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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol's support to preventing and combating such crimes and amending Regulation (EU) 2016/794**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

Migrant smuggling is a criminal activity that disrespects human life and strips people of dignity in the pursuit of profit, violating people's fundamental rights and undermining the migration management objectives of the EU.

Fighting and preventing migrant smuggling and trafficking in human beings is one of the priorities of the European Union and crucial to addressing irregular migration in a comprehensive way. Criminal networks take advantage of people's despair and use land, sea and air routes to facilitate irregular migration, putting people's lives at risk and seek in every way to maximize their profits.

In her State of the Union address of 13 September 2023, President von der Leyen called for the strengthening of all tools at the Union's disposal to effectively counter migrant smuggling, by updating the current, sometimes more than 20-year old legislative framework, strengthening the governance on smuggling and the role of EU agencies, in particular of Europol, and intensifying cooperation between Justice and Home Affairs Agencies, Member States as well as with partner countries to tackle this issue globally. She also emphasised the need to work with partners to tackle this global challenge, which is why the Commission is organising an International Conference, creating a Global Alliance with a Call to Action to fight people smuggling.

Migrant smuggling to and within the EU is reaching new heights, fuelled by increasing demand due to emerging and deepening crises, most notably economic recessions, environmental emergencies caused by climate change, as well as conflicts and demographic pressure in many third countries. Migrant smuggling drives the increase of irregular arrivals to the EU: in 2022, around 331 000 irregular entries were detected at the EU external borders, the highest level since 2016, representing a 66% increase compared to the previous year<sup>1</sup>. In 2023, until end of September approximately 281 000 irregular border crossings were detected at the external borders of the EU, representing an 18% increase compared to the same period in 2022. This coincides with an increase in the smuggling activities, evidenced by a new record with over 15 000 migrant smugglers reported to the European Border and Coast Guard Agency (Frontex) in 2022<sup>2</sup>. Taking into account the increase in irregular arrivals and the various worldwide crises in a range of countries of origin and transit, consistently high and possibly increasing migratory flows to Europe and related smuggling criminal activities can be expected.

It is estimated that more than 90% of the irregular migrants who reach the EU make use of smugglers, mostly organised in criminal groups. Moreover, smuggling networks make substantial profits from their criminal activities, ranging between EUR 4.7-6 billion worldwide annually<sup>3</sup>. Providing a strong and firm response to smugglers' activities is therefore of primary importance to reducing irregular migration. It is estimated that the activities of ruthless migrant smugglers, especially at sea, resulted in a staggering death toll of

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<sup>1</sup> Frontex Risk analysis 2023/2024.

<sup>2</sup> Frontex Risk analysis for 2023/2024.

<sup>3</sup> Global study on smuggling of migrants (United Nations Office on Drugs and Crime, 2018).

over 28 000 people<sup>4</sup> since 2014.

Around half of the migrant smuggling networks are also involved in other crimes<sup>5</sup>, such as trafficking in human beings, drugs and firearms smuggling, while also facilitating unauthorised movements within the EU. Law enforcement and judicial authorities are faced with multiple and constantly evolving challenges: the rapidly changing and adapting *modi operandi* of smugglers; the increased use of threats and violence vis-à-vis the migrants as well as law enforcement authorities<sup>6</sup>; the difficulties to locate and arrest smugglers who hide in countries outside the EU; the use of a broad variety of means of transport, including unseaworthy, less detectable vessels (such as fishing boats and makeshift metal boats), road vehicles in which migrants are dangerously concealed, as well as commercial and charter flights increasingly used to bring migrants to countries close to or bordering the EU, from where migrants then seek to irregularly enter the EU<sup>7</sup>; the use of digital tools at all stages of the process, with online advertising of smuggling services, routes and prices as well as for forging documents; the use of crypto-currencies, digital money or other unofficial forms of payment (e.g. *hawala*)<sup>8</sup>.

Tackling migrant smuggling is essential to dismantling organised crime networks that cause human rights violations, and death, and to countering the increase in irregular migration to the EU. A comprehensive and sustainable approach to migration requires a combination of robust and efficient actions complementing mutually beneficial partnerships with countries of origin and transit, addressing the root causes of migration and in particular irregular migration, and at the same time fighting organised crime including migrant smuggling and trafficking in human beings. The New Pact on Migration and Asylum<sup>1</sup> puts preventing and countering migrant smuggling at the centre of its comprehensive approach to migration.

This proposal for a Regulation is part of a package of measures aiming to modernise and strengthen the existing legal framework and provide the Union with rules which are fit for purpose. It is accompanied by a proposal for a Directive on preventing and countering the facilitation of unauthorised entry, transit and stay. That proposal introduces a modern EU criminal law instrument that clearly defines and effectively sanctions organised criminal networks responsible for migrant smuggling, harmonises penalties that take account of the seriousness of the offence, improves the jurisdictional reach, reinforces Member States resources to tackle and prevent migrant smuggling, and improves data collection and reporting.

This package is presented on the day of the International Conference launching “a Global Alliance to counter migrant smuggling”. With this Conference, the Commission is creating a framework for strong political cooperation with international partners by calling for shared commitments and actions to jointly counter migrant smuggling globally.

These three initiatives complement existing initiatives in the area of countering migrant smuggling and implement the renewed EU action plan against smuggling (2021-2025) by updating the existing EU legal framework to sanction migrant smugglers acting on the migratory routes and setting out a new modern, legal, operational and international cooperation framework against migrant smuggling for the years to come.

This proposal for a Regulation forms part of a coherent package also comprising of the

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<sup>4</sup> IOM, Missing migrants project, <https://missingmigrants.iom.int/region/mediterranean>.

<sup>5</sup> Estimates by Europol.

<sup>6</sup> Europol Spotlight (2023) Criminal Networks in Migrant Smuggling.

<sup>7</sup> Frontex, Risk Analysis for 2023/2024

<sup>8</sup> Europol Spotlight (2023), Criminal Networks in Migrant Smuggling

abovementioned proposal for a Directive on preventing and countering the facilitation of unauthorised entry, transit and stay. Together, these proposals seek to modernise the legal framework to fight the smuggling of migrants, to ensure that we have the necessary legal and operational tools to respond to the new *modus operandi* of smugglers, as set out in the Commission work programme 2024 announced on 17 October 2023.

#### *Objective of the proposal*

The overall objective of this proposal is to reinforce Europol's role in the fight against migrant smuggling and trafficking in human beings, and, in particular, the role of the European Centre Against Migrant Smuggling.

In order to step up the prevention, detection and investigation of migrant smuggling and trafficking in human beings, this proposal pursues the following specific objectives.

(1) Strengthening inter-agency cooperation on migrant smuggling and trafficking in human beings

In order to facilitate a more effective, timely and systematic coordination and exchange of information on countering migrant smuggling and trafficking in human beings between Union agencies, the European Centre Against Migrant Smuggling at Europol will be composed of Europol staff and seconded national experts and involve Member States', Eurojust and the European Border and Coast Guard Agency liaison officers that should be permanently posted to Europol to ensure regular exchange of information and operational cooperation and coordination. In the meantime, the Justice and Home Affairs Agencies have the opportunity to strengthen their cooperation on the basis of their respective mandates and optimise the exchange of information to counter migrant smuggling and trafficking in human beings. Eurojust is a key actor in the enhancement of the judicial response to migrant smuggling, supporting complex cases entailing cross-border judicial coordination and Joint Investigation Teams relating to criminal investigations of migrant smuggling cases.

(2) Strengthening steer and coordination on countering migrant smuggling and trafficking in human beings at EU level

In order to address insufficient strategic analysis, coordination and steer at EU level, the proposal sets out specific strategic tasks of the European Centre Against Migrant Smuggling with a view to providing a framework for the implementation of strategic and operational priorities of the Union by monitoring trends in migrant smuggling and trafficking in human beings, providing annual reports, strategic analyses, threat assessments and situational updates on migratory routes, as well as investigative and operational action. Regarding its strategic tasks, the European Centre Against Migrant Smuggling will meet at least twice a year with representatives of each Member State, Eurojust, the European Border and Coast Guard Agency, the European Multidisciplinary Platform Against Criminal Threats (EMPACT) and the Commission to ensure effective steer and coordination. In addition, the European Centre Against Migrant Smuggling will support Europol's Executive Director in requesting the initiation of criminal investigations.

(3) Improving information sharing on migrant smuggling and trafficking in human beings

The proposed regulation strengthens Member States' obligations to share information, including biometrics, on migrant smuggling and trafficking in human beings with Europol, including through requiring the establishment of direct connections for their competent authorities and immigration liaison officers to Europol's Secure Information Exchange Network Application (SIENA). The Commission also proposes to task the European Centre Against Migrant Smuggling to identify cases of migrant smuggling or trafficking in human

beings that may require cooperation with third countries, including by exchanging personal data; this aims to support the Executive Director in deciding on the transfer of personal data to third countries on a case-by-case basis in accordance with Article 25(5) of the Europol Regulation.

- (4) Reinforcing Member States' resources to prevent and combat migrant smuggling and trafficking in human beings

In order to help Member States to effectively counter migrant smuggling and exchange relevant information with Europol, it is proposed that they designate specialised services for combating migrant smuggling and trafficking in human beings, provide for the adequate resourcing of these services, connect these services to SIENA, and task the European Centre Against Migrant Smuggling to act as a network of specialised services.

- (5) Reinforcing Europol's support to the prevention and combatting of migrant smuggling and trafficking in human beings through operational task forces and Europol deployments for operational support

It is proposed to codify and further develop the concept of operational task forces and set out a new tool in the form of Europol deployments for operational support, as advanced tools for coordination and analytical, operational, technical, and forensic support, upon request of the Member States or proposal by the Europol Executive Director. The proposal includes the creation of a pool of experts working in their Member States that can be placed at the immediate disposal of Europol for deployments, and it sets obligations for the Member States to ensure the effective implementation of these tools. Third countries may also participate in operational task forces, and Europol deployments for operational support may take place in third countries.

To fulfill these objectives, the Commission also proposes to increase the financial and human resources of Europol to response to the operational needs and to address the identified gaps.

- **Consistency with existing provisions in the policy area**

The present proposal is consistent with existing and upcoming policy provisions in the domain of law enforcement cooperation, including Europol. Law enforcement cooperation is an area of shared competence between the EU and the Member States. In recent years, progress was made to improve the exchange of information cooperation between Member States and to reduce as much as possible the space in which terrorists and serious criminals operate. Following the migration crisis of 2015, the general architecture of Justice and Home Affairs (JHA) information systems and databases was overhauled with a focus on interoperability. The legislative framework on counterterrorism and information exchange was strengthened in 2017, in the aftermath of the terrorist attacks in Europe. In response to pressing operational needs to face the changing security landscape and calls by the co-legislators for stronger support from Europol, the regulation on Europol was reinforced in 2022. The new Europol mandate entered into force in June 2022, allowing Europol to step up its expertise and operational capabilities, to better support Member States in combating serious and organised crime and terrorism. The mandate also strengthens Europol's data protection framework and the oversight of the European Data Protection Supervisor.

