European Union Agency for Law Enforcement Cooperation (Europol)

2013/0091(COD) - 11/03/2016 - Council position

The Council adopted its position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation (Europol).

The Council's position at first reading reflects the compromise reached in negotiations between the Council and the European Parliament, facilitated by the Commission. Once adopted, the Regulation will replace the current Decision and will enter into application as from 1 May 2017. The new regime it provides for will allow Europol to benefit from an improved system of data processing and data protection and an increased operational flexibility

The aim of the proposal was to replace Council Decision 2009/371/JHA which established Europol by a new Regulation based on Article 88 of the Treaty on the Functioning of the European Union and to make Europol more efficient, more accountable and its data protection regime more robust.

The European Union Agency for Law Enforcement Cooperation (Europol) established by a new Regulation shall:

- **support and strengthen action by the competent authorities of the Member States** and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

The Council position at first reading provides in particular for the following:

Joint Parliamentary Scrutiny: the text of the Europol Regulation reflects an increased role of the European Parliament in a finely tuned interinstitutional balance with the Council and the Commission:

- Europol's activities will be politically monitored by the Joint Parliamentary Scrutiny Group (JPSG) established together by the **national parliaments and the competent committee of the European Parliament**;
- the **Executive Director** will be appointed by the Council from a shortlist drawn up by a selection committee composed of members designated by Members States and a representative of the Commission. The selected candidate may be requested to appear before the competent committee of the EP, which will give a non-binding opinion to the Council;
- the Management Board may invite to its meetings, as a non-voting observer, any person whose opinion may be relevant for discussion, including, where appropriate, a representative of the JPSG;
- the **role of both the Commission and the Parliament has been increased** as regards Europol’s exchanges of personal data with private parties and cooperation agreements allowing for the exchange of personal data concluded, before 1 May 2017, between Europol and that third country or international organisation concerned.

Internet Referral Unit (IRU): with a view to allowing Europol in the future to carry out Internet referral tasks, the Council position:

- provides an **explicit legal basis** for internet referrals. In addition, a new recital further explains the context and the necessity of Europol performing such tasks and the need to take into account the

exceptional and specific threat posed to the internal security of the Union by terrorism and other forms of serious crime;

- allows Europol, under very strict conditions, to **transfer publicly available personal data to private parties**. The transfer should be strictly necessary for the performance of the task and should concern individual and specific cases and no fundamentals rights and freedoms of the data subjects concerned should override the public interest necessitating the transfer in the case at hand;
- provides that Europol may now **receive personal data directly from private parties**, following transfers.

Information processing and data protection: the new system in the proposed Regulation represents a conceptually different data processing environment reflecting an Integrated Data Management Concept (IDMC). This will enable Europol to **identify links and connections between different investigations** and to detect emerging trends and patterns in organised crime (increased operational support capacity). Duplications are avoided as information can be cross-checked. Any adapting of the processing and analysis structure can be done at a later stage without further adaptation of the Regulation.

In addition, the Council **enhanced the rules relating to data protection** in force within Europol through inter alia strict restrictions on processing of data of special categories of data subjects, reports to the European Data Protection Supervisor (EDPS) on special categories of data, strict purpose limitations and a diversified access regime.