(a) paragraph 1 is replaced by		(a) paragraph 1 is replaced by the	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	the following:		following:	
352	"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;	"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.";	Written procedure (25/11/2021): provisional agreement to use EP text  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;

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
353	(b) paragraph 3 is deleted;		(b) paragraph 3 is deleted;	
354	(21) Article 35 is amended as follows:		(21) Article 35 is amended as follows:	
355	(a) paragraphs 1 and 2 are deleted;		(a) paragraphs 1 and 2 are deleted;	
356	(b) in paragraph 3, the first sentence is replaced by the following:		(b) in paragraph 3, the first sentence is replaced by the following:	
357	"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	Without prejudice to Article 93 of <i>Regulation (EU) 2018/1725</i> , 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. <i>Member States providing the data shall communicate the breach to the</i>	"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.";	TM 12/11/2021: provisionally agreed - use EP text  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

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	taken.";	data subject concerned in accordance with national law.		accordance with national law.
358	(b) paragraphs 4 and 5 are deleted.";		(b) paragraphs 4 and 5 are deleted.";	
359	(22) Article 36 is amended as follows:		(22) Article 36 is amended as follows:	
360	(a) paragraphs 1 and 2 are deleted;		(a) paragraphs 1 and 2 are deleted;	
361	(b) paragraph 3 is replaced by the following:		(b) paragraph 3 is replaced by the following:	
362	"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	AM 149  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	"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	TM 12/11/2021: provisionally agreed - use EP/CSLtext (identical)  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

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	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.";	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.;	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.";	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.
363	(c) paragraphs 6 and 7 are deleted(1)		(c) paragraphs 6 and 7 are deleted(1)	
364	(23) Article 37 is amended as follows:		(23) Article 37 is amended as follows:	
365	(a) paragraph 1 is replaced by the following:		(a) paragraph 1 is replaced by the following:	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
366	"1. Any data subject wishing		"1. Any data subject wishing to	
	to exercise the right to		exercise the right to rectification or	
	rectification or erasure of		erasure of personal data or of	
	personal data or of restriction		restriction of processing referred to	
	of processing referred to in		in Article 82 of Regulation (EU)	
	Article 82 of Regulation (EU)		2018/1725 of personal data that	
	2018/1725 of personal data		relate to him or her may make a	
	that relate to him or her may		request to that effect, through the	
	make a request to that effect,		authority appointed for that purpose	
	through the authority		in the Member State of his or her	
	appointed for that purpose in		choice, or to Europol. Where the	
	the Member State of his or her		request is made to the Member	
	choice, or to Europol. Where		State authority, that authority shall	
	the request is made to the		refer the request to Europol without	
	Member State authority, that		delay and in any case within one	
	authority shall refer the		month of receipt.";	
	request to Europol without			
	delay and in any case within			
	one month of receipt.";			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
367	(b) paragraph 2 is deleted;		(b) paragraph 2 is deleted;	
368	(c) in paragraph 3, the first sentence is replaced by the following:		(c) in paragraph 3, the first sentence is replaced by the following:	
369	"Without prejudice to Article 82(3) of Regulation 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.";	Without prejudice to Article 82(3) of Regulation (EU) 2018/1725, Europol shall 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.	"Without prejudice to Article 82(3) of Regulation 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.";	Written procedure (25/11/2021):  provisional agreement to combine EP/CSL texts and merge Art. 37 and Art. 37a  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.
				Restricted data shall be processed

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				only for the purpose of protecting the rights of the data subject, when it is necessary to protect the vital interest of another natural or legal person, or for the purposes laid down in Article 82(3) of that Regulation.
370			(c bis) paragraphs 4 and 5are amended as follows:	Written procedure (25/11/2021): provisional agreement to use CSL text  (c bis) paragraphs 4 and 5are amended as follows:
371			"4. If personal data as referred to in paragraphs 1, 2 and 3 held by Europol have been provided to it by third countries, international organisations or Union bodies, have been directly provided by private parties or have been retrieved by	Written procedure (25/11/2021):  provisional agreement to use CSL  text  4. If personal data as referred  to in paragraphs 1, → and 3 held by  Europol have been provided to it by

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			Europol from publicly available sources or result from Europol's own analyses, Europol shall rectify, erase or restrict such data and, where appropriate, inform the providers of the data.	third countries, international organisations or Union bodies, have been directly provided by private parties or have been retrieved by Europol from publicly available sources or result from Europol's own analyses, Europol shall rectify, erase or restrict such data and, where appropriate, inform the providers of the data.
372			5. If personal data as referred to in paragraphs 1, 2 and 3 held by Europol have been provided to Europol by Member States, the Member States concerned shall rectify, erase or restrict such data in collaboration with Europol, within their respective competences."	Written procedure (25/11/2021):  provisional agreement to use CSL text  5. If personal data as referred to in paragraphs 1, 2 and 3 held by Europol have been provided to Europol by Member States, the Member States concerned shall rectify, erase or restrict such data in

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				collaboration with Europol, within
				their respective competences."
373	(d) paragraphs 8 and 9 are		(d) paragraphs 8 and 9 are	
	deleted.";		deleted.";	
374	(24) the following Article 37a	AM 151	(24) the following Article 37a is	Written procedure (25/11/2021):
	is inserted:	deleted	inserted:	provisional agreement to delete Art.
				as included in Art. 37
375	"Article 37a	deleted	"Article 37a	Written procedure (25/11/2021):
				provisional agreement to delete Art.
				as included in Art. 37
376	Right to restriction of	deleted	Right to restriction of processing	Written procedure (25/11/2021):
	processing			provisional agreement to delete Art.
				as included in Art. 37
377	Where the processing of	deleted	Where the processing of personal	Written procedure (25/11/2021):
	personal data has been		data has been restricted under	provisional agreement to delete Art.
	restricted under Article 82(3)		Article 82(3) of Regulation (EU)	as included in Art. 37
	of Regulation (EU)		2018/1725, such personal data shall	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	2018/1725, such personal data		only be processed for the protection	
	shall only be processed for the		of the rights of the data_subject or	
	protection of the rights of the		when it is necessary to protect the	
	data subject or another natural		vital interest of another natural or	
	or legal person or for the		legal person or for the purposes laid	
	purposes laid down in Article		down in Article 82(3) of that	
	82(3) of that Regulation.";		Regulation.";	
378	(25) Article 38 is amended as follows:	AM 152	(25) Article 38 is amended as follows:	
		(25) Article 38 is amended as follows:		
379		(-a) paragraph 1 is replaced by		TM 12/11/2021: provisionally
		the following:		agreed - use EP text
				(-a) paragraph 1 is replaced by the following:
380		"1. Europol shall process		TM 12/11/2021: provisionally
		personal data in a way that ensures that their source, in		agreed - use EP text
		accordance with Article 17, can be established."		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
381		(-aa) introductory part of paragraph 2 is replaced by the following:	(-a) the first phrase in paragraph 2 is amended as follows:	TM 12/11/2021: provisionally agreed - use EP text  (-aa) introductory part of paragraph 2 is replaced by the following:
382		"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:"	"2. The responsibility for the quality of personal data as referred to in point (d) of Article 28(1) shall lie with:"	TM 12/11/2021: provisionally agreed - use EP text  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:"
383		(-ab) point (a) of paragraph 2 is replaced by the following:		TM 12/11/2021: provisionally agreed - use EP text  -ab) point (a) of paragraph 2 is replaced by the following:
384	(a) the Member State or the Union body which	"(a) the Member State or the Union body which provided the personal data;"	(a) the Member State or the Union body which provided the	•

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	provided the personal data to Europol;		personal data to Europol;	(a) the Member State or the Union <i>institution or</i> body which provided the personal data to Europol
				NB: 'or institution' was added in line with agreement to drop definition of 'Union body' in Art. 2 and apply the definition of Union institutions or bodies' from EUDPR.
385	(a) paragraph 4 is replaced by the following:	(a) paragraph 4 is replaced by the following:	(a) paragraph 4 is replaced by the following:	
386	"4. Responsibility for compliance with Regulation (EU) 2018/1725 in relation to administrative personal data	"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	"4. Responsibility for compliance with Regulation (EU) 2018/1725 in relation to administrative personal data and for compliance with this	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	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.";	(EU) 2018/1725 in relation to operational personal data shall lie with Europol."	Regulation and with Article 3 and Chapter IX of Regulation (EU) 2018/1725 in relation to operational personal data shall lie with Europol.";	
387		(aa) in paragraph 6, the first subparagraph is replaced by the following:		TM 12/11/2021: provisionally agreed - use EP text  (aa) in paragraph 6, the first subparagraph is replaced by the following:
388		"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."		TM 12/11/2021: provisionally agreed - use EP text  6. In the case of a transfer between Europol and a Union institution or body, the responsibility for the legality of the transfer shall lie with Europol.  NB: 'or institution' was added in

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				line with agreement to drop definition of 'Union body' in Art. 2 and apply the definition of Union institutions or bodies' from EUDPR.
389	(b) in paragraph 7 the third sentence is replaced by the following:		(b) in paragraph 7 the third sentence is replaced by the following:	
390	"The security of such exchanges shall be ensured in accordance with Article 91 of Regulation (EU) 2018/1725";		"The security of such exchanges shall be ensured in accordance with Article 91 of Regulation (EU) 2018/1725";	
391	(26) Article 39 is amended as follows:		(26) Article 39 is amended as follows:	
392	(a) paragraph 1 is replaced by the following:		(a) paragraph 1 is replaced by the following:	
393	"1. Without prejudice to Article 90 of Regulation (EU)		"1. Without prejudice to Article 90 of Regulation (EU) 2018/1725,	TM 03/12/2021: CSL is fine with the compromise; EP has some