The proposal is also in line with the existing EU legislative framework on countering migrants smuggling, also known as Facilitators Package, composed of Directive 2002/90/EC establishing a common definition of the offence of facilitation of unauthorised entry, transit and residence<sup>2</sup>, and Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence<sup>3</sup>. It is also coherent with the renewed EU action plan against smuggling (2021-2025) that calls for

strengthening of operational cooperation between EU Member States' law enforcement agencies, relevant EU agencies, Europol in particular, and partner countries, in the dismantling of migrant smuggling criminal networks as well as with the Toolbox addressing the use of commercial means of transport to facilitate irregular migration to the EU. The Anti-Smuggling Operational Partnerships with key countries of origin and transit form an integral part of the comprehensive migration partnerships that the EU is developing with partner countries. Enhancing the fight against migrant smuggling is a joint interest, as origin, transit and destination countries share the common goal to fight against criminal networks and protect people from possible abuses and exploitation. Migrant smuggling remains a serious challenge that needs to be continuously, concerted and collectively tackled further.

Preventing and fighting migrant smuggling is a key objective of the EU Security Union Strategy, the EU Strategy to tackle Organised Crime and the New Pact on Migration and Asylum.

- **Consistency with other Union policies**

As regards Europol's support to Member States, this legislative initiative takes account of Union's policies in the area of judicial cooperation in criminal matters, notably the role of Eurojust<sup>9</sup> in supporting and strengthening coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime, and judicial cooperation through Joint Investigation Teams<sup>10</sup>. The legislative initiative also takes into account of the Union's external policies, notably the work of EU delegations and security experts in third countries and common security and defense policy missions and operations.

This legislative initiative takes full account of the relevant EU data protection legislation (see section 3 below on fundamental rights).

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal bases of the legislative initiative are Articles 85, 87 and 88 of the Treaty on the Functioning of the European Union (TFEU). Article 85(1) TFEU provides that Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol. Article 87(1) provides that the Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences. Article 88(2) TFEU provides that the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Europol's structure, operation, field of action and tasks. These tasks may include: (a) the collection, storage, processing, analysis and exchange of information, in particular that forwarded by the authorities of the Member States or third countries or bodies; and (b) the coordination, organisation and implementation of investigative and operational action carried out jointly

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<sup>9</sup> Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA, PE/37/2018/REV/1, *OJ L 295, 21.11.2018, p. 138–183*.

<sup>10</sup> Council Framework Decision of 13 June 2002 on joint investigation teams, *OJ L 162, 20.6.2002, p. 1–3*.



with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.

- **Subsidiarity (for non-exclusive competence)**

According to the principle of subsidiarity laid down in Article 5(3) TEU, action at EU level should be taken only when the aims envisaged cannot be achieved sufficiently by Member States alone and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the EU.

Member States are responsible for the maintenance of law and order and the safeguarding of internal security<sup>11</sup> and the Union shall respect Member States' essential state functions, including maintaining law and order and safeguarding national security<sup>12</sup>. As serious crime and terrorism are often of a transnational nature, action at national level alone cannot counter them effectively. In particular criminal networks involved in migrant smuggling are characterised by their global, collaborative and agile nature<sup>13</sup>. This is the reason why Member States choose to work closely together within the framework of the EU. They seek to coordinate their law enforcement action and cooperate in addressing shared security challenges. They decide to pool resources at EU level and share expertise. As the EU agency for law enforcement cooperation, Europol is a strong expression of this endeavour by the Member States to keep their citizens safe by working together.

Europol provides a robust framework and a sophisticated crime-fighting toolbox for Member States to coordinate their law enforcement action. In particular, Europol serves as the EU criminal information hub minimising criminal intelligence gaps and focusing on data from live, complex investigations. Europol provides agile and real-time operational support ranging from operational analysis to operational coordination and brings together relevant partners for joint action. Member States use their liaison officers at Europol and the information exchange channel the agency provides to exchange information and cooperate in their criminal investigations. Member States pool resources by tasking Europol to process their information in its databases and provide joint analysis. This has put Europol at the heart of the European security architecture.

Evolving security threats, in particular migrant smuggling, call for effective EU level support to the work of national law enforcement authorities. While there are differences in the way Member States counter specific types of crime, their law enforcement authorities can choose where to seek EU-level support from Europol and what joint initiatives to participate in. Besides, law enforcement authorities across all Member States face the same evolving security threats. Consequently, there is a need for EU action to step up the support to Member States in fighting serious crime and terrorism to keep pace with these threats.

Consequently, Member States alone would not be able to effectively tackle all the challenges addressed by this proposal.

- **Proportionality**

According to the principle of proportionality laid down in Article 5(4) TEU, there is a need to match the nature and intensity of a given measure to the identified problem. All problems addressed in this legislative initiative call, in one way or another, for EU-level support for Member States to tackle these problems effectively:

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<sup>11</sup> Article 72 TFEU.

<sup>12</sup> Article 4(2) TFEU.

<sup>13</sup> Europol (2023), Criminal networks in migrant smuggling, Europol Spotlight Report series, Publications Office of the European Union, Luxembourg.

Inter-agency cooperation and coordination on countering migrant smuggling and trafficking in human beings at EU level needs to be strengthened and intensified: By strengthening cooperation and coordination between Europol, the European Border and Coast Guard Agency and Eurojust, and by establishing the European Centre Against Migrant Smuggling, and by setting its tasks and composition, the EU agencies will be better placed to ensure that migrant smuggling and trafficking in human beings can be tackled more effectively and efficiently at EU level than at national level.

Strategic steer and coordination on these crimes at EU level needs to be stepped up to allow for targeted strategic analysis, steer, and coordination of investigative and operational action at EU level and among Member States. Establishing the European Centre Against Migrant Smuggling, and setting its tasks and composition, will also contribute to fighting against migrant smuggling and trafficking of human beings more effectively and efficiently at EU level than at national level.

Information sharing on migrant smuggling and trafficking in human beings among the Member States and with Europol, but also with third countries needs to become stronger and more systematic to ensure that migrant smuggling can be tackled more effectively and efficiently at EU level, notably, by explicitly referring to the two crimes when it comes to Member States' general obligation on information sharing, by tasking Europol to process biometric data effectively and efficiently in support of Member States, in accordance with the existing safeguards on the processing of biometrics, and by establishing the Secure Information Exchange Network Application (SIENA).

As regards national structures to combat migrant smuggling, as already underlined in the renewed EU action plan against smuggling (2021-2025), not all Member States have the necessary structures at national level to combat migrant smuggling, and to cooperate effectively with Europol. This gap can be tackled more effectively and efficiently at EU level than at national level, by providing that Member States should designate specialised services for combating migrant smuggling, connect these specialised services to SIENA and by tasking the European Centre Against Migrant Smuggling to act as a network of specialised services.

Europol's on the ground support to Member States to counter migrant smuggling needs to be enhanced. This need can be addressed more effectively and efficiently at EU level than at national level, by establishing the operational task forces and Europol deployment for operational support.

As the EU agency for law enforcement cooperation, Europol is well positioned to provide this EU-level support. Indeed, Europol has proven very effective in supporting national law enforcement authorities in countering serious crime and terrorism and specifically migrant smuggling. There are clear synergies and economies of scale for Member States resulting, for example, from the use of the reserve pool and the specialised support provided by Europol, or from the expertise that a specialised centre such as the European Centre Against Migrant Smuggling can offer to Member States. Member States expect, and operationally need, the same level of support from Europol when it comes to evolving security threats, such as migrant smuggling.

Law enforcement cooperation at EU-level through Europol neither replaces different national policies on internal security nor substitutes the work of national law enforcement authorities. Differences in the legal systems and traditions of the Member States, as acknowledged by the Treaties<sup>14</sup>, remain unaffected by this EU level support.

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<sup>14</sup> Article 67(1) TFEU.



- **Choice of the instrument**

Pursuant to Article 88(2) of the Treaty on the Functioning of the European Union and given that Europol's mandate is set out in Regulation (EU) 2016/794, the strengthening of Europol's mandate – which is part of this proposal – has to take the form of a regulation.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Stakeholder consultations**

Migrant smuggling poses challenges to law enforcement, notably because of the agility and complexity of the involved criminal networks and their adaptiveness to changes in irregular migration's dynamics and to the law enforcement response. These challenges have been well identified by Europol and Member States and discussed at Justice and Home Affairs Council and European Council meetings. The role of Europol in countering migrant smuggling has been discussed both in the Council and in Europol, including by its Management Board. Furthermore, the European Court of Auditors special report in 2021 on Europol's support to fight migrant smuggling identified the need to reinforce Europol's role in fighting migrant smuggling, notably to enable Europol to use all relevant external sources of information, including biometric data, and to enhance data exchange with its partners<sup>15</sup>.

Furthermore, the Commission services gathered necessary input and views on the relevance, effectiveness, efficiency, coherence and EU added value of this legislative initiative through a questionnaire disseminated to Member States to identify operational needs and gaps when it comes to Europol's support on migration smuggling, as well as other needs and opportunities when it comes to strengthening Europol's mandate. In addition, following the discussions in the Law Enforcement Working Party, the Commission services consulted Member States at expert level, through a dedicated virtual workshop on 14 November 2023. Member States were generally supportive of strengthening Europol's legal mandate in preventing and combatting migrant smuggling and trafficking in human beings.

The stakeholder consultation process identified that there are five areas where action is needed at EU level, namely: a) the inter-agency cooperation on migrant smuggling, b) the strategic steer and coordination on countering migrant smuggling, c) information sharing, d) national structures specialised in combating migrant smuggling, and e) Europol's operational support on the ground.

The results of the consultation were incorporated throughout the preparation of the legislative initiative.

- **Impact assessment**

This legislative proposal is not supported by an Impact Assessment considering that the Commission had little or no choice available, notably due to the urgent operational needs to improve Europol's support to Member States on countering migrant smuggling. This proposal nevertheless builds on the evidence gathered by the European Court of Auditors special report in 2021 on Europol's support to fight migrant smuggling and the feedback received during the stakeholder consultations.

- **Fundamental rights**

Processing of personal data for law enforcement purposes in general, and for the support

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<sup>15</sup> Europol support to fight migrant smuggling: a valued partner, but insufficient use of data sources and result management. European Court of Auditors, 2021.

provided by Europol in particular requires ensuring full compliance with fundamental rights as enshrined in the Charter of Fundamental Rights, and notably the rights to the protection of personal data<sup>16</sup> and to respect for private life<sup>17</sup>. This proposal takes full account of these legal requirements.

