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Objet:	Projet 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 (première lecture) - Adoption de l'acte législatif = Déclarations

Déclaration de l'Autriche

Österreich stimmt der Verordnung zur Änderung der Verordnung (EU) 2016/794 über Europol in Anbetracht der wichtigen Rolle von Europol in der Kriminalitätsbekämpfung und der diesbezüglichen Unterstützung der Mitgliedstaaten zu.

Österreich hält jedoch auch fest, dass mit der als politischen Kompromiss erzielten Verordnung wesentliche datenschutzrechtliche Bedenken Österreichs nicht ausgeräumt werden konnten und die Verordnung auch hinter den vom Europäischen Datenschutzbeauftragten erhobenen Ansprüchen an den Datenschutz zurückbleibt. Diese Bedenken beziehen sich insbesondere auf die langen Speicherfristen im Zusammenhang mit der Verarbeitung nicht kategorisierter personenbezogener Daten (Art. 18 Abs. 6a), die Ermöglichung der Aufnahme einer Datenverarbeitung vor Ablauf der Konsultationsfrist (Art. 39 Abs. 3) sowie auf die in den Übergangsregelungen vorgesehenen langen Speicherfristen (Art. 74a und Art. 74b).

Déclaration du Luxembourg

Le Luxembourg votera en faveur de la 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.

Depuis le début des négociations, nous avons veillé à œuvrer en faveur d'un équilibre entre les besoins opérationnels d'Europol d'une part et les exigences en matière de protection des données à caractère personnel d'autre part.

C'est à la lumière de cette position de principe que le Luxembourg déplore les longues périodes de conservation de données non-catégorisées prévues par les articles 18 (6a), 74a et 74b.

Déclarations de la Commission

Commission statement on the implementation of the mechanism for Europol to propose the issuing of alerts in the Schengen Information System

As part of the evaluation that the Commission will carry out under Article 68(3) of Regulation (EU) 2016/794, three years after the entry into force of this Regulation amending Regulation (EU) 2016/794, the Commission will report on the operational impact of the new mechanism established in Article 4(1)(r) of Regulation (EU) 2016/794. Under this mechanism, Europol may propose to Member States, based on data that Europol received from third countries or international organisations, to enter information alerts in the interest of the Union into the Schengen Information System on persons involved in terrorism or in serious and organised crime. The Commission will carry out this evaluation on the basis of reports that Europol will provide on the proposals made for alerts in the Schengen Information System and on the subsequent alerts inserted by Member States in the Schengen Information System.

Commission statement on the relations between Europol and the European Public Prosecutor's Office

In the Commission's view, the provisions on the relations between Europol and the European Public Prosecutor's Office ('the EPPO'), as set out in Article 20a of Regulation (EU) 2016/794, cannot limit the obligations on Europol stemming from Article 24(1) of Council Regulation (EU) 2017/1939, and shall therefore be interpreted and applied in accordance with the latter Article.

Commission statement on the provisions for Europol's cooperation with third countries

As regards rules for Europol's cooperation with third countries, the Commission notes that any transfer of personal data from Europol to a third country on the basis of a "legally binding instrument" requires an international agreement under Article 218 of the Treaty, as already provided for in Article 25(1)(b) of Regulation (EU) 2016/794. The Commission also notes that any transfer of personal data from Europol to a third country on the basis of an assessment of appropriate safeguards by Europol must meet the requirements as set by the case law¹ of the Court of Justice of the European Union, thus requiring Europol to conclude that the level of data protection in the third country provides essential equivalence in terms of data protection. Allowing for data transfers based on such an assessment without the need for prior agreement by the European Data Protection Supervisor as provided for in Article 25(6) of Regulation (EU) 2016/794 will create risks of subsequent intervention by the European Data Protection Supervisor based on a divergent assessment of the data protection safeguards and might thus negatively affect law enforcement cooperation.

¹ Opinion 1/15, *EU-Canada PNR Agreement*, EU:C:2017:592 (26.7.2017); judgment of 6 October 2015, *Schrems*, C- 362/14, EU:C:2015:650; judgement of 16 July 2020, C- 311/18, *Schrems II*, EU:C:2020:559.

Commission statement on the strengthening of Europol-Interpol cooperation

The Commission recalls that in the on-going negotiations for a cooperation agreement between the European Union and the International Criminal Police Organization (ICPO-INTERPOL), and in line with the negotiating directives given by the Council², the Commission seeks to strengthen cooperation between Europol and Interpol, taking into account the latest developments in combating terrorism, cross-border and transnational serious organised crime, as well as current operational needs and Europol's mandate. The Commission seeks to ensure, in line with the negotiating directives given by the Council³, that the agreement provides the legal basis for authorising Europol to access relevant Interpol databases for the performance of its tasks.

² Council Decision (EU) 2021/1312 of 19 July 2021 authorising the opening of negotiations for a cooperation agreement between the European Union and the International Criminal Police Organization (ICPO-INTERPOL).

³ Council Decision (EU) 2021/1312 of 19 July 2021 authorising the opening of negotiations for a cooperation agreement between the European Union and the International Criminal Police Organization (ICPO-INTERPOL).