C	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
20	018/1725, any new type of		prior consultation shall not apply	concerns regarding limitation of
pr	rocessing operations to be		to specific individual operational	prior consultation to 'high risk';
ca	arried out shall be subject to		activities. any new type of	COM: limitation is provided for in
pı	rior consultation of the EDPS		processing operations to be carried	EUDPR; EP to check
w	here special categories of		out shall be subject to prior	
da	ata as referred to in Article		consultation of the EDPS where	
30	0(2) of this Regulation are to		special categories of data as	COM compromise proposal
be	e processed.";		referred to in Article 30(2) of this	26/11/2021:
			Regulation are to be processed.";	
				"1. Without prejudice to Article 90
				of Regulation (EU) 2018/1725,
				prior consultation shall not apply
				to specific individual operational
				activities that do not include any
				new type of processing that would
				involve a high risk to the rights
				and freedoms of the data subjects.
				TM 12/11/2021: EP/COM cannot
				accept CSL wording; COM

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				acknowledges that issues might occasionally arise where a specific case merits use of new processing activity for the first time. justified as rights and freedoms
394	(b) paragraphs 2 and 3 are deleted;		(b) paragraphs 2 and 3 are <b>replaced by the following</b> deleted;	
395			"2. Europol may initiate processing operations which are subject to prior consultation pursuant to Article 90(1) of Regulation (EU) 2018/1725 unless the EDPS has provided reasoned written advice pursuant to Article 90(4) of Regulation (EU) 2018/1725 within the time periods stipulated therein.	Written procedure 20/1/2022:  PRES compromise suggestion to amend COM compromise proposal of 26/11/2021:  "2. Europol may initiate processing operations which are subject to prior consultation pursuant to Article 90(1) of Regulation (EU) 2018/1725 unless the EDPS has provided reasoned written advice pursuant to Article 90(4) of Regulation (EU)

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				2018/1725 within the time periods
				stipulated therein, which start on
				the date of receipt of the initial
				request for consultation and shall
				not be suspended."
				TM 03/12/2021: EP is concerned
				that this might send a bad signal;
				COM explained that this provision
				only clarifies that prior consultation
				does not mean prior authorisation -
				if EDPS does not reply within the
				deadlines, Europol may proceed
				with the processing;
				, G
				<b>TM 12/11/2021:</b> COM considers
				this provision acceptable but not
				essential
396			2 If the envise and managed	Weitten precedure 20/1/2022
390			3. If the envisaged processing	Written procedure 20/1/2022:
			has substantial significance for	

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		Europol's performance of tasks	PRES compromise suggestion
		and is particularly urgent,	"2 IC 1
		Europol may initiate processing	"3. If the envisaged processing has
		after the consultation has started	substantial significance for
		but before the time period	Europol's performance of tasks and
		stipulated in Article 90(4) of	is particularly urgent and necessary
		Regulation (EU) 2018/1725 has	to prevent and fight an immediate
		expired. In this case, Europol	threat of a criminal offence in
		shall inform the EDPS prior to	respect of which Europol is
		the start of processing activities.	competent, threat to the
		Written advice of the EDPS	protection of public security of a
		pursuant to Article 90(4) of	Member State, or to protect or
		Regulation (EU) 2018/1725 shall	vital interests of a person or to
		be taken into account in	prevent, upon request by a
			Member State, an imminent
		retrospect, and the way the	danger of perpetration of a
		processing is carried out shall be	specific case of serious crime for
		adjusted where applicable. The	which Europol is competent,
		Data Protection officer of	Europol may exceptionally initiate
		Europol shall be involved in	processing after the consultation has
		assessing the urgency of such	started but before the time period
		processing before the time limit	started out before the time period

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		for the EDPS to respond to prior	stipulated in Article 90(4) of
		consultation expires. The Data	Regulation (EU) 2018/1725 has
		<b>Protection Officer should oversee</b>	expired. In this case, Europol shall
		the processing in question."	inform the EDPS prior to the start
			of processing activities. Written
			advice of the EDPS pursuant to
			Article 90(4) of Regulation (EU)
			2018/1725 shall be taken into
			account in retrospect, and the way
			the processing is carried out shall be
			adjusted <u>accordingly</u> where
			<del>possible</del> <del>applicable</del> . The Data
			Protection Officer of Europol shall
			be involved in assessing the
			urgency of such processing before
			the time limit for the EDPS to
			respond to prior consultation
			expires. The Data Protection Officer
			shall should oversee the processing
			in question."

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			TM 06/12/2021: essential for CSL
			to keep this provision; EP and COM
			remain opposed; CSL and EP to
			further discuss internally
			COM compromise proposal
			<u>(6/12/2021):</u>
			"3. If the envisaged processing has
			substantial significance for
			Europol's performance of tasks and
			is particularly urgent and necessary
			to prevent an immediate and
			serious threat to the for the
			protection of public security of a
			Member State, to protect or vital

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			interests of a person or to
			prevent, upon request by a
			Member State, an imminent
			danger of perpetration of a
			specific case of serious crime for
			which Europol is competent,
			Europol may exceptionally initiate
			processing after the consultation has
			started but before the time period
			stipulated in Article 90(4) of
			Regulation (EU) 2018/1725 has
			expired. In this case, Europol shall
			inform the EDPS prior to the start
			of processing activities. Written
			advice of the EDPS pursuant to
			Article 90(4) of Regulation (EU)
			2018/1725 shall be taken into
			account in retrospect, and the way
			the processing is carried out shall be
			adjusted <u>accordingly</u> where
			possible applicable. The Data

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				Protection Officer of Europol shall
				be involved in assessing the
				urgency of such processing before
				the time limit for the EDPS to
				respond to prior consultation
				expires. The Data Protection Officer
				shall should oversee the processing
				in question."
				COM compromise proposal
				<b>26/11/2021: delete CSL wording</b>
397	(27) The following Article 39a		(27) The following Article 39a in	
	in inserted:		inserted:	
398	"Article 39a		"Article 39a	
399	Records of categories of		Records of categories of	
	processing activities		processing activities	
400	1. Europol shall maintain a		1. Europol shall maintain a record	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	record of all categories of		of all categories of processing	
	processing activities under its		activities under its responsibility.	
	responsibility. That record		That record shall contain the	
	shall contain the following		following information:	
	information:			
401	(a) Europol's contact details		(a) Europol's contact details and the	
	and the name and the contact		name and the contact details of its	
	details of its Data Protection		Data Protection Officer;	
	Officer;			
402	(b) the purposes of the		(b) the purposes of the processing;	
	processing;			
403	(c) the description of the		(c) the description of the categories	
	categories of data subjects and		of data subjects and of the	
	of the categories of operational		categories of operational personal	
	personal data;		data;	
404	(d) the categories of recipients		(d) the categories of recipients to	
	to whom the operational		whom the operational personal data	
	personal data have been or will		have been or will be disclosed	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	be disclosed including		including recipients in third	
	recipients in third countries or		countries or international	
	international organisations;		organisations;	
405	(e) where applicable, transfers		(e) where applicable, transfers of	
	of operational personal data to		operational personal data to a third	
	a third country, an		country, an international	
	international organisation, or		organisation, or private party	
	private party including the		including the identification of that	
	identification of that third		third country, international	
	country, international		organisation or private party;	
	organisation or private party;			
406	(f) where possible, the		(f) where possible, the envisaged	
	envisaged time limits for		time limits for erasure of the	
	erasure of the different		different categories of data;	
	categories of data;			
407	(g) where possible, a general		(g) where possible, a general	
	description of the technical		description of the technical and	
	and organisational security		organisational security measures	
	measures referred to in Article		referred to in Article 91 of	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	91 of Regulation (EU)		Regulation (EU) 2018/1725=;	
	2018/1725.			
408			(h) where applicable, the use of	Written procedure (25/11/2021):
			profiling.	provisional agreement to use CSL
				wording
				(h) where applicable, the use of
				profiling.
				proming.
409	2. The records referred to in		2. The records referred to in	
	paragraph 1 shall be in		paragraph 1 shall be in writing,	
	writing, including in electronic		including in electronic form.	
	form.			
410	3. Europol shall make the		3. Europol shall make the records	
	records referred to in		referred to in paragraph 1 available	
	paragraph 1 available to the		to the EDPS on request.";	
	EDPS on request.";			
411	(28) Article 40 is amended		(28) Article 40 is amended as	
	as follows:		follows:	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
412	(a) the title is replaced by the following:		(a) the title is replaced by the following:	
413	"Logging"		"Logging"	
414	(b) paragraph 1 is replaced by the following:		(b) paragraph 1 is replaced by the following:	
415	"1. In line with Article 88 of Regulation (EU) 2018/1725, Europol shall keep logs of its processing operations. There shall be no possibility of modifying the logs.";		"1. In line with Article 88 of Regulation (EU) 2018/1725, Europol shall keep logs of its processing operations. There shall be no possibility of modifying the logs.";	
416	(c) in paragraph 2, the first sentence is replaced by the following:		(c) in paragraph 2, the first sentence is replaced by the following:	
417	"Without prejudice to Article 88 of Regulation (EU) 2018/1725, the logs prepared		"Without prejudice to Article 88 of Regulation (EU) 2018/1725, the logs prepared pursuant to paragraph	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	pursuant to paragraph 1, if		1, if required for a specific	
	required for a specific		investigation related to compliance	
	investigation related to		with data protection rules, shall be	
	compliance with data		communicated to the national unit	
	protection rules, shall be		concerned.";	
	communicated to the national			
	unit concerned.";			
418	(29) Article 41 is replaced		(29) Article 41 is replaced by the	
	by the following:		following:	
419	"Article 41		"Article 41	
420	<b>Designation of the Data</b>		<b>Designation of the Data</b>	
	<b>Protection Officer</b>		<b>Protection Officer</b>	
421	1. The Management	AM 153	1. The Management Board	TM 12/11/2021: provisionally
	Board shall appoint a Data	1. The Management Board	shall appoint a Data Protection	agreed - use EP text (deleted second
	Protection Officer, who shall	shall appoint a Data Protection	Officer, who shall be a member of	sentence is covered in 41a(3):
	be a member of the staff	Officer, who shall be a member of the staff specifically	the staff specifically appointed for	
	specifically appointed for this	appointed for this purpose.	this purpose. In the performance of	The Management Board shall
	purpose. In the performance of		his or her duties, he or she shall act	appoint a Data Protection Officer,