#### 4. BUDGETARY IMPLICATIONS

This legislative initiative would have an impact on the budget and staff needs of Europol. It is estimated<sup>18</sup> that an additional budget of around EUR 50 million and around 50 additional posts would be needed for the overall period of the current Multiannual Financial Framework 2021-2027. This will ensure that Europol has the necessary resources to carry out fully and efficiently the new tasks described in articles 5 and 6 of this Regulation as well as its revised mandate. Europol's new tasks in this legislative proposal would therefore require additional financial and human reinforcements compared to the resources earmarked in the Multiannual Financial Framework 2021-2027, which foresaw an increase of 160 Temporary Agents with an associated cost of EUR 114 million and a total additional EU contribution of EUR 178 million to the budget of Europol. This legislative initiative also opens the possibility for Member States to contribute directly to Europol's budget, where necessary and required by existing or new tasks.

#### 5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The monitoring and evaluation of Europol's reinforced mandate would largely be performed by the applicable mechanisms under the existing Europol Regulation. Article 68 provides for an evaluation which assesses, in particular, the impact, effectiveness and efficiency of Europol and of its working practices and may address the possible need to modify the structure, operation, field of action and tasks of Europol, and the financial implications of any such modification. Further to this evaluation, the Commission will gather data through its representation in Europol's Management Board meetings and its supervision, along with the Member States, of Europol's work (Article 11).

- **Detailed explanation of the specific provisions of the proposal**

This legislative initiative proposes the following:

- ***Establishing in law the European Centre Against Migrant Smuggling within Europol and a governance framework to regulate and support its activities:*** the legislative initiative establishes the European Centre Against Migrant Smuggling as a Union centre of specialised expertise for combating migrant smuggling and trafficking in human beings. The European Centre Against Migrant Smuggling should be the focal point to support Member States in the prevention and combating of migrant smuggling and trafficking in human beings and, in this context, should perform specific strategic and operational tasks. [Article 3]
- ***Providing for the composition of the European Centre Against Migrant Smuggling:*** the legislative initiative provides for the composition of the European Centre Against Migrant Smuggling and the specific entities that should be involved

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<sup>16</sup> Article 8 of the Charter of Fundamental Rights of the European Union (hereinafter, 'the Charter').

<sup>17</sup> Article 8 of the Charter of Fundamental Rights of the European Union (hereinafter, 'the Charter').

<sup>18</sup> Based on Europol 2023 Establishment Plan and the resources allocation per activity in the Europol programming document 2023-2025

in carrying out its tasks, both for the purpose of strategic analysis, and for the purpose of operational and technical support to the prevention and combating of migrant smuggling and trafficking in human beings. The European Centre Against Migrant Smuggling should be supported by all other relevant Europol's internal structures. [Article 4]

- ***Defining the strategic and operational tasks of the European Centre Against Migrant Smuggling:*** the legislative initiative provides for the detailed tasks of the Centre for the purposes of strategic analysis as well as operational and technical support for the prevention and combating of migrant smuggling and trafficking in human beings. At strategic level, these tasks include providing strategic analyses and threat assessments, providing support to the operational implementation of the strategic and operational priorities, supporting the coordination, cooperation and exchange of information, monitoring migrant smuggling and trafficking in human beings, and preparing an annual report. In this context, the European Centre Against Migrant Smuggling will also hold a meeting of the entities represented in the centre at least twice a year to ensure effective steer and coordination at Union level. At operational level, the tasks of the European Centre Against Migrant Smuggling include coordinating, organising and implementing investigative and operational actions to support and strengthen actions by the competent authorities of the Member States, supporting Member States' cross-border information exchange activities, operations and investigations, as well as joint investigation teams and operational task forces, and identifying cases of migrant smuggling and trafficking in human beings that may require advanced operational support. [Article 5, 6]
- ***Providing for the designation of specialised services within the competent authorities of the Member States to prevent and combat migrant smuggling and trafficking in human beings:*** the legislative initiative provides that each Member State should designate one or more specialised services to prevent and combat migrant smuggling and trafficking in human beings, including through criminal investigations, and ensure that these services collect and share all relevant information as soon as possible through SIENA with Europol and other Member States. [Article 8]
- ***Providing Europol with the necessary advanced tools to support Member States in preventing and combating migrant smuggling and other crimes falling within the scope of Europol's objectives:*** the legislative initiative establishes operational task forces as coordination mechanisms set up by Member States with the support of Europol to conduct joint, coordinated and prioritised criminal intelligence activities and investigations notably on criminal networks and groups and individual criminal actors. The legislative initiative sets out minimum requirements concerning the active and timely involvement of the Member States, such as providing all relevant information to Europol, and that Europol should make available its advanced analytical, operational, technical, forensic and financial support to these Member States. Third countries may also participate in operational task forces. [Article 9]
- ***Providing that Europol should be able to deploy officers in the territory of a Member State, upon request of that Member State, to provide analytical, operational, technical and forensic support in liaison and in agreement with the competent authorities of that Member State:*** the host Member State should be able to ensure a minimum set of requirements such as providing all relevant information to Europol. Europol should be able to deploy rapidly, especially in exceptional cases of urgency. Staff and experts deployed by Europol should be able to carry out

investigative non-coercive measures that relate to data processing in liaison and in agreement with the competent authorities of the Member State concerned, in accordance with the Europol Regulation and that Member State's national law. Moreover, Europol should set up a reserve pool of Member States' highly qualified law enforcement experts with specialised profiles that can be placed at the immediate disposal of Europol for operational deployment to provide specialised support. Europol should also be able to deploy staff and seconded national experts in third countries with which it cooperates on the basis of an adequacy decision, and international agreement concluded between the Union and that third country pursuant to Article 218 TFEU, or a cooperation agreement between Europol and that third country concluded before 1 May 2017. [Article 9]

- ***Clarifying the nature of operational support that Europol staff may provide to Member States' law enforcement authorities on the ground in operations and investigations:*** the legislative initiative clarifies that Europol staff may provide operational support to the competent authorities of the Member States during the execution of investigative measures, at their request and in accordance with their national law, including in the context of the implementation of operational task forces and Europol deployment for operational support. Europol staff should be able to execute non-coercive investigative measures in liaison and in agreement with the competent authorities of the Member State concerned, and in accordance with the Europol Regulation and that Member State's national law, when so requested by a Member State in accordance with its national law and authorised by the Europol Executive Director. [Article 9]
- ***Enhancing cooperation between Europol and third countries:*** the legislative initiative sets out rules to better involve Member States' migration liaison officers deployed in third countries in enhancing the sharing of information by third countries to counter migrant smuggling and supply this information to Europol, directly or through the Europol national unit, using SIENA. [Article 8]
- ***Identifying cases of migrant smuggling requiring cooperation with third countries that may require transfers of personal data in individual cases for the purpose of the prevention, investigation, detection or prosecution of criminal offences, or the execution of criminal sanctions:*** the legislative initiative tasks the European Centre Against Migrant Smuggling to identify such cases. The transfers of personal data by Europol to third countries in these cases may, in the absence of an adequacy decision or of adequate or appropriate data protection safeguards, be carried out in accordance with Article 25(5) of Regulation (EU) 2016/794. [Article 6]
- ***Strengthening Europol's role in the fight against criminal offences related to the violation of Union restrictive measures:*** the legislative initiative includes these offences within the forms of crime listed in Annex I of Regulation (EU) 2016/794. Unrelated to migrant smuggling and trafficking in human beings, the proposed Regulation extends the list of crimes which fall within Europol's competence by including in Annex I to the Europol Regulation the "violation of Union restrictive measures". This responds to requests by Member States to allow Europol to support them in the fight against violations of Union restrictive measures, which currently is possible only where such a violation also constitutes another form of crime contained in Annex I to the Europol Regulation, for example money laundering. However, not all violations of Union restrictive measures would fall within the crimes currently set out in Annex I to the Europol Regulation. The inclusion of the violation of Union restrictive measures in Annex I to the Europol Regulation would complement the

proposed Directive on the definition of criminal offences and penalties for the violation of Union restrictive measures.<sup>19</sup> [Article 9]

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<sup>19</sup> COM(2022) 684 final (2.12.2022).



Proposal for a

## REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol's support to preventing and combating such crimes and amending Regulation (EU) 2016/794**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 85(1), Article 87(2), and Article 88(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Union Agency for Law Enforcement Cooperation (Europol) was established by Regulation (EU) 2016/794 of the European Parliament and of the Council<sup>20</sup> to 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.
- (2) Migrant smuggling is a criminal activity that disrespects human life and dignity of people in the pursuit of profit, undermining the fundamental rights of the people concerned as well as the migration management objectives of the Union. The European Council, in its conclusions of 9 February 2023, reaffirmed the importance of the fight against smugglers and affirmed the willingness to step up its action to prevent irregular departures and loss of life, also by intensifying cooperation with countries of origin and transit. To this effect, it is also important to strengthen the response of law enforcement to migrant smuggling and trafficking in human beings by reinforcing the capabilities of Europol, and in particular its Union centre of specialised expertise for combating migrant smuggling and trafficking in human beings.
- (3) A “European Migrant Smuggling Centre” was created in 2016 by the Management Board of Europol in accordance with Article 11(1), point (s), of Regulation (EU) 2016/794 as such a Union centre of specialised expertise. It has continuously evolved since its inception and has expanded its range of activities in order to provide the best support to the Member States as a dynamic platform for operational cooperation, the exchange of information, and coordination between the Member States and partners

<sup>20</sup> 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, ELI: <http://data.europa.eu/eli/reg/2016/794/oj>).

engaged in the fight against migrant smuggling and the trafficking in human beings. The increases in irregular arrivals in the Union and in unauthorised movements within the Union, the rapid adaptability of criminal organised groups, the development of new *modi operandi* and sophisticated methods urgently require a significant reinforcement of the role of Europol's Union centre of specialised expertise for combating migrant smuggling and trafficking in human beings by establishing it as a permanent structure within Europol and by strengthening the level of its engagement in supporting the Member States in the prevention and combating of migrant smuggling and trafficking in human beings. Its name should be "European Centre Against Migrant Smuggling".

