



MANAGEMENT BOARD
Mr Juan Fernando López Aguilar

Chair of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE)

MB Decisions on the conditions related to the processing of personal data on the basis of Articles 18(2), 18(6), 18(6a) and 18a of the amending Europol Regulation

Dear Mr López Aguilar,

Let me please begin this brief interlocutory letter by reiterating the pleasure that the Management Board of Europol (MB) took in welcoming you at its latest meeting held on 28-29 June, in Lille, in your capacity as Co-Chair of the Joint Parliamentary Scrutiny Group (JPSG).

As you will recall, during its meeting the MB adopted implementing Decisions on the conditions related to the processing of personal data pursuant to Articles 18(2), 18(6), 18(6a), and 18a of the amended Europol Regulation.

For the sake of legal certainty, thus also in the interest of the data subjects and in line with the EU Legislator decision to provide for a swift entry into force of the Regulation, the MB made every effort to ensure that the conditions for the prompt application of the referred provisions were applicable upon its entry into force.

By adopting the referred implementing Decisions on 28 June 2022, on the very date of the entry into force of the Regulation, the MB aimed at achieving this essential objective.

In light of the obligations set out in the Regulation, the MB initiated the necessary consultation with the European Data Protection Supervisor (EDPS) at the earliest possible stage, i.e. by transmitting the first drafts of the MB Decisions upon completion, namely on 12 April. The EDPS was also informed about the Board's intention to adopt these Decisions upon the entry into force of the new Regulation, thus at its 28-29 June 2022 meeting.

Since the submission of the first drafts, an intensive consultation process took place between Europol and the EDPS, resulting in the Decisions eventually adopted by the Board on 28 June, which reflected the detailed comments and the guidance provided by the EDPS during the consultation process.

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On 5 July, on behalf of the MB, I transmitted the referred four Decisions to the EDPS while reiterating the Board's determination to duly consider any further observation the Supervisor may wish to make and to revisit its Decisions as appropriate. This was also expressed in the recitals of the Decisions. The EDPS replied on 15 July by means of a letter requesting the MB to repeal them and to inform him accordingly by 26 August, failing which he would request their annulment by the competent court based on the alleged violation of the requirement of prior consultation of the EDPS.

As a result of a dedicated written procedure within the MB, in which the legitimacy of the adoption of the four Decisions on 28 June was unanimously upheld, I recently proposed to the EDPS to hold a meeting in his office, on 2 September, with a view to discussing possible solutions to the current difficulties and -I sincerely trust- to agreeing on a suitable way forward for the Agency in line with the expectations of its data protection Supervisor. I also reassured the EDPS that I would not fail to reply to his letter of 15 July, although at this juncture I would logically do so after having conferred with him on 2 September.

I am very pleased to inform you that the EDPS has kindly accepted to host this meeting, which I will attend along with the Europol Executive Director and the MB Member for the Commission.

As soon as practically possible after the referred meeting, I shall provide you with a complete overview of the developments pertaining to this important matter.

In the meantime I wish to underscore, once again, the appreciation of Europol and its MB towards the EU Legislator, and very much in particular towards the LIBE Committee that you preside, for its decision to endow Europol with enhanced operational capabilities to safeguard the EU internal security while ensuring the highest standards of personal data protection.

Yours sincerely,



Jérôme Bonet
Chairperson

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