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
422	his or her duties, he or she shall act independently and may not receive any instructions.	AM 154	independently and may not receive any instructions.	who shall be a member of the staff specifically appointed for this purpose.
422	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.	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.	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 law and practices and the ability to fulfil his or her tasks under this Regulation and Regulation (EU) 2018/1725.	agreed - combine EP/CSL texts:  2. The Data Protection Officer shall be selected on the basis of professional qualities and, in particular, the expert knowledge of data protection <i>law</i> and practices and the ability to fulfil <i>the</i> tasks <i>referred to in Article 41b of</i> this Regulation <i>and in Regulation (EU)</i> 2018/1725.
423	3. The selection of the Data Protection Officer shall not be liable to result in a conflict of interests between his or her		3. The selection of the Data Protection Officer shall not be liable to result in a conflict of interests between his or her duty as	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	duty as Data Protection		Data Protection Officer and any	
	Officer and any other official		other official duties he or she may	
	duties he or she may have, in		have, in particular in relation to the	
	particular in relation to the		application of this Regulation.	
	application of this Regulation.			
424	4. The Data Protection	AM 155	4. The Data Protection Officer	TM 12/11/2021: provisionally
	Officer shall be designated for	Jalata	shall be designated for a term of	agreed
	a term of four years and shall	deleted	four years and shall be eligible for	tout is moved down to Aut 11 a
	be eligible for reappointment.		reappointment. The Data Protection	- text is moved down to Art. 41a
	The Data Protection Officer		Officer may be dismissed from his	
	may be dismissed from his or		or her post by the Executive	
	her post by the Executive		Management Board only with the	
	Board only with the agreement		agreement of the EDPS, if he or she	
	of the EDPS, if he or she no		no longer fulfils the conditions	
	longer fulfils the conditions		required for the performance of his	
	required for the performance		or her duties	
	of his or her duties			
425	5. After his or her	AM 155	5. After his or her designation,	TM 12/11/2021: provisionally
	designation, the Data	deleted	the Data Protection Officer shall be	agreed

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	Protection Officer shall be registered with the European Data Protection Supervisor by the Management Board		registered with the European Data Protection Supervisor by the Management Board	- paragraph is moved down to Art. 41a
426	6. Europol shall publish the contact details of the Data Protection Officer and communicate them to the EDPS.";		6. Europol shall publish the contact details of the Data Protection Officer and communicate them to the EDPS.";	
427	(30) the following Articles 41a and 41b are inserted:		(30) the following Articles 41a and 41b are inserted:	
428	"Article 41a		"Article 41a	
429	Position of the Data Protection Officer		Position of the Data Protection Officer	
430	1. Europol shall ensure that the Data Protection Officer is involved, properly and in a		Europol shall ensure that the     Data Protection Officer is involved,     properly and in a timely manner, in	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	timely manner, in all issues		all issues which relate to the	
	which relate to the protection		protection of personal data.	
	of personal data.			
431	2. Europol shall support the	AM 157	2. Europol shall support the Data	Written procedure 20/1/2022:
	Data Protection Officer in	2. Europol shall support	Protection Officer in performing the	PRES compromise suggestion
	performing the tasks referred	the Data Protection Officer in	tasks referred to in Article 41c by	
	to in Article 41c by providing	performing the tasks referred to in Article <i>41b</i> by providing the	providing the resources and staff	2. Europol shall support the Data
	the resources and staff	resources and staff necessary to	necessary to carry out those tasks	Protection Officer in performing the
	necessary to carry out those	carry out those tasks and access to personal data and processing	and by providing access to personal	tasks referred to in Article <i>41b</i> by providing the resources and staff
	tasks and by providing access	operations, and to maintain his	data and processing operations, and	necessary to carry out those tasks
	to personal data and	or her expert knowledge. The staff <i>provided to assist the</i>	to maintain his or her expert	and by providing access to personal data and processing operations, and
	processing operations, and to	Data Protection Officer and to	knowledge. The related staff may	to maintain his or her expert
	maintain his or her expert	support Europol in complying with this Regulation and with	be supplemented by an assistant	knowledge. The related staff may be supplemented by an assistant DPO
	knowledge. The related staff	Regulation (EU) 2018/1725	DPO in the area of operational and	in the area of operational and
	may be supplemented by an	may be supplemented by <i>two</i> assistant <i>Data Protection</i>	administrative processing of	administrative processing of personal data.
	assistant DPO in the area of	Officers, one responsible for	personal data.	The provisions applicable to the
	operational and administrative	operational processing of personal data and the other		Data Protection Officer shall apply mutatis mutandis to the assistant
	processing of personal data.	responsible for administrative		Data Protection Officer.
		processing of personal data.  The provisions applicable to		
		the Data Protection Officer		D. 14. 14. 17. (20/14/2024) //D. 4
		shall apply mutatis mutandis		Political trilogue (30/11/2021)/TM

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		to the assistant Data Protection Officers.		03/12/2021:
				EP cannot accept this proposal as
				data protection and fundamental
				rights should be kept separately;
				insists to keep FRO
				TM 12/11/2021: CSL/COM
				expressed reservations; COM: DPO
				function is to be guaranteed and it
				should be left to Europol's
				discretion to ensure fulfilment of
				tasks;
				Agreement to pool this provision
				with other governance issues in EP's
				mandate.
432	3. Europol shall ensure that	AM 158	3. Europol shall ensure that the	TM 12/11/2021: provisionally
	the Data Protection Officer	3. Europol shall ensure	Data Protection Officer does not	agreed - EP text
	does not receive any	that the Data Protection Officer acts independently and does	receive any instructions regarding	3 Europol shall ensure that the

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	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 Board for performing his or her tasks.	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 Board for performing his or her tasks.	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 Board for performing his or her tasks.	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 penalised by the Management Board for performing his or her tasks.
433	4. Data subjects may contact the Data Protection Officer with regard to all issues related to processing of their personal data and to the exercise of their rights under this Regulation and under Regulation (EU) 2018/1725.		4. Data subjects may contact the Data Protection Officer with regard to all issues related to processing of their personal data and to the exercise of their rights under this Regulation and under Regulation (EU) 2018/1725. No one shall suffer prejudice on account of a	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	No one shall suffer prejudice		matter brought to the attention of	
	on account of a matter brought		the Data Protection Officer alleging	
	to the attention of the Data		that a breach of this Regulation or	
	Protection Officer alleging that		Regulation (EU) 2018/1725 has	
	a breach of this Regulation or		taken place.	
	Regulation (EU) 2018/1725			
	has taken place.			
434	5. The Management Board		5. The Management Board shall	
	shall adopt further		adopt further implementing rules	
	implementing rules concerning		concerning the Data Protection	
	the Data Protection Officer.		Officer. Those implementing rules	
	Those implementing rules		shall in particular concern the	
	shall in particular concern the		selection procedure for the position	
	selection procedure for the		of the Data Protection Officer, his	
	position of the Data Protection		or her dismissal, tasks, duties and	
	Officer, his or her dismissal,		powers, and safeguards for the	
	tasks, duties and powers, and		independence of the Data Protection	
	safeguards for the		Officer.	
	independence of the Data			
	Protection Officer.			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
435	6. The Data Protection Officer and his or her staff shall be bound by the obligation of confidentiality in accordance with Article 67(1).		6. The Data Protection Officer and his or her staff shall be bound by the obligation of confidentiality in accordance with Article 67(1).	
436		AM 159  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		TM 12/11/2021: provisionally agreed - use EP text (moved down from 41(4))  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
437		AM 160  6b. After their designation, the Data Protection Officer and the assistant Data		TM 12/11/2021: provisionally agreed - use EP text (moved down from 41(5))

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		Protection Officers shall be registered with the EDPS by the Management Board.		6b. After their designation, the Data Protection Officer and the assistant Data Protection Officers shall be registered with the EDPS by the Management Board.
438	Article 41b		Article 41b	
439	Tasks of the Data Protection Officer		Tasks of the Data Protection Officer	
440	1. The Data Protection Officer shall, in particular, have the following tasks with regard to processing of personal data:		1. The Data Protection Officer shall, in particular, have the following tasks with regard to processing of personal data:	
441	(a) ensuring in an independent manner the compliance of Europol with		(a) ensuring in an independent manner the compliance of Europol with the data protection provisions	Written procedure (25/11/2021): provisional agreement to use CSL text