- (4) The European Centre Against Migrant Smuggling should provide strategic, operational and technical support to Member States to prevent and combat migrant smuggling and trafficking in human beings. As part of its strategic tasks, it should provide a framework for the implementation of strategic and operational priorities of the Union by monitoring trends in migrant smuggling and trafficking in human beings. To that end it should provide annual reports, strategic analyses, threat assessments and situational updates on migratory routes and *modi operandi*, including indications that private parties may be used for migrant smuggling and trafficking in human beings. In the context of fulfilling its strategic and operational tasks, the European Centre Against Migrant Smuggling should cooperate with the European External Action Service and Common Security and Defense Policy missions and operations, where appropriate and relevant, in line with their respective mandates and competences, as well as in accordance with Europol's mandate.
- (5) In order to strengthen inter-agency cooperation on migrant smuggling and trafficking in human beings, the European Centre Against Migrant Smuggling should provide a means to enhance cooperation and coordination between Europol and other Union agencies, notably with Eurojust and the European Border and Coast Guard Agency, in line with their respective legal frameworks, including through working arrangements between the Union agencies.
- (6) In order to support its strategic analysis in the prevention and combating of migrant smuggling and trafficking in human beings, the European Centre Against Migrant Smuggling should, for strategic tasks, be supported by a cooperation framework composed of Europol staff and involve representatives of the Commission, Member States' specialised services, the European Union Agency for Criminal Justice Cooperation (Eurojust) and the European Border and Coast Guard Agency. The European Centre Against Migrant Smuggling should hold a meeting of the entities represented in the centre at least twice a year to ensure effective steer and coordination at Union level. To enable that centre to fulfil its tasks, other relevant internal structures of Europol should provide it with all necessary support. In order to maximise the effectiveness of the European Centre Against Migrant Smuggling, Europol should be able to invite, in particular, the main actors of the European Multidisciplinary Platform Against Criminal Threats ('EMPACT') as well as other relevant Union bodies or agencies when needed.
- (7) As part of the operational and technical support to Member States, the European Centre Against Migrant Smuggling should ensure coordination of investigative and operational actions of the Member States, including through supporting Member States' cross-border information exchange, operations and investigations, in particular in the framework of EMPACT, including by providing operational, technical, forensic and financial support. Furthermore, Europol should provide support to Member States

in identifying cases of migrant smuggling and trafficking in human beings where investigations would need to be initiated, where needed in liaison with Eurojust, in cases that require setting up of operational task forces or Europol deployments for operational support, and cases that may require cooperation with third countries, including by exchanging personal data.

- (8) The transfer of personal data by Europol to third countries may, in the absence of an adequacy decision or of adequate or appropriate data protection safeguards, be carried out in accordance with Article 25(5) of Regulation (EU) 2016/794. In particular, cases of migrant smuggling identified by the European Centre Against Migrant Smuggling that require cooperation with third countries could require transfers of personal data in individual cases for the purpose of prevention, investigation, detection or prosecution of criminal offences, or execution of criminal sanctions.
- (9) For the purpose of strengthening operational and technical support to preventing and combating migrant smuggling and trafficking in human beings, the European Centre Against Migrant Smuggling should, for operational tasks, involve liaison officers from the Member States, Eurojust and the European Border and Coast Guard Agency to ensure an effective, timely and systematic coordination and exchange of information on countering migrant smuggling and trafficking in human beings at Union level, ensuring a stronger inter-agency cooperation within their respective competences and with Member States. Other relevant internal structures of Europol should also provide all necessary support. Liaison officers from Eurojust and the European Border and Coast Guard Agency liaison officers should be posted as permanent representatives to Europol for this purpose. Europol should be able to involve other relevant Union bodies or agencies to draw on the expertise falling within their competencies where relevant.
- (10) EMPACT brings together a wide range of competent authorities in a partnership approach and constitutes both the framework for a coordinated response against organised and serious international crime and a catalyst to operationalise the Union security policies and strategies. To increase a multidisciplinary, holistic, and consistent response to prevent and combat migrant smuggling and the trafficking in human beings, as well as related crimes and enabling factors, Europol and all key stakeholders should increase their connections within EMPACT and the operational support to the activities developed by that platform.
- (11) To ensure the appropriate involvement of judicial authorities in criminal investigations for offences relating to migrant smuggling and trafficking in human beings, the need to strengthen the mandate of Eurojust in relation to migrant smuggling and in relation to the amendments in the Europol mandate should be evaluated as part of the evaluation in accordance with Article 69 (1) Regulation (EU) 2018/1727.
- (12) Europol should be the Union criminal information hub and act as a service provider, in particular by providing a secure network for the exchange of data, such as the secure information exchange network application (SIENA), aimed at facilitating the exchange of information between Member States, Europol, other Union bodies, third countries and international organisations. SIENA should enable swift, secure and user-friendly communication and exchange of operational and strategic crime-related information and intelligence and have a strong focus on interoperability with other systems at Europol and other cooperating states and organisations.
- (13) Active engagement of the Member States and sharing of information with Europol is key to ensuring a comprehensive and coordinated Union approach to countering

migrant smuggling. With a view to strengthening Member States' capacities, Member States should designate specialised services for countering migrant smuggling, ensuring that they are adequately resourced to prevent and combat migrant smuggling and can share information on criminal investigations with Europol efficiently and effectively. In order to harmonise the sharing of information between the Member States and Europol on migrant smuggling, Member States should ensure that their designated services for countering migrant smuggling are directly connected to SIENA to facilitate the sharing of information. This is in line with Directive (EU) 2023/977 of the European Parliament and of the Council of 10 May 2023 on the exchange of information between the law enforcement authorities of Member States and repealing Council Framework Decision 2006/960/JHA. Member States' immigration liaison officers posted in third countries should also share information with Europol; for this purpose, they should also be connected to SIENA in order to ensure that they can carry out the sharing of information referred to in paragraph 1 in an efficient and effective manner.

- (14) In order to ensure efficient sharing of information related to migrant smuggling among Member States and with Europol, especially in case of large criminal networks involving numerous suspects, Member States should employ the most appropriate supporting tools provided by Europol such as dedicated data loaders. Conversely, and so as to access and make the best use of all information and intelligence available at Union level on the corresponding cases, and in full respect of the appropriate data protection safeguards, Member States and Union agencies should systematically consult Europol information in the course of ongoing investigations related to migrant smuggling, including by using the hit/no hit tools provided by Europol such as the Querying Europol Systems (QUEST+) technical system interface.
- (15) To prevent, detect and investigate cross-border serious organised crime and terrorism, coordination and concerted action is necessary. In addition to the possibility of the Member State to set up a joint investigation team in accordance with Council Framework Decision of 13 June 2002, Member States should be able to set up an operational task force to reinforce law enforcement cooperation with the support of Europol. This coordination mechanism among Member States' police authorities and other law enforcement services should, with the support of Europol, enable them to conduct joint, coordinated and prioritised criminal intelligence activities and investigations notably on criminal networks and groups as well as individual criminal actors, including persons whose criminal activities fall within the forms of crime for which Europol is competent and who constitute a high risk for security. In order to ensure the well-functioning and the effectiveness of that mechanism, Member States setting up, participating in, or supporting an operational task force should be able to ensure a minimum set of requirements concerning their active and timely involvement, such as providing all relevant information to Europol, and Europol should be able to make available its advanced analytical, operational, technical, forensic and financial support to those Member States. Third countries should be able to participate in or support an operational task force.
- (16) Where the criminal intelligence activities carried out in an operational task force result in the opening of criminal investigations in one or more Member States that may benefit from setting up a joint investigation team, or where the criminal investigations supported by an operational task force may benefit from setting up a joint investigation team, Europol should propose the setting up of a joint investigation team to the Member States concerned and take measures to assist them in accordance with

Article 5 of Regulation (EU) 2016/794. In such cases, Europol should closely liaise with Eurojust, where appropriate.

- (17) Europol should be able to deploy staff including seconded national experts in accordance with Regulation (EU) 2016/794 in the territory of a Member State upon request of that Member State, to provide analytical, operational, technical and forensic support in liaison and in agreement with the competent authorities of that Member State. These deployments should notably take place in the context of complex, large-scale and high-profile investigations, including in the context of joint investigation teams, in liaison with Eurojust where appropriate, or operational task forces. These deployments should also support further security checks against Europol or national databases in order to facilitate rapid information exchange to strengthen controls at the Union's external borders (secondary security checks), or migration management support teams in accordance with Regulation (EU) 2019/1896 of the European Parliament and of the Council<sup>21</sup>. Europol should also make use of these deployments to support Member States in relation to major international events. Europol should also be able to deploy staff and seconded national experts in third countries with which it cooperates on the basis of an adequacy decision, an international agreement concluded between the Union and that third country pursuant to Article 218 TFEU, or a cooperation agreement between Europol and that third country concluded before 1 May 2017.
- (18) In order to ensure that Europol can provide effective support by way of deployment, the host Member State should be able to ensure a minimum set of requirements such as providing all relevant information to Europol. Europol should be able to deploy staff and seconded national experts rapidly, even in exceptional cases of urgency. The deployed Europol staff and seconded national experts should be able to carry out investigative non-coercive measures that relate to data processing in liaison and in agreement with the competent authorities of the Member State concerned, and in accordance with Regulation (EU) 2016/794 and that Member State's national law.
- (19) Furthermore, in the context of Europol deployments for operational support, Europol should set up a reserve pool of Member States' highly qualified law enforcement experts with specialised profiles that can be placed at the immediate disposal of Europol for operational deployment to provide specialised support. The experts' reserve pool should include specialists in criminal analysis, forensics, investigation, languages and coordination. The Member States should ensure that their experts are available to take part, as seconded national experts, in Europol deployments for operational support, at the request of Europol. That obligation should not apply to third countries where Europol deploys staff and seconded national experts for operational support.
- (20) The reinforcement of Europol's legal framework provides an opportunity to clarify that Europol's objectives should also expressly cover violations of Union restrictive measures. Union restrictive measures are an essential tool for safeguarding the Union's values, security, independence and integrity, consolidating and supporting democracy, the rule of law, human rights and the principles of international law and

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<sup>21</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/1896/oj>).



maintaining international peace, preventing conflicts and strengthening international security in line with the aims and principles of the United Nations Charter. Violations of Union restrictive measures therefore constitute a form of crime which affects a common interest covered by Union policy, and in relation to which Europol should have competence to act in order to support and strengthen action by the Member States.

- (21) [In accordance with Article 3 of the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Ireland has notified its wish to take part in the adoption and application of this Regulation.] OR
- (22) [In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]
- (23) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (24) [The European Data Protection Supervisor was consulted, in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>22</sup>, and has delivered an opinion on [...]<sup>23</sup>.
- (25) Since the objectives of this Regulation to reinforce the prevention, detection and investigation of migrant smuggling and trafficking in human beings cannot be sufficiently achieved by the Member States acting alone given the cross-border nature of these crimes, but can rather, by reason of the effects of cooperation and information sharing, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In 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 those objectives.
- (26) This Regulation fully respects the fundamental rights and safeguards, and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union ('the Charter'), in particular the right to respect for private and family life and the right to the protection of personal data as provided for by Articles 7 and 8 of the Charter, as well as by Article 16 of the Treaty on the Functioning of the European Union.
- (27) Regulation (EU) 2016/794 should therefore be amended accordingly,

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<sup>22</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

<sup>23</sup> OJ C ...