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
the data protection provisions		of this Regulation and Regulation	a) ensuring in an independent
of this Regulation and		(EU) 2018/1725 and with the	manner the compliance of Europol
Regulation (EU) 2018/1725		relevant data protection provisions	with the data protection provisions
and with the relevant data		in Europol's <u>internal</u> rules <del>of</del>	of this Regulation and Regulation
protection provisions in		procedure; this includes monitoring	(EU) 2018/1725 and with the
Europol's rules of procedure;		compliance with this Regulation,	relevant data protection provisions
this includes monitoring		with Regulation (EU) 2018/1725,	in Europol's <u>internal</u> rules <del>of</del>
compliance with this		with other Union or national data	<del>procedure</del> ; this includes monitoring
Regulation, with Regulation		protection provisions and with the	compliance with this Regulation,
(EU) 2018/1725, with other		policies of Europol in relation to the	with Regulation (EU) 2018/1725,
Union or national data		protection of personal data,	with other Union or national data
protection provisions and with		including the assignment of	protection provisions and with the
the policies of Europol in		responsibilities, awareness-raising	policies of Europol in relation to the
relation to the protection of		and training of staff involved in	protection of personal data,
personal data, including the		processing operations, and related	including the assignment of
assignment of responsibilities,		audits.;	responsibilities, awareness-raising
awareness-raising and training			and training of staff involved in
of staff involved in processing			processing operations, and related
operations, and related audits.;			audits.;

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
442	b) informing and advising		b) informing and advising Europol	
	Europol and staff who process		and staff who process personal data	
	personal data of their		of their obligations pursuant to this	
	obligations pursuant to this		Regulation, to Regulation (EU)	
	Regulation, to Regulation		2018/1725 and to other Union or	
	(EU) 2018/1725 and to other		national data protection provisions;	
	Union or national data			
	protection provisions;			
443	c) providing advice where		c) providing advice where requested	
	requested as regards the data		as regards the data protection	
	protection impact assessment		impact assessment and monitoring	
	and monitoring its		its performance pursuant to Article	
	performance pursuant to		89 of Regulation (EU) 2018/1725;	
	Article 89 of Regulation (EU)			
	2018/1725;			
444	d) keeping a register of		d) keeping a register of personal	
	personal data breaches and		data breaches and providing advice	
	providing advice where		where requested as regards the	
	requested as regards the		necessity of a notification or	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	necessity of a notification or communication of a personal data breach pursuant to Articles 92 and 93 of Regulation (EU) 2018/1725;		communication of a personal data breach pursuant to Articles 92 and 93 of Regulation (EU) 2018/1725;	
445	(e) ensuring that a record of the transfer and receipt of personal data is kept in accordance with this Regulation;	AM 161  (e) ensuring that a record of the <i>transmission</i> , transfer and receipt of personal data is kept in accordance with this Regulation;	(e) ensuring that a record of the transfer and receipt of personal data is kept in accordance with this Regulation;	2 <sup>nd</sup> trilogue (30/11/2021): provisional agreement  (e) ensuring that a record of the transmission, transfer and receipt of personal data is kept in accordance with this Regulation;
446	(f) ensuring that data subjects are informed of their rights under this Regulation and Regulation (EU) 2018/1725 at their request;		(f) ensuring that data subjects are informed of their rights under this Regulation and Regulation (EU) 2018/1725 at their request;	
447	(g) cooperating with Europol staff responsible for		(g) cooperating with Europol staff responsible for procedures, training	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	procedures, training and		and advice on data processing;	
	advice on data processing;			
448	(h) cooperating with the EDPS;	(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;	(h) cooperating with the EDPS;	2 <sup>nd</sup> trilogue (30/11/2021):  provisional agreement to use EP  text  (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;
449	(i) cooperating with the		(i) cooperating with the national	
	national competent authorities,		competent authorities, in particular	
	in particular with the		with the appointed Data Protection	
	appointed Data Protection		Officers of the competent	
	Officers of the competent		authorities of the Members States	
	authorities of the Members		and national supervisory authorities	
	States and national supervisory		regarding data protection matters in	
	authorities regarding data		the law enforcement area;	
	protection matters in the law			
	enforcement area;			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
450	(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;	AM 163  (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;	(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;	2 <sup>nd</sup> trilogue (30/11/2021):  provisional agreement to use EP text  (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;
451	(k) preparing an annual report and communicating that report to the Management Board and to the EDPS;		(k) preparing an annual report and communicating that report to the Management Board and to the EDPS;	
452		AM 164  (k a) ensuring that the rights and freedoms of data subjects are not adversely affected by processing operations;		2 <sup>nd</sup> trilogue (30/11/2021):  provisional agreement to use EP  text (aligned with Art. 45(1)(h)  EUDPR)  (k a) ensuring that the rights and

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				freedoms of data subjects are not adversely affected by processing operations;
453		Ia. 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.		EP proposal (25/11/2021): use EP text (aligned with Art. 45(2) EUDPR) - still to be checked by CSL

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
454	2. The Data Protection Officer shall carry out the functions provided for by Regulation (EU) 2018/1725 with regard to administrative personal data.		2. The Data Protection Officer shall carry out the functions provided for by Regulation (EU) 2018/1725 with regard to administrative personal data.	
455	3. In the performance of his or her tasks, the Data Protection Officer and the staff members of Europol assisting the Data Protection Officer in the performance of his or her duties shall have access to all the data processed by Europol and to all Europol premises.		3. In the performance of his or her tasks, the Data Protection Officer and the staff members of Europol assisting the Data Protection Officer in the performance of his or her duties shall have access to all the data processed by Europol and to all Europol premises.	
456	4. If the Data Protection Officer considers that the provisions of this Regulation,		4. If the Data Protection Officer considers that the provisions of this Regulation, of Regulation	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	of Regulation (EU) 2018/1725		(EU) 2018/1725 related to the	
	related to the processing of		processing of administrative	
	administrative personal data or		personal data or the provisions of	
	the provisions of this		this Regulation or of Article 3 and	
	Regulation or of Article 3 and		of Chapter IX of Regulation (EU)	
	of Chapter IX of Regulation		2018/1725 concerning the	
	(EU) 2018/1725 concerning		processing of operational personal	
	the processing of operational		data have not been complied with,	
	personal data have not been		he or she shall inform the Executive	
	complied with, he or she shall		Director and shall require him or	
	inform the Executive Director		her to resolve the non-compliance	
	and shall require him or her to		within a specified time.	
	resolve the non-compliance			
	within a specified time.			
457	If the Executive Director does		If the Executive Director does not	
	not resolve the non-		resolve the non-compliance of the	
	compliance of the processing		processing within the time	
	within the time specified, the		specified, the Data Protection	
	Data Protection Officer shall		Officer shall inform the	
	inform the Management		Management Board. The	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	Board. The Management		Management Board shall reply	
	Board shall reply within a		within a specified time limit agreed	
	specified time limit agreed		with the Data Protection Officer. If	
	with the Data Protection		the Management Board does not	
	Officer. If the Management		resolve the non-compliance within	
	Board does not resolve the		the time specified, the Data	
	non-compliance within the		Protection Officer shall refer the	
	time specified, the Data		matter to the EDPS.";	
	Protection Officer shall refer			
	the matter to the EDPS.";			
458		AM 166		
		(30a) the following Article 41c is inserted		
459		"Article 41c		Written procedure 20/1/2022:
				DDEC communica suggestion for
				PRES compromise suggestion for
				this article (cf. also cells below)

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				COM compromise proposal 26/11/2021: delete EP wording
460		Fundamental Rights Officer		Written procedure 20/1/2022:  PRES compromise suggestion for this article (cf. also cells below)  COM compromise proposal 26/11/2021: delete EP wording
461		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		Written procedure 20/1/2022:  PRES compromise suggestion for this article (cf. also cells below)  The Management Board shall, upon proposal by the Executive

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		referred to in this Article.		director, designate a person to act
				as Fundamental Rights Officer.
				That person may be a member of
				the existing staff of Europol who
				received special training in
				fundamental rights law and
				practice.
				COM compromise proposal
				26/11/2021: delete EP wording
462		2. The Fundamental Rights		Written procedure 20/1/2022:
		Officer shall perform the following tasks:		
		3		PRES compromise suggestion for
				this article (cf. also cells below)
				2. The Fundamental Rights Officer

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				shall perform the following tasks:
463		(a) monitoring Europol's compliance with fundamental rights;		Written procedure 20/1/2022:
464		(b) promoting Europol's respect of fundamental rights in the performance of its tasks and activities;		PRES compromise suggestion for this article (cf. also cells below)
465		(c) advising Europol where he or she deems it necessary or where requested on any activity of Europol without		(a) advising Europol where he or she deems it necessary or where requested on any activity of
		impeding or delaying those activities; (d) providing opinions on working arrangements;		Europol without impeding or delaying those activities;  (b) monitoring Europol's
466		(f) informing the Executive Director about possible violations of fundamental rights during activities of Europol;		compliance with fundamental rights;  (c) providing non-binding opinions
467		(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		on working arrangements;  (d) informing the Executive  Director about possible violations  of fundamental rights during

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		rights as referred to in point (f) of the first subparagraph have been addressed.		activities of Europol;  (e) promoting Europol's respect of fundamental rights in the performance of its tasks and activities;  (f) performing any other tasks, where provided for by this Regulation;
468		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.		Written procedure 20/1/2022:  PRES compromise suggestion  3. Europol shall ensure that the Fundamental Rights Officer acts independently and does not receive any instructions regarding the exercise of those tasks.

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
469		4. The Fundamental Rights Officer shall report directly to		Written procedure 20/1/2022:
		the Management Board and publish annual reports on his		PRES compromise suggestion for
		or her activities, including the extent to which the activities of		this article (cf. also cells below)
		Europol respect fundamental rights. The Management		4. The Fundamental Rights Officer
		Board shall ensure that action is taken with regard to		shall report directly to the
		recommendations of the		Executive Director and draw up
		Fundamental Rights Officer.		annual reports on his or her
				activities, including the extent to
				which the activities of Europol
				respect fundamental rights. These
				reports shall be made available to
				the Management Board.
470		5. The Fundamental Rights Officer and the Data Protection Officer shall		Written procedure 20/1/2022:
		Protection Officer shall establish, in writing, a		PRES compromise suggestion to
		memorandum of		delete this provision
		understanding specifying their division of tasks and cooperation."		
471		AM 167 (30 b) the following Article		Written procedure 20/1/2022:

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		41d is inserted:		PRES compromise suggestion to accept the EP wording
472		"Article 41d		Written procedure 20/1/2022:  PRES compromise suggestion to accept the EP wording
473		Fundamental Rights Training		Written procedure 20/1/2022:  PRES compromise suggestion to accept the EP wording
474		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."		Written procedure 20/1/2022:  PRES compromise suggestion to accept the EP wording  All Europol staff involved in operational tasks involving personal data processing shall receive mandatory training on the protection of fundamental rights

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				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."
475	(31) In Article 42, paragraphs 1 and 2 are replaced by the following:		(31) In Article 42, paragraphs 1 and 2 are replaced by the following:	
476	"1. For the purpose of exercising their supervisory function the national supervisory authority shall have access, at the national unit or at the liaison officers' premises, to data submitted by its Member State to Europol in accordance with the relevant national procedures and to		"1. For the purpose of exercising their supervisory function the national supervisory authority referred to in Article 41 of  Directive (EU) 2016/680 shall have access, at the national unit or at the liaison officers' premises, to data submitted by its Member State to Europol in accordance with the relevant national procedures and to	Written procedure (25/11/2021): provisional agreement to use CSL text  1. For the purpose of exercising their supervisory function the national supervisory authority referred to in Article 41 of Directive (EU) 2016/680 shall have access, at the national unit or at the liaison officers' premises, to data

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	logs as referred to in		logs as referred to in Article 40.	submitted by its Member State to
	Article 40.			Europol in accordance with the
				relevant national procedures and to
				logs as referred to in Article 40.
477	2. National supervisory		2. National supervisory authorities	
	authorities shall have access to		shall have access to the offices and	
	the offices and documents of		documents of their respective	
	their respective liaison officers		liaison officers at Europol.";".	
	at Europol.";".			
478	(32) Article 43 is amended		(32) Article 43 is amended as	
	as follows:		follows:	
479	(a) in paragraph 1, the first		(a) in paragraph 1, the first sentence	
	sentence is replaced by the		is replaced by the following:	
	following:			
480	"The EDPS shall be		"The EDPS shall be responsible for	
	responsible for monitoring and		monitoring and ensuring the	
	ensuring the application of the		application of the provisions of this	
	provisions of this Regulation		Regulation and Regulation (EU)	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	and Regulation (EU)		2018/1725 relating to the protection	
	2018/1725 relating to the		of fundamental rights and freedoms	
	protection of fundamental		of natural persons with regard to the	
	rights and freedoms of natural		processing of personal data by	
	persons with regard to the		Europol, and for advising Europol	
	processing of personal data by		and data subjects on all matters	
	Europol, and for advising		concerning the processing of	
	Europol and data subjects on		personal data.";	
	all matters concerning the			
	processing of personal data.";			
		AM 168		
481				
		(aa) the following paragraph 1a is inserted:		
482		"1a. The EDPS shall be		Written procedure 20/1/2022:
102		provided with the financial and human resources		PRES suggests deleting this
		necessary for the effective and		
		efficient performance of his or		<u>provision</u>
		her tasks*."		
				COM compromise proposal
				26/11/2021 (data protection

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				package):  1a. The EDPS shall be provided with the financial and human resources necessary for the effective and efficient performance of his or her tasks
483		AM 169  (a b) in paragraph 2, point (c) is replaced by the following:		
484		"(c) monitoring and ensuring the application of this Regulation and <i>Regulation</i> ( <i>EU</i> ) 2018/1725 relating to the protection of natural persons with regard to the processing of personal data by Europol;"		Written procedure 20/1/2022:  PRES suggests deleting this EP amendment as it is implicitly covered by the existing text.
485		AM 170 (a c) the following paragraph 2a is inserted:		Written procedure 20/1/2022: PRES suggests deleting as this is covered in Article 43(4)(a) and (b)

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
486		"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."		Written procedure 20/1/2022:  PRES suggests deleting as this is covered in Article 43(4)(a) and (b)
487		AM 171  (a d) paragraph 3 is replaced by the following:		in paragraph 3, the following points (j) to (l) are added"
488		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.;		Written procedure 20/1/2022:  PRES compromise suggestion to add specific new powers to the existing list set out in the current Regulation instead of applying Articles 57-58 EUDPR mutatis mutandis:  "(j) order the controller or processor to bring processing operations into compliance with

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			the provisions of this Regulation,
			where appropriate, in a specified
			manner and within a specified
			period;
			(k) order the suspension of data
			flows to a recipient in a Member
			State, a third country or to an
			international organisation;
			(l) impose an administrative fine in
			the case of non-compliance by
			Europol with one of the measures
			referred to in points (c), (e), (f), (j)
			and (k) of this paragraph,
			depending on the circumstances of
			each individual case."
			COM compromise proposal
			(6/12/2021):

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			"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. As regards the processing of operational personal data those tasks apply with the exception of those set out in Article 57)(i-j) and (n).  The powers of the EDPS as set out in Article 58 of Regulation (EU) 2018/1725 shall apply to all personal data processing by Europol under this Regulation. As regards the processing of operational personal data those powers apply with the exception of those set out in Article 58(3)(d-g)."
			COM compromise proposal 26/11/2021: use EP wording

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
489		AM 172 (a e) paragraph 4 is deleted.		Written procedure 7/1/2022: PRES suggests deleting EP text (linked to line 485-486)
490	(b) paragraph 5 is replaced by the following:		(b) paragraph 5 is replaced by the following:	
491	"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	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 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	"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	Written procedure (25/11/2021):  provisional agreement to use EP text  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 the annual report on the supervisory activities of the

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	account of the observations	them in the annual report.	and, in any case, shall refer to them	EDPS in relation to Europol before
	made by national supervisory		in the annual report.	it becomes part of the annual report
	authorities and, in any case,			of the EDPS. The EDPS shall take
	shall refer to them in the			utmost account of the observations
	annual report.			made by national supervisory
				authorities and, shall refer to them
				in the annual report.
492	The report shall include	The report shall include statistical information	The report shall include statistical	Written procedure 7/1/2022:
	statistical information	regarding complaints, inquiries,	information regarding complaints,	PRES suggestion to stick with the
	regarding complaints,	and investigations, as well as regarding transfers of personal	inquiries, and investigations, as well	COM proposal in order to remain
	inquiries, and investigations,	data to third countries,	as regarding transfers of personal	consistent with the compromise
	as well as regarding transfers	including to private parties, international organisations,	data to third countries and	proposal in line 488:
	of personal data to third	cases of prior consultation, and	international organisations, cases of	
	countries and international	the use of the powers laid down in this Article.	prior consultation, and the use of	
	organisations, cases of prior	in this firete.	the powers laid down in paragraph	"The report shall include statistical
	consultation, and the use of the		3.";	information regarding complaints,
	powers laid down in paragraph			inquiries, and investigations, as well
	3.";			as regarding transfers of personal
				data to third countries and
				international organisations, cases of

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				prior consultation, and the use of the powers laid down in paragraph 3.";"
493	(33) in Article 44, paragraph 2 is replaced by the following:	AM 174  (33) Article 44 is amended as follows	(33) in Article 44, paragraph 2 is replaced by the following:	
494		(a) paragraph 2 is replaced by the following:		
495	"2. In the cases referred to in paragraph 1, coordinated supervision shall be ensured in accordance with Article 62 of Regulation (EU) 2018/1725. The EDPS shall use the expertise and experience of the		"2. In the cases referred to in paragraph 1, coordinated supervision shall be ensured in accordance with Article 62 of Regulation (EU) 2018/1725. The EDPS shall use the expertise and experience of the national	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	national supervisory		supervisory authorities in carrying	
	authorities in carrying out his		out his or her duties as set out in	
	or her duties as set out in		Article 43(2). In carrying out joint	
	Article 43(2). In carrying out		inspections together with the EDPS,	
	joint inspections together with		members and staff of national	
	the EDPS, members and staff		supervisory authorities shall, taking	
	of national supervisory		due account of the principles of	
	authorities shall, taking due		subsidiarity and proportionality,	
	account of the principles of		have powers equivalent to those	
	subsidiarity and		laid down in Article 43(4) and be	
	proportionality, have powers		bound by an obligation equivalent	
	equivalent to those laid down		to that laid down in Article 43(6).";	
	in Article 43(4) and be bound			
	by an obligation equivalent to			
	that laid down in			
	Article 43(6).";			
496			(33 bis): in Article 44, paragraph	Written procedure (25/11/2021):
			4 is replaced by the following:	provisional agreement to use the
				CSL text