HAVE ADOPTED THIS REGULATION:

## Chapter I

### GENERAL PROVISIONS

#### Article 1

##### Subject matter and scope

This Regulation lays down rules to enhance police cooperation and the support of the European Union Agency for Law Enforcement Cooperation (Europol) in preventing and combating migrant smuggling and trafficking in human beings, by:

- (a) establishing a European Centre Against Migrant Smuggling within Europol and a governance framework to regulate and support its activities;
- (b) enhancing cooperation and coordination between the Member States, Europol and other Union agencies;
- (c) reinforcing the exchange of information between the Member States and with Europol;
- (d) providing Europol with the necessary tools to support and strengthen actions by the competent authorities of the Member States and their mutual cooperation in preventing and combating criminal offences falling within Europol's objectives;
- (e) enhancing cooperation between Europol and third countries.

#### Article 2

##### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'migrant smuggling' means any of the activities referred to in Articles 3, 4 and 5 of Directive [XXX] [ *laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946 JHA*]<sup>24</sup>;
- (2) 'trafficking in human beings' means any of the activities referred to in Articles 2 and 3 of Directive 2011/36/EU of the European Parliament and of the Council<sup>25</sup>;
- (4) 'competent authorities' means the competent authorities of the Member States defined in Article 2, point (a), of Regulation (EU) 2016/794;
- (5) 'immigration liaison officer' means a liaison officer deployed in a third country by the competent authorities of a Member State, in accordance with its national law, to deal with immigration-related issues, including when those issues are only a part of the liaison officer's duties.

<sup>24</sup> [please add the title and the publication reference]

<sup>25</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1, ELI: <http://data.europa.eu/eli/dir/2011/36/oj>).

## Chapter II

### GOVERNANCE FRAMEWORK OF THE EUROPEAN CENTRE AGAINST MIGRANT SMUGGLING

#### *Article 3*

#### **European Centre Against Migrant Smuggling**

The European Centre Against Migrant Smuggling is established within Europol as a Union centre of specialised expertise as referred to in Article 4(1), point (l), of Regulation (EU) 2016/794. It shall support Member States in the prevention and combating of migrant smuggling and trafficking in human beings and shall perform the tasks set out in Articles 5 and 6.

#### *Article 4*

#### **Composition of the European Centre Against Migrant Smuggling**

1. The European Centre Against Migrant Smuggling shall be composed of Europol staff and involve representatives of the following entities in carrying out the strategic tasks referred to in Article 5:
  - (a) a representative of each Member State, from a national specialised service referred to in Article 7;
  - (b) a representative of Eurojust;
  - (c) a representative of the European Border and Coast Guard Agency;
  - (d) at the discretion of Europol and, after consultation of the Member States, one or more representatives involved in the operational implementation of the strategic and operational priorities of the Union for combating migrant smuggling and trafficking in human beings, in particular in the European Multidisciplinary Platform Against Criminal Threats (EMPACT).

The European Centre Against Migrant Smuggling shall hold a meeting of the entities referred to in points (a) to (d) at least twice a year and the Commission shall participate in such meeting.

Europol may invite other entities to be involved in carrying out the activities referred to in Article 5, including other relevant Union bodies or agencies.

2. The European Centre Against Migrant Smuggling shall be composed of Europol staff and involve representatives of the following entities in carrying out the operational tasks referred to in Article 6:
  - (a) for each Member State a liaison officer referred to in Article 8 of Regulation (EU) 2016/794 specifically designated to deal with migrant smuggling;
  - (b) a liaison officer of Eurojust as a permanent representative at Europol;
  - (c) a liaison officer of the European Border and Coast Guard Agency as a permanent representative at Europol.

Europol may invite other entities to be involved in carrying out the activities referred to in Article 6, including other relevant Union bodies or agencies.

3. For the purpose of paragraph 2 of this Article, and in accordance with Article 4(1), point (g), of Regulation (EU) 2018/1727 of the European Parliament and of the Council<sup>26</sup>, Eurojust shall deploy a liaison officer, acting in accordance with that Regulation, to the European Centre Against Migrant Smuggling.
4. For the purposes of paragraph 2 of this Article as well as Article 68(1), point (b), Article 87(1), point (d) and Article 90 of Regulation (EU) 2019/1896, and in accordance with Article 68(2) and (5) of that Regulation, the European Border and Coast Guard Agency shall deploy a liaison officer, acting in accordance with that Regulation, to the European Centre Against Migrant Smuggling.
5. For the purposes of paragraphs 1 and 2, and to facilitate the fulfilment of the strategic and operational tasks set out in Articles 5 and 6 of this Regulation, the European Centre Against Migrant Smuggling shall be provided with the necessary support by all other relevant parts of Europol's internal structures.

## *Article 5*

### **Strategic tasks of the European Centre Against Migrant Smuggling**

The strategic tasks of the European Centre Against Migrant Smuggling shall be the following:

- (a) providing strategic analyses and threat assessments to assist the Council and the Commission in laying down strategic and operational priorities of the Union for the prevention and combating of migrant smuggling and trafficking in human beings, in accordance with Article 4(2) of Regulation (EU) 2016/794;
- (b) providing a framework to support the operational implementation of the strategic and operational priorities of the Union for the prevention and combating of migrant smuggling and trafficking in human beings, in particular in the framework of the EMPACT, in accordance with Article 4(2) of Regulation (EU) 2016/794;
- (c) supporting the coordination, cooperation and exchange of information on migrant smuggling and trafficking in human beings between Union agencies, notably with the European Border and Coast Guard Agency, Eurojust and, where appropriate, other relevant Union bodies or agencies, in line with their respective legal frameworks, including through working arrangements between them, in accordance with Article 4(1), point (j), of Regulation (EU) 2016/794;
- (d) monitoring migrant smuggling and trafficking in human beings taking place in the Union and in third countries, in cooperation with Member States, relevant Union bodies or agencies and, where appropriate, third countries, in accordance with Article 4(1), point (f), of Regulation (EU) 2016/794, and regularly providing information to

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<sup>26</sup> Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138, ELI: <http://data.europa.eu/eli/reg/2018/1727/oj>).

the Member States and the Commission, including aggregated statistical data and situational updates derived from information shared by Member States;

- (e) providing strategic analyses and threat assessments to support the implementation of operational task forces referred to in Article 5a of Regulation (EU) 2016/794 and Europol deployments for operational support referred to in Article 5b of Regulation (EU) 2016/794, in accordance with Article 4(1), point (f), of Regulation (EU) 2016/794;
- (f) providing strategic analyses and threat assessments to support the implementation of Article 6(1) of Regulation (EU) 2016/794 on requesting the initiation of a criminal investigation into migrant smuggling and trafficking in human beings, in accordance with Article 4(1), point (f), of Regulation (EU) 2016/794;
- (g) providing strategic analyses and threat assessments to Member States and the Commission as well as relevant Union agencies or bodies, where appropriate, on routes and *modi operandi* of migrant smuggling and trafficking in human beings, including on indications that private parties may be used for migrant smuggling and trafficking in human beings, in accordance with Article 4(1), point (f), of Regulation (EU) 2016/794;
- (h) providing strategic analyses and threat assessments to Member States and the Commission as well as relevant Union agencies or bodies, where appropriate, on the prevention and combating of migrant smuggling and trafficking in human beings, in accordance with Article 4(1), point (f), of Regulation (EU) 2016/794;
- (i) preparing an annual report on migrant smuggling and on trafficking in human beings, identifying the main operational priorities and possible related actions at Union level, in accordance with Article 4(1), point (f), of Regulation (EU) 2016/794.

## Article 6

### Operational tasks of the European Centre Against Migrant Smuggling

The operational tasks of the European Centre Against Migrant Smuggling shall be the following:

- (a) coordinating, organising and implementing investigative and operational actions to support and strengthen actions by the competent authorities of the Member States in preventing and combating migrant smuggling and trafficking in human beings, including when these crimes are facilitated, promoted or committed using the internet, including social media, and including in the context of Europol deployments for operational support, in accordance with Article 4(1), points (c) and (m), of Regulation (EU) 2016/794;
- (b) supporting Member States' cross-border information exchange activities, operations and investigations, as well as joint investigation teams and operational task forces, on migrant smuggling and trafficking in human beings, including by providing analytical, operational, technical, forensic and financial support, in accordance with Article 4(1), point (h), of Regulation (EU) 2016/794;
- (c) providing administrative, logistical, financial and operational support to operational activities led by Member States, in particular in the framework of EMPACT, in accordance with Article 4(2) of Regulation (EU) 2016/794;



- (d) supporting the Europol Executive Director in evaluating, in accordance with Article 5b(3) of Regulation (EU) 2016/794, requests made by Member States for Europol deployments for operational support related to migrant smuggling and trafficking in human beings, including in the prioritisation of such requests based on operational needs;
- (e) identifying cases of migrant smuggling and trafficking in human beings that may require the setting up of an operational task force in accordance with Article 5a of Regulation (EU) 2016/794, and informing the Europol Executive Director of such cases;
- (f) identifying cases of migrant smuggling and trafficking in human beings that may require Europol deployments for operational support in accordance with Article 5b of Regulation (EU) 2016/794, and informing the Europol Executive Director of such cases;
- (g) identifying cases of migrant smuggling and trafficking in human beings that may require the application of Article 6 of Regulation (EU) 2016/794 on requests by Europol for the initiation of a criminal investigation and informing the Europol Executive Director of such cases;
- (h) identifying cases of migrant smuggling and trafficking in human beings that may require cooperation with third countries, including by exchanging personal data.

### **Chapter III**

## **COOPERATION BETWEEN MEMBER STATES AND EUROPOL ON PREVENTING AND COMBATING MIGRANT SMUGGLING AND TRAFFICKING IN HUMAN BEINGS**

### *Article 7*

#### **National specialised services to prevent and combat migrant smuggling and trafficking in human beings**

1. Each Member State shall designate, one year after the entry into force of this Regulation at the latest, one or more specialised services within its competent authorities, in accordance with national law, to prevent and combat migrant smuggling and trafficking in human beings, including through criminal investigations. Each Member State shall immediately after such designation inform the Commission thereof.
2. Each Member State shall ensure that its specialised services designated in accordance with paragraph 1 of this Article collect all relevant information concerning and resulting from criminal investigations into migrant smuggling and trafficking in human beings and share such information as soon as possible with Europol and other Member States in accordance with Article 8.
3. Each Member State shall connect, one year after the entry into force of this Regulation at the latest, its specialised services designated in accordance with paragraph 1 of this Article directly to Europol's Secure Information Exchange Network Application (SIENA) referred to in Article 2, point (w), of Regulation (EU) 2016/794. Each Member State shall immediately after such connection inform the Commission thereof.