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				(33 bis): in Article 44, paragraph 4 is replaced by the following:
497			"4. In cases relating to data originating from one or more Member States, including the cases referred to in Article 47(2), the EDPS shall consult the national supervisory authorities concerned. The EDPS shall not decide on further action to be taken before those national supervisory authorities have informed the EDPS of their position, within a deadline specified by him or her which shall not be shorter than one month and not longer than three months. The EDPS shall take the utmost account of the respective positions of the national supervisory authorities concerned. In cases where the	Written procedure (25/11/2021): provisional agreement to use CSL text  "4. In cases relating to data originating from one or more Member States, including the cases referred to in Article 47(2), the EDPS shall consult the national supervisory authorities concerned. The EDPS shall not decide on further action to be taken before those national supervisory authorities have informed the EDPS of their position, within a deadline specified by him or her which shall not be shorter than one month and

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			EDPS intends not to follow the	not longer than three months. The
			position of a national supervisory	EDPS shall take the utmost account
			authority, he or she shall inform	of the respective positions of the
			that authority, provide a	national supervisory authorities
			justification and submit the matter	concerned. In cases where the
			for discussion to the European	EDPS intends not to follow the
			<b>Data Protection Board</b>	position of a national supervisory
			Cooperation Board established by	authority, he or she shall inform that
			Article 45(1)."	authority, provide a justification and
				submit the matter for discussion to
				the European Data Protection
				Board Cooperation Board
				established by Article 45(1)."
498		AM 175		Written procedure (25/11/2021):
		(33 a) in paragraph 4, the		provisional agreement to delete this
		second subparagraph is replaced by the following:		line
		117 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
499		"In cases where the EDPS intends not to follow the		Written procedure (25/11/2021):
		position of a national		provisional agreement to delete this
		supervisory <i>authority</i> , he or she <i>shall inform that</i>		line

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		authority, provide a justification and submit the matter to the EDPB."		
500	(34) Articles 45 and 46 are deleted;		(34) Articles 45 and 46 are deleted;	
501	(35) Article 47 is amended as follows:		(35) Article 47 is amended as follows:	
502	(a) paragraph 1 is replaced by the following:		(a) paragraph 1 is replaced by the following:	
503	"1. Any data subject shall have the right to lodge a complaint with the EDPS if he or she considers that the processing by Europol of personal data relating to him or her does not comply with this Regulation or Regulation (EU) 2018/1725.";[we have to		"1. Any data subject shall have the right to lodge a complaint with the EDPS if he or she considers that the processing by Europol of personal data relating to him or her does not comply with this Regulation or Regulation (EU) 2018/1725.";[we have to replace the whole paragraph]["1. or Regulation (EU)	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	replace the whole paragraph]["1. or Regulation (EU) 2018/1725."		2018/ 1725."	
504	(b) in paragraph 2, the first sentence is replaced by the following:		(b) in paragraph 2, the first sentence is replaced by the following:	
505	"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 shall consult the national supervisory authorities of the Member State that provided the data or of the Member State directly concerned.";";	AM 176  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.";	"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 shall consult the national supervisory authorities of the Member State that provided the data or of the Member State directly concerned.";";	Written procedure (25/11/2021): Use EP text as consequential amendment in relation to Article 37/37a:  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.";
506	(c) the following paragraph 5		(c) the following paragraph 5 is	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	is added:		added:	
507	"5. The EDPS shall inform the data subject of the progress and outcome of the complaint, as well as the possibility of a judicial remedy pursuant to Article 48.";		"5. The EDPS shall inform the data subject of the progress and outcome of the complaint, as well as the possibility of a judicial remedy pursuant to Article 48.";	
508	(36) Article 50 is amended as follows:		(36) Article 50 is amended as follows:	
509	(a) the title is replaced by:		(a) the title is replaced by:	
510	"Right to compensation";		"Right to compensation";	
511	(b) paragraph 1 is deleted;	AM 177  (b) paragraph 1 is replaced by the following:	(b) paragraph 1 is deleted;	TM 26/11/2021: provisionally agreed; use EP text  (b) paragraph 1 is replaced by the following:

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
512		"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 2018/1725 and national laws transposing Article 56 of Directive (EU) 2016/680."		TM 26/11/2021: provisionally agreed; use EP text  "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 2018/1725 and national laws transposing Article 56 of Directive (EU) 2016/680."
513	(c) paragraph 2 is replaced by the following:		(c) paragraph 2 is replaced by the following:	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
514	"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.";."	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 <i>paragraph 1</i> 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.";	"2. Any dispute between Europol and Member States over the ultimate responsibility for compensation awarded to a person who has suffered material or nonmaterial 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.";."	TM 26/11/2021: provisionally agreed; use EP text  "2. Any dispute between Europol and Member States over the ultimate responsibility for compensation awarded to a person who has suffered material or nonmaterial 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."

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
515	(37) Article 51 is amended as follows:		(37) Article 51 is amended as follows:	
516		AM 179  (-a) in paragraph 3, point (c) is replaced by the following:		
517		"(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;		Written procedure 20/1/2022: updated PRES compromise suggestion  "(c) the consolidated annual activity report on Europol's activities, referred to in point (c) of Article 11(1), including relevant information on Europol's activities in and results obtained in processing large datasets, without disclosing any operational details

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				and without prejudice to any ongoing investigations;
				TM 06/12/2021:
				COM: EP wording is fine; activity
				report mirrors single programming
				document; no operational data are
				included; currently, the text is
				shared with the JPSG anyway
				CSL: sensitivity issue; <u>CSL will</u>
				prepare compromise wording
				which is clearer regarding the
				info to be provided regarding the
				processing of complex dataset
518	(a) in paragraph 3, the		(a) in paragraph 3, the following	
	following points (f) to (i) are		points (f) to (i) are are added:	
	are added:			
519	"(f) annual information	AM 180	"(f) annual information	Written procedure 20/1/2022:

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
about the number of cases in	(f) annual information	pursuant to Article 26(11) about	PRES compromise suggestion (also
which Europol issued follow-	about the number of cases in which Europol issued follow-	the number of cases in which	cf. new wording of Article 26(11)
up requests to private parties	up requests to private parties or	Europol issued follow-up requests	which covers the JPSG)
or own-initiative requests to	own-initiative requests to Member States of	to private parties or own-initiative	
Member States of	establishment for the	requests to Member States of	(f) annual information pursuant to
establishment for the	transmission of personal data in accordance with <i>Article26</i> ,	establishment for the transmission	Article 26(11) about the number of
transmission of personal data	relevant details on the private	of personal data in accordance with	<del>cases in which Europol issued</del>
in accordance with Article 26,	parties concerned and an assessment of the effectiveness	on the personal data exchanged	follow-up requests to private parties
including specific examples of	of cooperation, and specific	with private parties pursuant to	or own-initiative requests to
cases demonstrating why these	examples of cases demonstrating why these	Article 26 and Article 26a,	Member States of establishment for
requests were necessary for	requests were necessary and	including specific examples of	the transmission of personal data in
Europol to fulfil its objectives	<i>proportionate</i> for Europol to fulfil its objectives and tasks;	cases demonstrating why these	accordance with on the personal
and tasks;		requests were necessary for Europol	data exchanged with private parties
		to fulfil its objectives and tasks;	pursuant to Article 26, and Article
		examples shall be anonymized	26a and Article 26b, including an
		insofar as personal data is	assessment of the effectiveness of
		concerned;	cooperation, and specific examples
			of cases demonstrating why these
			requests were necessary and
			proportionate for Europol to fulfil

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			its objectives and tasks, and, as
			regards personal data exchanges
			pursuant to Article 26b, the
			number of children identified as a
			result of those exchanges to the
			extent that this information is
			available to Europol; <u>examples</u>
			shall be anonymized insofar as
			personal data is concerned;
			TM 06/12/2021:
			COM: follow-up and own initiative
			requests are a remnant from early
			drafting of the proposal;
			anonymisation requirement is fine -
			does not mean absolute cap; EP's
			proposal could jeopardize
			cooperation, if sensitive data from
			private parties are included.

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				EP: ok to delete references to
				follow-up/own initiative requests;
				info on private parties needs to be
				sufficiently detailed; anonymisation
				of examples is acceptable
				CSL will present compromise
				proposal
520	(g) annual information	AM 181	(g) annual information about	Written procedure 20/1/2022:
	about the number of cases	(g) annual information	the number of cases where it was	Presidency compromise suggestion
	where it was necessary for	about the number of cases	necessary for Europol to process	to align with line 517
	Europol to process personal	where it was necessary for Europol to process personal	personal data outside the categories	
	data outside the categories of	data outside the categories of	of data subjects listed in Annex II in	(g) annual information about the
	data subjects listed in Annex II	data subjects listed in Annex II in order to support Member	order to support Member States in a	number of cases where it was
	in order to support Member	States in a specific criminal	specific criminal investigation in	necessary for Europol to process
	States in a specific criminal	investigation in accordance with Article 18a, <i>alongside</i>	accordance with Article 18a,	personal data outside the categories
	investigation in accordance	information on the duration	including examples of such cases	of data subjects listed in Annex II in
	with Article 18a, including	and outcomes of the processing, including examples	demonstrating why this data	order to support Member States in a
	examples of such cases	of such cases demonstrating	processing was necessary;	specific criminal investigation in
	demonstrating why this data	why this data processing was necessary <i>and proportionate</i> ;	examples shall be anonymized	accordance with Article 18a,

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	processing was necessary;		insofar as personal data is	alongside information on the
			concerned;	duration and outcomes of the
				processing, including examples of
				such cases demonstrating why this
				data processing was necessary and
				proportionate; examples shall be
				anonymized insofar as personal
				data is concerned, without
				disclosing any operational details
				and without prejudice to any
				ongoing investigations;
				TM 06/12/2021:
				CSL and EP texts should be merged
521		AM 182		Written procedure 7/1/2022:
		(g a) annual information about transfers of personal		provisionally agreed to use EP text
				(g a) annual information about
	data to third countries and international organisations		transfers of personal data to third	
		pursuant to Article 25(1)		countries and international organisations pursuant to Article
		broken down per legal basis,		25(1) broken down per legal basis,

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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;		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;
522	(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	(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,	(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	TM 06/12/2021:  Pending outcome on Art. 4(1)(r)

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	Europol to fulfil its objectives and tasks;	the number of objections by Member States to proposals by Europol toissue an alert, and, where this information is available to Europol, the number of investigations initiated and convictions as a result of those alerts;	tasks; examples shall be anonymized insofar as personal data is concerned;	
523	(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	(i) annual information about the number of <i>research</i> 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 number of research and innovation 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 undertaken in accordance with Article 33a, including information on the purposes of these projects and the law enforcement needs they seek to	written procedure 7/1/2022: provisionally agreed  (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 undertaken in accordance with Article 18(2)(e), including information on the purposes of
	enforcement needs they seek	the projects and, where the	address.";	these projects, the categories of

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	to address.";	projects resulted in law enforcement tools, information on the deployment of the tools in the Member States alongside their effectiveness;		personal data processed, the additional safeguards used, including data minimisation, the law enforcement needs they seek to address and 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;
524		(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;		Written procedure 7/1/2022:  provisionally agreed  (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;

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
525		AM 186  (ib) annual information on the number and types of cases where special categories of personal data were processed, pursuant to Article 30(2);		Written procedure 7/1/2022: provisionally agreed  (ib) annual information on the number and types of cases where special categories of personal data were processed, pursuant to Article 30(2);
526		AM 187  (i c) annual information about the number of cases in which Europol processed personal data in accordance with Article 26a;		Written procedure 7/1/2022: provisionally agreed to delete this EP amendment as it is now covered in line 519
527		AM 188  (id) annual information about the number of cases in which Europol processed		Written procedure 7/1/2022:  provisionally agreed to delete this  EP amendment as it is now covered

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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.";		in line 519
528		AM 189  (a a) paragraph 5 is replaced by the following:		
529		"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		Written procedure 22/1/2022:  PRES suggestion to amend the EP wording:  "5. The JPSG may draw up summary conclusions on the political monitoring of Europol's

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		Council, the Commission and Europol."		activities, including non binding 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."  TM 06/12/2021:  CSL to check internally
530		AM 190 (37 a) the following Article 52a is inserted		
531		"Article 52a		Political trilogue 30/11/2021 (part of the governance package): COM proposal to attach consultative forum to the JPSG

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
532		Consultative Forum		Political trilogue 30/11/2021 (part of the governance package): COM proposal to attach consultative forum to the JPSG
533		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.		Written procedure 20/1/2022:  PRES compromise suggestion to accept COM compromise proposal  "1. A consultative forum shall be established by Europol the JPSG to assist it by providing independent advice in fundamental rights matters upon request. The JPSG and 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

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				rights.
534		2. Europol shall invite independent experts, the European Union Agency for Fundament 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."		Written procedure 20/1/2022: PRES compromise suggestion;  "The JPSG shall decide on the composition of the consultative forum, its working methods and the terms of the transmission of information to the consultative forum."
535		AM 191 (37 b) Article 52b (new) is inserted:		
536		"Article 52b		Written procedure 20/1/2022: PRES opposes this provision
537		Accountability		Written procedure 20/1/2022:

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				PRES opposes this provision
538		Europol shall be accountable to the European Parliament, to the Council and to the Commission in accordance to this Regulation."		Written procedure 20/1/2022: PRES opposes this provision
539	(38) in Article 57, paragraph 4 is replaced by the following:		(38) in Article 57, paragraph 4 is replaced by the following:	
540	"4. Europol may benefit from	AM 192	"4. Europol may benefit from	Part of governance / data protection
	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	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 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	package: suggestion to delete the Commission proposal for this provision (keep wording of the current Regulation)

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	received from countries with	Union has <i>concluded</i> an	Europol or the Union has an	
	whom Europol or the Union	agreement on operational cooperation providing for	agreement providing for financial	
	has an agreement providing	financial contributions in	contributions to Europol within the	
	for financial contributions to	accordance with point (a) of Article 20(2) of Commission	scope of Europol's objectives and	
	Europol within the scope of	Delegated Regulation (EU)	tasks. The amount of the	
	Europol's objectives and tasks.	2019/715 <sup>1a</sup> or from third countries which fulfil one of	contribution shall be determined in	
	The amount of the	the conditions listed in Article	the respective agreement.";	
	contribution shall be	25(1) of this Regulation for specific projects in accordance		
	determined in the respective	with point (d) of Article 20(2)		
	agreement.";	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)."		
541		AM 193		Written procedure (20/1/2022):

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		(38 a) In Article 58, paragraph 9 is replaced by the following:		provisionally agreed to use EP text
542		"For any building projects likely to have significant implications for Europol's budget, <i>Commission Delegated Regulation</i> (EU) 2019/715 shall apply."		Written procedure (20/1/2022): provisionally agreed to use EP text
543		AM 194 (38 b) In Article 60, paragraph 4 is replaced by the following:		Written procedure (20/1/2022): provisionally agreed to use EP text
544		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 <sup>25a</sup> , 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."		Written procedure (20/1/2022): provisionally agreed to use EP text
545				Written procedure (20/1/2022):

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
		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 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No282/2013, and Decision No 541/2014/EU and repealing Regulation (EU) No 996/2012(OJ L 122, 10.5.2019, p.1)."		provisionally agreed to use EP text
546		AM 195 (38 c) In Article 60, paragraph 9 is replaced by the following:		Written procedure (20/1/2022): provisionally agreed to use EP text
547		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 <i>Article 106 (3) of</i>		Written procedure (20/1/2022): provisionally agreed to use EP text

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	Delegated Regulation (EU) 2019/715.		

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
548	(39) Article 61 is amended as follows:		(39) Article 61 is amended as follows:	
549	(a) Paragraph 1 is replaced by the following:		(a) Paragraph 1 is replaced by the following:	
550	"1. The financial rules applicable to Europol shall be adopted by the Management Board after consultation with the Commission. They shall not depart from Commission Delegated Regulation (EU) No		"1. The financial rules applicable to Europol shall be adopted by the Management Board after consultation with the Commission. They shall not depart from Commission Delegated Regulation (EU) No 2019/715	
	2019/715 unless such a departure is specifically required for the operation of Europol and the Commission has given its prior consent."		unless such a departure is specifically required for the operation of Europol and the Commission has given its prior consent."	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
551	(b) paragraphs 2 and 3 are replaced by the following:		(b) paragraphs 2 and 3 are replaced by the following:	
552	"2. Europol may award grants related to the fulfilment of its objectives and tasks as referred to in Articles 3 and 4.";	AM 196  2. Europol may award grants related to the fulfilment of its tasks as referred to in <i>Article 4.</i> ;	"2. Europol may award grants related to the fulfilment of its objectives and tasks as referred to in Articles 3 and 4.";	Written procedure 20/1/2022: Council insists on keeping the text proposed by the Commission
553	3. Europol may award grants without a call for proposals to Member States for performance of activities falling within Europol's objectives and tasks.";	AM 197  3. Europol may award grants without a call for proposals to Member States for performance of activities falling within the scope of Europol's tasks set out in Article 4.;	3. Europol may award grants without a call for proposals to Member States for performance of activities falling within Europol's objectives and tasks.";	Written procedure 20/1/2022: Council insists on keeping the text proposed by the Commission

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
554	(c) the following paragraph 3a is inserted:		(c) the following paragraph 3a is inserted:	
555	"3a. Where duly justified for operational purposes, financial support may cover the full investment costs of equipment, infrastructure or other assets.";	AM 198  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.;	"3a. Where duly justified for operational purposes, financial support may cover the full investment costs of equipment, infrastructure or other assets. The Management Board may specify the criteria under which financial support may cover the full costs in the financial rules in accordance with paragraph 1";	Written procedure 20/1/2022: PRES compromise suggestion to merge CSL/EP texts  Where duly justified for operational purposes, following authorisation by the Management Board, financial support may cover the full investment costs of equipment and infrastructure or other assets. The Management Board may specify the criteria under which financial support may cover the full costs in the financial rules in accordance with paragraph 1";