4. Each Member State shall provide its specialised services designated in accordance with paragraph 1 with adequate resources to ensure that those specialised services are equipped to prevent and combat effectively migrant smuggling and trafficking in human beings, and to collect and share information in accordance with paragraph 2 in an effective and efficient manner.
5. Each Member State shall make available an appropriate number of staff members of the specialised services designated in accordance with paragraph 1 of this Article for the reserve pool referred to in Article 5b(6) of Regulation (EU) 2016/794, so that those staff members can participate in Europol deployments for operational support as seconded national experts.

#### *Article 8*

##### **Provision of information concerning criminal offences on migrant smuggling and trafficking in human beings to Europol and the Member States**

1. Each Member State shall, in accordance with Regulation (EU) 2016/794, provide Europol with information held by its competent authorities and relating to criminal offences on migrant smuggling and trafficking in human beings.
2. Each Member State shall provide the information referred to in paragraph 1 of this Article to Europol in a timely manner.
3. Each Member State shall provide other Member States and, at the same time, Europol with information held by its competent authorities and relating to criminal offences on migrant smuggling and trafficking in human beings where there are objective reasons to believe that such information could be relevant to those other Member States for the purpose of preventing, detecting or investigating such criminal offences in those Member States.
4. Each Member State shall use SIENA to provide the information referred to in paragraph 3 of this Article to other Member States and Europol, in accordance with Article 8(4) and Article 18(2), point (d), of Regulation (EU) 2016/794.
5. Each Member State shall connect its immigration liaison officers to SIENA. Where it is not possible to connect an immigration liaison officer to SIENA due to imperative technical reasons related to the situation in the third country of deployment, that immigration liaison officer shall submit the information referred to in paragraph 1 to a national competent authority through other secure channels. That competent authority shall provide the information to Europol, directly or through the Europol national unit, using SIENA.

#### **Chapter IV**

##### **ENHANCING EUROPOL'S SUPPORT TO COMBATING MIGRANT SMUGGLING AND TRAFFICKING IN HUMAN BEINGS**

#### *Article 9*

##### **Amendments to Regulation (EU) 2016/794**

Regulation (EU) 2016/794 is amended as follows:

- (1) in Article 2, the following points (w), (x) and (y) are added:

‘(w) ‘SIENA’ means the secure information exchange network application, managed by Europol, aimed at facilitating the exchange of information;

(x) ‘operational task force’ means a coordination mechanism set up by Member States among their competent authorities with the support of Europol to conduct joint, coordinated and prioritised criminal intelligence activities and investigations into a crime falling within the scope of Europol’s objectives that requires coordinated and concerted action;

(y) ‘Europol deployment for operational support’ means the deployment of Europol staff or seconded national experts in the territory of a Member State, upon request of that Member State, to provide analytical, operational, technical and forensic support in liaison and in agreement with the competent authorities of that Member State.’;

(2) Article 4 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (c) is replaced by the following:

‘(c) coordinate, organise and implement investigative and operational actions to support and strengthen actions by the competent authorities of the Member States, that are carried out:

(i) jointly with the competent authorities of the Member States;

(ii) in the context of joint investigation teams in accordance with Article 5 and, where appropriate, in liaison with Eurojust;

(iii) in the context of operational task forces in accordance with Article 5a;

(iv) in the context of Europol deployments for operational support in accordance with Article 5b;’;

(ii) point (h) is replaced by the following:

‘(h) support Member States’ cross-border information exchange activities, operations and investigations, as well as joint investigation teams and operational task forces, including by providing analytical, operational, technical, forensic and financial support;’;

(iii) point (l) is replaced by the following:

‘(l) develop Union centres of specialised expertise for combating certain types of crime falling within the scope of Europol’s objectives, including the European Cybercrime Centre and, in accordance with Regulation (EU) .../... of the European Parliament and of the Council\* [*Regulation on Combating Migrant Smuggling*], the European Centre Against Migrant Smuggling;

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\* *Regulation (EU) .../... of the European Parliament and of the Council of ... on enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol’s support to preventing and combating such crimes and amending Regulation (EU) 2016/794 (OJ L ..., ELI: ...)*’;

(iv) point (s) is replaced by the following:

‘(s) facilitate joint, coordinated and prioritised criminal intelligence activities and investigations, including with regard to persons referred to in point (r), and including through operational task forces and Europol deployments for operational support;’;

(v) the following point (za) is added:

‘(za) support Member States with the effective and efficient processing of biometric data.’;

(b) paragraph 5 is replaced by the following:

‘5. Europol shall not apply coercive measures in carrying out its tasks.

Europol staff may provide operational support to the competent authorities of the Member States during the execution of investigative measures by those authorities, at their request and in accordance with their national law, including in the context of the implementation of operational task forces and Europol deployment for operational support, in particular by facilitating cross-border information exchange, by providing analytical, operational, technical and forensic support, and by being present during the execution of those measures.

Europol staff shall have the power to execute non-coercive investigative measures themselves provided that Europol has been requested to do so by a Member State in accordance with its national law and the Executive Director has authorised Europol staff to execute the requested non-coercive investigative measures.

Europol staff shall carry out such non-coercive investigative measures in liaison and in agreement with the competent authorities of the Member State concerned, and in accordance with this Regulation and the national law of that Member State.’;

(3) the following Articles 5a and 5b are inserted:

#### *‘Article 5a*

#### **Operational task forces**

1. Member States may set up an operational task force for the duration of certain dedicated criminal intelligence activities or investigations. Europol shall facilitate the setting up and support the implementation of an operational task force.
2. The Member States setting up an operational task force shall agree with Europol on the planning, coordination and implementation of the criminal intelligence activities and investigations of the operational task force.
3. The Member States setting up an operational task force shall ensure coherence and synergies with the framework of the European Multidisciplinary Platform Against Criminal Threats (EMPACT).
4. The Member States setting up an operational task force may decide to invite other Member States, third countries and other partners referred to in Article 23 to participate in or support the operational task force. The participation of third countries and other partners in the operational task force shall take place in accordance with this Regulation.
5. To support the implementation of an operational task force, Europol shall make available the analytical, operational, technical, forensic and financial support provided for by this Regulation, in accordance with paragraph 2.
6. Each Member State setting up, or participating in, or supporting an operational task force shall, in accordance with the planning, coordination and implementation referred to in paragraph 2:
  - (a) provide all relevant information without delay to Europol and to the other Member States setting up, participating in, or supporting the operational task force, using SIENA and, where appropriate, make information directly accessible in accordance with Article 20(2a);

- (b) make use of the analytical, operational, technical, forensic and financial support provided by Europol;
  - (c) initiate certain dedicated criminal intelligence activities and investigations in accordance with national law where required to address the crime to which the operational task force relates;
  - (d) initiate parallel financial investigations in accordance with national and Union law to identify and seize criminal assets;
  - (e) engage its liaison officers deployed in third countries where criminal activities are investigated in the context of the operational task force to enhance cooperation and information sharing, and provide Europol with the information obtained, in accordance with Union and national law.
7. The Executive Director may propose setting up an operational task force to the competent authorities of the Member States concerned via their national units where the Executive Director considers it would add value to combating a crime falling within the scope of Europol's objectives.
8. The Management Board shall adopt implementing rules for the setting up and implementation of operational task forces.

#### *Article 5b*

#### **Europol deployment for operational support**

1. A Member State may request, in accordance with its national law, Europol deployment for operational support on its territory to make use of the analytical, operational, technical, forensic and financial support provided by Europol to prevent and combat crimes falling within Europol's objectives.
2. Europol deployment for operational support shall take place in the context of complex and large-scale investigations requiring Europol's support, including in the context of joint investigation teams or operational task forces, or to support checks against relevant databases to strengthen controls at the Union's external borders, or migration management support teams in accordance with Regulation (EU) 2019/1896 of the European Parliament and of the Council or to provide support to Member States in major international events.
3. The Executive Director shall evaluate the request made by a Member State in accordance with paragraph 1 and may approve the Europol deployment for operational support for a limited period of time that can be renewed, considering the operational needs and its available resources. The decision of the Executive Director shall be based on a risk assessment.
4. Once the Executive Director has approved the request made by a Member State in accordance with paragraph 1, that Member State and Europol shall jointly agree on the modalities of the Europol deployment for operational support. Europol staff and seconded national experts deployed in the Member State shall operate in accordance with this Regulation, notably Article 4(5), and in accordance with the national law of the Member State in whose territory the deployment takes place.
5. In exceptional cases of urgency requiring immediate Europol deployment for operational support in the territory of a Member State, that Member State and the Executive Director shall ensure that the steps set out in paragraphs 1, 3 and 4 take place within a period of 72 hours.



6. Europol shall set up a reserve pool of Member States' experts for the purpose of Europol deployments for operational support. The reserve pool shall constitute a reserve of experts working in their Member States that can be placed at the immediate disposal of Europol for that purpose. The Member States shall ensure that their experts are available to take part, as seconded national experts, in Europol deployments for operational support at the request of Europol.
7. The Member State in whose territory the Europol deployment for operational support takes place shall, in accordance with the agreed modalities referred to in paragraph 4:
  - (a) provide all relevant information without delay to Europol, where possible by making information in national databases directly accessible to the Europol staff and seconded national experts deployed in its territory in accordance with its national law;
  - (b) make use of the analytical, operational, technical and forensic support provided by the Europol staff deployed in its territory;
  - (c) enable the Europol staff and seconded national experts deployed in its territory to be present during the execution of investigative measures.
8. The Executive Director may propose the Europol deployment for operational support in the territory of a Member State to the competent authorities of that Member State via its national unit where the Executive Director considers it would add value to preventing or combating a crime falling within the scope of Europol's objectives.
9. The Management Board shall adopt implementing rules for the preparation and implementation of Europol deployments for operational support, including on the number and profiles of experts to be included in the reserve pool and any subsequent changes thereto.
10. This Article shall apply *mutatis mutandis* where Europol deployment for operational support takes place in a third country as referred to in Article 25(1), point (a), (b) or (c).

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\* Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/1896/oj>).';

(5) in Article 18(2), point (d) is replaced by the following:

‘(d) facilitating, including through SIENA, the exchange of information between Member States, Europol, other Union bodies, third countries, international organisations and private parties;’;

(6) Annex I is amended as follows:

(a) the sixth indent (“immigrant smuggling”) is replaced by the following:

‘- migrant smuggling’;

(b) the following indent is added:

‘- violation of Union restrictive measures’.