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
556	(40) Article 67 is replaced	AM 199	(40) Article 67 is replaced as	Deleted (back to the text of the
	as follows:	deleted	<del>follows:</del>	current Regulation)
557	"Article 67	deleted	<del>"Article 67</del>	
558	Security rules on the	deleted	Security rules on the protection of	Written procedure 7/1/2022:
	protection of classified		elassified information and sensitive	provisionally agreed to delete COM
	information and sensitive non-		non-classified information	text and to stick to the wording of
	classified information			the current Europol Regulation
559	1. The Europol shall adopt its	deleted	1. The Europol shall adopt its own	Written procedure 7/1/2022:
	own security rules that shall be		security rules that shall be based on	provisionally agreed to delete COM
	based on the principles and		the principles and rules laid down in	text and to stick to the wording of
	rules laid down in the		the Commission's security rules for	the current Europol Regulation
	Commission's security rules		protecting European Union	
	for protecting European Union		elassified information (EUCI) and	
	classified information (EUCI)		sensitive non-classified information	
	and sensitive non-classified		including, inter alia, provisions for	
	information including, inter		the exchange of such information	
	alia, provisions for the		with third countries, and processing	
	exchange of such information		and storage of such information as	
	with third countries, and		set out in Commission Decisions	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	processing and storage of such		(EU, Euratom) 2015/443 (44) and	
	information as set out in		(EU, Euratom) 2015/444 (45). Any	
	Commission Decisions (EU,		administrative arrangement on the	
	Euratom) 2015/443 (44) and		exchange of classified information	
	(EU, Euratom) 2015/444 (45).		with the relevant authorities of a	
	Any administrative		third country or, in the absence of	
	arrangement on the exchange		sucarrangement, any exceptional ad	
	of classified information with		hoc release of EUCI to those	
	the relevant authorities of a		authorities, shall be subject to the	
	third country or, in the absence		Commission's prior approval.	
	of such arrangement, any			
	exceptional ad hoc release of			
	EUCI to those authorities,			
	shall be subject to the			
	Commission's prior approval.			
560	2. The Management Board	deleted	2. The Management Board shall	Written procedure 7/1/2022:
	shall adopt the Europol's		adopt the Europol's security rules	provisionally agreed to delete COM
	security rules following		following approval by the	text and to stick to the wording of
	approval by the Commission.		Commission. When assessing the	the current Europol Regulation
	When assessing the proposed		proposed security rules, the	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	security rules, the Commission		Commission shall ensure that they	
	shall ensure that they are		are compatible with Decisions (EU,	
	compatible with Decisions		Euratom) 2015/443 and (EU,	
	(EU, Euratom) 2015/443 and		Euratom) 2015/444."	
	(EU, Euratom) 2015/444."			
561		AM 200		
		(40a) In Article 68, paragraph 1 is replaced by the following:		
562		"1. By [five years after entry		Written procedure 7/1/2022:
		into force of this Regulation] and every five years thereafter,		provisionally agreed to use EP text
		the Commission shall ensure that an evaluation assessing, in		
		particular, the impact,		"1. By [five years after entry
		effectiveness and efficiency of Europol and of its working		into force of this amending
		practices is carried out. The		<b>Regulation</b> ] and every five years
		evaluation may, in particular, address the possible need to		thereafter, the Commission shall
		modify the structure, operation,		ensure that an evaluation assessing,
		field of action and tasks of Europol, and the financial		in particular, the impact,
		implications of any such		effectiveness and efficiency of
		modification."		Europol and of its working
				practices is carried out. The
				evaluation may, in particular,

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				address the possible need to modify
				the structure, operation, field of
				action and tasks of Europol, and the
				financial implications of any such
				modification."
563	(41) in Article 68, the following paragraph 3 is added:		(41) in Article 68, the following paragraph 3 is added:	
564	"3. The Commission shall,	AM 201	"3. The Commission shall, by	Written procedure 7/1/2022: provisionally agreed to combine
	by [three years after entry into	3. The Commission shall,	[three years after entry into force of	both texts:
	force of this Regulation],	by [two years after entry into force of this Regulation],	this Regulation], submit a report to	
	submit a report to the	submit a report to the European	the European Parliament and to the	3. The Commission shall, by
	European Parliament and to	Parliament and to the Council, evaluating and assessing the	Council, assessing the operational	[three years after entry into force of this Regulation], submit a report to
	the Council, assessing the	operational benefits of the	benefits impact of the	the European Parliament and to the
	operational benefits of the	implementation of the competences provided for in	implementation of the competences	Council, <i>evaluating and</i> assessing the operational <b>impact</b> benefits of
	implementation of the	this Regulation, in particular	provided for in Article 18(2)(e) and	the implementation of the
	competences provided for in	with regard to Article 4(1)(r), Article 18(2)(e), Article 18(6a),	(5a), Article 18a, Article 26 and	competences provided for in this Regulation, in particular with
	Article 18(2)(e) and (5a),	and Articles 18a, 26, 26a and	Article 26a with regard to Europol's	regard to Article 4(1)(r), Article
	Article 18a, Article 26 and	26b with regard to Europol's objectives as set out in Article	objectives. The report shall cover	18(2)(e), Article 18(6a), and Articles 18a, 26, 26a and 26b with

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
Article 26a with regard to	3. The report shall assess the	the impact of those competences on	regard to Europol's objectives as set
Europol's objectives. The	impact of those competences on fundamental rights and	fundamental rights and freedoms as	out in Article 3. The report shall assess the impact of those
report shall cover the impact	freedoms as enshrined in the	enshrined in the Charter of	competences on fundamental rights
of those competences on	Charter. It shall also provide a cost-benefit analysis of the	Fundamental Rights.".	and freedoms as enshrined in the Charter. <i>It shall also provide a cost-</i>
fundamental rights and	extension to Europol's		benefit analysis of the extension to
freedoms as enshrined in the	mandate.".		Europol's mandate.".
Charter of Fundamental			
Rights.".			

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
564a				Presidency compromise suggestion:
				A new Article 74a isinserted
564b				Article 74a
				Transitional arrangements concerning the processing of personal data in support of a criminal investigation
564c				1. Where a Member State, the EPPO or Eurojust provided personal data outside the categories of data subjects listed in Annex II to Europol prior to the entry into force of Amending Regulation XX, Europol may process that personal

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			data in accordance with Article 18a
			where:
			(a) that Member State, the EPPO or
			Eurojust informs Europol, within
			three months from the date of entry
			into force of Amending Regulation
			XX, that it is authorised to process
			that personal data, in accordance
			with procedural requirements and
			safeguards under applicable Union
			or national law, in the on-going
			criminal investigation for which it
			requested Europol's support when it
			initially provided the data;
			(b) that Member State, the EPPO or
			Eurojust requests Europol, within
			three months from the date of entry
			into force of Amending Regulation

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				XX, to support that ongoing specific
				criminal investigation; and
				(c) Europol assesses, in accordance
				with Article 18a(1)(b), that it is not
				possible to support the specific
				criminal investigation 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 when Europol
				ceases to support the related
				specific criminal investigation.
564d				2. Where a third country within
				the meaning of Article 18a(7)
				provided personal data outside the
				categories of data subjects listed in
				Annex II to Europol prior to the

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			entry into force of Amending
			Regulation XX, Europol may
			process that personal data in
			accordance with Article 18a(7)
			where:
			(a) the third country provided the
			personal data in support of a
			specific criminal investigation in
			one or more Member States that
			Europol supports;
			(b) 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;
			(c) the third country informs

COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
			Europol, within three months from
			the date of entry into force of
			Amending Regulation XX, that it is
			authorised to process that personal
			data in the on-going criminal
			investigation in the context of
			which it acquired the data;
			(d) Europol assesses, in accordance
			with Article 18a(1)(b), that it is not
			possible to support the specific
			criminal investigation referred to in
			point (a) 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 when Europol ceases to
			-
			support the related specific criminal
			investigation; and

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				(e) Europol verifies, in accordance with Article 18a(7), that the amount of personal data is not manifestly disproportionate in relation to the specific investigation in one or more Member States that Europol supports.
564e				3. Where a Member State, the EPPO or Eurojust provided personal data outside the categories of data subjects listed in Annex II to Europol prior to the entry into force of Amending Regulation XX, it may request Europol, within three months from the date of entry into force of Amending Regulation XX, to store that data and the outcome of Europol's processing of that data where this is necessary for ensuring

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
				the veracity, reliability and
				traceability of the criminal
				intelligence process. Europol shall
				keep personal data outside the
				categories of data subjects listed in
				Annex II functionally separated
				from other data and shall only
				process such data for the purpose of
				ensuring the veracity, reliability and
				traceability of the criminal
				intelligence process, and only for as
				long as the judicial proceedings
				concerning the criminal
				investigation are on-going for which
				that data was provided.
565	Article 2		Article 2	
566	This Regulation shall enter		This Regulation shall enter into	
	into force on the twentieth day		force on the twentieth day	
	following that of its		following that of its publication in	

	COM (13908/20 + COR 1)	<b>EP</b> (A9-9999/2021)	Council	Provisional agreement
	publication in the Official		the Official Journal of the	
	Journal of the European		European Union.	
	Union.			
567	This Regulation shall be			
	binding in its entirety and		This Regulation shall be binding in	
	directly applicable in the		its entirety and directly applicable	
	Member States in accordance		in the Member States in accordance	
	with the Treaties.		with the Treaties.	
			Done at Brussels,	
568	Done at Brussels,			
569	For the European Parliament		For the European Parliament	
	For the Council		For the Council	
	The President		The President	
570	The President		The President	