## **Chapter V**

### **FINAL PROVISIONS**

#### *Article 10*

##### **Entry into force and applicability**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## **LEGISLATIVE FINANCIAL STATEMENT 'AGENCIES'**

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## LEGISLATIVE FINANCIAL STATEMENT 'AGENCIES'

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a regulation of the European Parliament and of the Council on enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol's support to preventing and combating such crime, and amending Regulation (EU) 2016/794

This proposal for a Regulation on combating Migrant smuggling and trafficking in human beings forms part of a coherent package also comprising a proposal for a Directive on preventing and countering the facilitation of unauthorised entry, transit and stay. Together, these proposals seek “to modernise the legal framework to fight the smuggling of migrants, to ensure that we have the necessary legal and operational tools to respond to the new *modus operandi* of smugglers”, as set out in the Commission work programme 2024 announced last 17 October.

#### 1.2. Policy area(s) concerned

Policy area: Home Affairs

Activity: Security

12 10 01 : Europol

#### 1.3. The proposal relates to

☐ a new action

☐ a new action following a pilot project/preparatory action<sup>27</sup>

☒ the extension of an existing action

☐ a merger of one or more actions towards another/a new action

#### 1.4. Objective(s)

##### 1.4.1. General objective(s)

In response to pressing operational needs and the identification of gaps when it comes countering migrant smuggling, the Commission work programme for 2024 announced that it will “propose to modernise the legal framework to fight the smuggling of migrants, to ensure that we have the necessary legal and operational tools to respond to the new *modus operandi* of smugglers” (see COM(2023) 638 final). This followed up on related announcements made by President Von der Leyen in the State of the Union 2023. The legislative initiative is expected to improve the fight against migrant smuggling and trafficking in human beings, notably by enhancing Europol's support to help Member States on combating Migrant Smuggling, Trafficking in human beings and other related forms of crime falling into Europol's mandate.

<sup>27</sup>

As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

The general objectives of this legislative initiative result from the Treaty-based goals:

1. for Europol to support and strengthen action by the Member States' law enforcement authorities 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<sup>28</sup>.
2. To enhance police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences<sup>29</sup>.

#### 1.4.2. *Specific objective(s)*

The specific objectives derive from the general objectives outlined above and reflect the subject matter and scope as described in article 1 of this Regulation :

Specific objective n°1: strengthening Europol and its European Centre Against Migrant Smuggling as the Centre of gravity for EU-level investigative and operational action as well as strategic analysis;

Specific objective n°2: enhancing cooperation and coordination between the Member States, Europol and other Union agencies;

Specific objective n°3: reinforcing Europol as the EU criminal information hub on migrant smuggling and trafficking in human beings and fully developing the exchange of information between the Member States, Europol, other EU agencies as well as third countries;

Specific objective n°4: providing Europol with the necessary tools to prevent and combat migrant smuggling and other crimes falling within the scope of Europol's objectives.

#### **Specific objective n°1: strengthening Europol and its European Centre Against Migrant Smuggling (EMSC) as the Centre of gravity for EU-level investigative and operational action as well as strategic analysis**

The aim is to reinforce Europol and its EMSC as the Centre of gravity for identifying EU-level strategical and operational actions in the fight against migrant smuggling. EU-wide strategical analysis and threat assessments with the participation of other EU agencies including Frontex and Eurojust will help more efficiently support Council and Agencies priorities in that domain, notably in the framework of the European Multidisciplinary Platform Against Criminal Threats (EMPACT), whereas investigative and operational actions led by Member States will benefit from regional, targeted analysis based on more information and intelligence from Member States and Agencies contributions.

Under this objective, additional resources are required to fulfil the new strategic and operational tasks referred to respectively in articles 5 and 6 of this Regulation:

<sup>28</sup> Article 88 TFUE

<sup>29</sup> Article 87 TFUE

**To increase the number of investigative specialists and data analysts**, notably, in the European Centre Against Migrant Smuggling in order **to increase the number of Europol-supported Operational Task Forces (OTFs)**<sup>30</sup> and other investigations on organised migrant smuggling and THB and the related accessory and predicate offenses, as well as on-site operational support services in countries of origin, transit and destination. **Complex investigations against migrant smuggling and THB networks must cover all aspects of the criminal activities:** logistics, financial or digital. Europol should also bring its operational services closer to national investigative teams and ensure that it has the capabilities to support Member States' authorities on the spot during the implementation of investigative measures.

**To increase the number of OSINT/Social Media Monitoring Specialists to provide open source and social media monitoring, social network analysis** and related operational expert services to support Member States' investigations and preventive measures concerning organised migrant smuggling and THB affecting the countries of origin, transit and/or destination. Europol should have capacities **to promote the real-time and high-quality processing of the collected online information** during the implementation of Member States investigative measures.

**To increase the number of Forensics, Decryption and Data Specialists to ensure extraction and processing large and complex data sets** collected from the countries of origin, transit and destination, including both member States and Third Countries. **Real-time and high-quality data access and processing as well as the related data science expertise** needs to be ensured to ensure the use of lawfully collected biometric data and to create new models for analysing complex data, which more often than before originate from outside the EU. Europol should also bring these operational services closer to national investigative teams and ensure that it has the capabilities to support Member States' authorities with Forensics, Decryption and Data Specialists during the implementation of investigative measures.

#### **Specific objective n°2: enhancing cooperation and coordination between the Member States, Europol and other Union agencies**

Responding to the gaps identified on the insufficient inter-agency cooperation and on the insufficient steer and coordination on countering migrant smuggling at EU level, **the aim is to establish a governance structure for effective inter-agency cooperation, steer and coordination, both at strategic and operational level.** Migrant smuggling and THB cases being of a high cross-border nature and being notably supported by other types of serious crimes such as money laundering or document counterfeiting, Europol's unique capacity to enrich the criminal picture by cross-checking existing information and intelligence coming from Member States, third countries and relevant international organisations, or other EU agencies on behalf of Member States, will be strengthened, so as to better support Member States' effort against migrant smuggling.

Under this objective, additional resources are required to fulfil the new strategic and operational tasks referred to respectively in articles 5 and 6 of this Regulation :

<sup>30</sup>

In 2022, Europol supported a total of 195 priority investigations on migrant smuggling, including 9 Operational Task Forces. Related services were mainly provided by 34 EMSC staff, who worked primarily at the agency's HQ. Additional resources are required to allow the increase of the number of supported migrant smuggling and human trafficking investigations, including the regional OTFs. From an overall perspective, OTFs are a flexible instrument and their duration and size varie considerably. OTFs are a long-lasting and resource intensive engagement (ranging from 4 to 150 staff involved, subject to case-specific conditions and threat (e.g. reacting to threat-to-live situations).

**Asset Tracing and Financial Investigation Specialists and Analysts:** to provide asset-tracing, **financial expertise** and related analysis services to support Member States' investigations concerning organised migrant smuggling, human trafficking and related crimes and **to enhance seizing and confiscation of proceeds of crime** in the countries of origin, transit and destination, including both Member States and third parties<sup>31</sup>.

**Strategic Analysts and Data Specialists:** to support Member States' investigations, **strategic and operational prioritisation**, crime prevention and crime trend monitoring concerning organised migrant smuggling and related crimes by providing strategic analysis services covering the countries of origin, transit and destination, including both Member States and Third Countries. Europol should have capabilities to support Member States' authorities with Threat Assessments, Early Warning Detection and signal and detection Analysis, Risk Assessments and other strategic analysis reports.

**Specific objective n°3: reinforcing Europol as the EU criminal information hub on migrant smuggling and THB and fully developing the exchange of information between the Member States, Europol, other EU agencies as well as third countries.**

Responding to the gap identified on the insufficient information sharing on migrant smuggling between the MS and Europol, the aim is to reinforce Europol as the EU criminal information hub on migrant smuggling. In that way and in line with Directive (EU) 2023/977 of the European Parliament and of the Council of 10 May 2023 on the exchange of information between the law enforcement authorities of Member States and repealing Council Framework Decision 2006/960/JHA, **Europol will provide effective technical support to Member States to use SIENA as the default channel of communication.** Within its mandate and in accordance with the existing safeguards as well as in the context of the EU interoperability framework, **Europol will more consistently and exhaustively consult information both held internally or held in external databases**, such as large scale IT systems from the JHA domain. Europol coordination and contribution to Member States' operation will be made more efficient and targeted by **making use of the biometric information.**

To support this objective, Europol would need to:

Regarding SIENA,

support the implementation of SIENA Web Services in the Member States and other relevant operational third party cooperation partners; **ensure high availability (99.9%) of SIENA services;**

support the intake and impact on upstream services (e.g. translation, entity extraction, Universal Messaging Format (UMF) services) and downstream services (e.g. Data Analysis Platform, Joint Operational Analysis Concept);

**further exploit SIENA reach out by integration in a holistic information architecture** (e.g. leverage SIENA data into EIS (Europol Information System) and the supporting biometric tooling) and create a dedicated support for the needs of the expanded user

<sup>31</sup>

- Currently, less than 2% of the proceeds of crime is confiscated in the EU and migrant smuggling is becoming one of the most lucrative illegal activities for organised crime groups. Parallel financial investigations should be made the rule instead of an exception in the investigation of organised crime. Therefore, Europol should have capabilities to support Member States' authorities with asset tracing and financial investigation services during the implementation of investigative measures.

community (national units in charge of migrant smuggling) and offer proper support to MS and relevant operational third parties.

For these purposes, additional staff (incl. a limited number of contractors) would be needed, in particular to work on requirements, architecture, security, data protection, development, project management and maintenance of the new capabilities.

Regarding Biometrics,

**Significant upgrade/procuring new Automated Fingerprint Identification System (AFIS)** (performance, functionalities, scalability) in support of migrant smuggling and THB initiative (in addition to EU Interoperability);

performance and functionality improvements in new face recognition solution (FACE), full integration of AFIS and new FACE in Europol data management workflows;

**improve existing biometric workflows to make the full use of the biometric data and reduce manual work;**

**develop the capability to process DNA profiles;**

**revise EIS, SIENA and data intake functionalities on biometric data;**

develop the functionalities **to search biometric data in EIS** and via Querying Europol's systems (QUEST);

update Data Analysis Portal (DAP) for biometric data; revise/include data review and retention requirements on biometrics data across solutions.

For these purposes,

additional staff are necessary, in particular to work on requirements, architecture, security, data protection, development, project management and maintenance (both functional and infrastructure) of the new capabilities.

Funding (budget appropriations) are necessary to fund the procurement of hardware and software and the hiring of limited number of contractors as relates to the upgrade SIENA and the development of biometrics capabilities; after development a maintenance budget is needed for maintaining infrastructure and software (e.g. licences) and supporting expert contractors especially in the field of biometric performance that shall be maintained over time.

Funding (budget appropriations) to provide financial support to MS for connection/integration of SIENA web-services.

**Specific objective n°4: providing Member States with the necessary tools to prevent and combat migrant smuggling and THB as well as other crimes falling within the scope of Europol's objectives.**

The aim is to **strengthen Europol's capacity to provide immediate and operational, including technical, support to the Member States** to combat migrant smuggling and THB. In that way, the Member States will make full use of the newly established concepts of **Operational Task Forces, Europol deployment for operational support as well as technical, forensic and financial support provided by Europol.**

To support this objective, additional resources are required to



**allow for the recruitment of short-term Seconded National Experts<sup>32</sup>** to support Member States' investigations within the framework of the OTFs concerning organised migrant smuggling, and related crimes from Europol HQ and in countries of origin, transit and destination, including both Member States and Third Countries.

**Increase the deployment budget to allow the deployment of Europol staff and Guest Officers** for operational support.

**Increase the OTF Grant budget<sup>33</sup>.**

**Increase the EMPACT budget**, within Europol's budget, to allow for reinforced support made available through High Value Grants (HVG), Low Value Grants (LVG)<sup>34</sup> and the funding of strategic and operational meetings related to activities carried out under the EMPACT Operational Action Plans (OAPs) adopted by the Council to fight and disrupt (high-risk) criminal networks involved in migrant smuggling and in the trafficking in human beings, and other relevant crime areas and enabling crimes.

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<sup>32</sup> The tasks of the national experts depend on the operational needs and they are defined in the Operational Plans. However, they may include expertise in relevant languages, strategic and operational analysis, OSINT monitoring, asset tracing/financial investigations, cybercrimes, IT forensics, surveillance and undercover operations, document frauds and in other specified areas which are considered relevant for the national investigative teams and to support Member States' authorities during the implementation of investigative measures on the spot or at Europol HQ.

<sup>33</sup> With specialised anti-migrant smuggling units in each MS and direct connections to SIENA, it is expected that the volume of contributions could more than double as well as the number of operations and OTFs.

<sup>34</sup> To enhance the flexibility of assistance to Member States within EMPACT, Europol introduced a funding scheme based on two types of grants. (I) High-value grants (HVGs) are awarded following a traditional call for proposals with a fixed deadline for submission of applications to finance targeted activities as laid down in the Operational Action Plans (OAPs) and (II) low-value grants (LVGs) with an open-ended procedure to provide shorter-term financing for the OAPs activities that are of distinctly operational nature. Over the past years, EMPACT grants became extremely popular, and Member States increasingly resorted to them, praising their usefulness to support the fight against organised crime and to obtain results. Last year, the LVG envelope was exhausted in November 2022 and this year, it was exhausted already in September 2023, creating in both cases a void and harming the capacity of Europol to support Member States and of the latter to perform their investigations.

#### 1.4.3. *Expected result(s) and impact*

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

By contributing to the disruption of criminal businesses and organised crime structures, this proposal will prevent loss of life of migrants, reduce unsafe and irregular migration and will facilitate the the establishment of a sustainable EU migration policy, as well as preventing the exploitation of people.

The proposal will also benefit individuals and society at large by improving Europol's ability to support Member States in countering crime and protecting EU citizens.

The proposal will create economies of scale for administrations as it will shift the resource implications of the targeted activities from the national level to the EU level. Public authorities in Member States will directly benefit from the proposal thanks to economies of scale leading to savings in administrative costs.

#### 1.4.4. *Indicators of performance*

*Specify the indicators for monitoring progress and achievements.*

**Specific objective n°1: strengthening Europol and its European Centre Against Migrant Smuggling as the Centre of gravity for EU-level investigative and operational action as well as strategic analysis:**

Number/Proportion of joint strategical reports on migrant smuggling with other EU agencies  
[target 90%]

Number/Proportion of joint operational reports on migrant smuggling, with other EU agencies  
[target 70%]

Number of Operational Reports delivered by EMSC

Number of operations supported by EMSC

**Specific objective n°2: enhancing cooperation and coordination between the Member States, Europol and other Union agencies**

Number of investigations into migrant smuggling for which a parallel financial investigation was supported by Europol

Number of Early warning notifications in relation to migrant smuggling

Number of investigations on migrant smuggling coordinated by Eurojust where searches have been conducted by Eurojust into Europol information when legally possible [baseline 0, target 100%]

Proportion of investigations on migrant smuggling coordinated by Europol where searches have been conducted by Europol into information provided to Eurojust, when legally possible [baseline 0, target 100%]

Number of SIENA messages exchanged between Europol and Frontex related to migrant smuggling

Number of SIENA messages exchanged between Europol and Eurojust related to migrant smuggling

Number of new JITs on migrant smuggling supported by Europol

**Specific objective n°3 : reinforcing Europol as the EU criminal information hub on migrant smuggling and fully developing the exchange of information between the Member States, Europol, other EU agencies as well as third countries**

Number of national specialized services connected to SIENA [target 27]

Proportion of immigration liaison officers in third countries connected to SIENA [ target 100%]

Proportion of SIENA messages received from immigration liaison officers in third countries c [ target 100%]

Proportion of SIENA messages related to migrant smuggling and to personal entities for which biometric data is linked [no target ]

Proportion of SIENA messages between Member States related to migrant smuggling where Europol was provided with a copy of [baseline 2019 : 48%, target : 90%]

Proportion of SIENA messages between Member States received by Europol related to migrant smuggling that have been cross-checked by Europol [target 100%]

Proportion of SIENA messages between Member States received by Europol related to migrant smuggling that have been cross-checked by Europol and that led to establish a link. [no target]

Proportion of SIENA messages between Member States received by Europol related to migrant smuggling containing biometric information that was used by Europol for cross-checks [target 100%]

Proportion of SIENA messages between Member States received by Europol related to migrant smuggling containing biometric information that was used by Europol for cross-checks and that led to establish a link [no target]

Number of new personal entities related to migrant smuggling loaded by Member States within the Europol information system. Share of those personal entities loaded with biometric information.

Number of new cases of migrant smuggling [baseline 2022 : 4889 ; no target]

Number of new suspects of migrant smuggling [baseline 2019 : 10989 ; no target]

Number of requests by Europol to initiate an investigation on migrant smuggling [no target]

**Specific objective n°4: Provide Member States with the necessary tools to prevent and combat migrant smuggling and other crimes falling within the scope of Europol's objectives**

Number of (Joint) Action Days coordinated/supported by EMSC

Number of operational task forces set up related to migrant smuggling

Number of operational task forces set up related to THB

Number of active HVT identified [baseline 2022 : 24; no target]/ Number of HVT arrested or disrupted, for migrant smuggling and trafficking in human beings

Number of Member States taking part of a task force dedicated to migrant smuggling or THB
Number of deployments of Guest Officers (Number of deployment months)
Number of short-term SNEs selected
Number of requests and number of deployments of operational support related to migrant smuggling and THB
Volume of content assessed by EU IRU related to migrant smuggling, THB and other related crimes
Number of OTF grant applications received for migrant smuggling and trafficking in human beings
Number of operational actions (OAs) developed and supported in the framework of the relevant operational action plans (OAPs) of EMPACT
Number of EMPACT grants' applications (HVG and LVG) submitted, processed and awarded, with detail of the amount committed in the area of migrant smuggling and trafficking in human beings
In line with Article 28 of the FFR and to ensure sound financial management, Europol already monitors progress in the achievement of its objectives with performance indicators. The agency currently has 18 Key Performance Indicators, further complemented by 56 Corporate Performance Indicators. These indicators are reported in Europol's Consolidated Annual Activity Report, which include a clear monitoring of the target by end of year as well as comparison with the previous year. These indicators will be adapted as needed following adoption of the proposal.

## 1.5. Grounds for the proposal/initiative

### 1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The roll-out of the implementation of the legislative initiative, notably on the specific objective n°3, requires technical and procedural measures at EU and national level, which should start when the revised legislation enters into force :

(i) Member States shall by 12 December 2024 have met obligations set under the Directive on information exchange on the full interoperability of their criminal information exchange platforms revolving around their national Single Point of Contact (SPOCs) and the smooth operation of their Case management systems (CMS)

(ii) During the 2025-2027 period, Member States will progressively update their internal operational processes, and accordingly deploy communication means (SIENA connections) and tools (data loaders and QUEST tool) both at the central level (SPOC, specialized national units) and on the field (immigration officers in third countries) so as to improve the efficiency of information exchange on migrant smuggling, and the ability to provide information both in bulk and on along ongoing investigation to Europol, and to consult Europol information in that matter. Such updates and upgrades would more specifically focus on biometric data.

Europol shall upgrade its technical capabilities in both domains of biometrics and information exchange (see specific actions under SO n°3 )

(iii) by 2026 : upgrade AFIS and FACE and DNA capabilities

(iv) by 2027 : automate biometric workflows, biometric data intake including through SIENA, DAP and QUEST

The relevant resources – in particular human resources - should be scaled up over time in line with the increase in demand for Europol's services.

Following entry into application, the implementation of the activities will be rolled-out in a gradual timeline, to follow the expected gradual increase of demands on Europol's services and activities, as well as necessary time for absorption of new resources.

- 1.5.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

Organised crime structures capable of carrying out sophisticated operations that cover the full range of migrant smuggling and THB services constitute a **high risk to Europe's security**. According to the EU Serious and Organised Crime Threat Assessment (EU SOCTA), approximately **50% of the networks involved in migrant smuggling are polycriminal**, involved also in trafficking in human beings, drug trafficking, excise fraud, firearms trafficking and money laundering. And these criminal activities are of a transnational nature. Therefore, action at national level alone cannot counter them effectively. This is why Member States choose to work together within the framework of the EU, notably through the European Multidisciplinary Platform Against Criminal Threats (EMPACT)<sup>35</sup>, to tackle the threats posed by these forms of serious crime.

Moreover, evolving security threats, driven by the way these criminals exploit the advantages that the **digital transformation**, globalisation and mobility bring about, also **call for effective EU level support to the work of national law enforcement authorities**. EU action provides for an effective and efficient way to step up the support to Member States in fighting migrant smuggling which remains a serious challenge that needs to be continuously, concertedly and collectively tackled further.

The proposal will create significant economies of scale at an EU level, as it will shift tasks and services, which can be performed more efficiently at an EU level, from the national level to Europol. The proposal therefore provides for efficient solutions to challenges to challenges which cannot be addressed at the national level at all in view of their transnational nature.

- 1.5.3. *Lessons learned from similar experiences in the past*

The proposal builds on the need to address **Migrant smuggling as a dynamic, agile and increasingly complex criminal activity that affects the EU's internal security**.

The market for migrant smuggling services to and within the EU is reaching new heights, fuelled by emerging and deepening crises, most notably economic recessions, environmental

<sup>35</sup>

<https://www.europol.europa.eu/crime-areas-and-statistics/empact>



emergencies caused by climate change, as well as conflicts and demographic pressure in many origin countries.

**Migrant smuggling is a worldwide crime that puts at risk the lives of migrants** and challenges the integrity of international borders. This is a **profitable type of criminal activity** for organised criminal groups and has posed a major humanitarian and security challenge for the EU in recent years.

These evolving security threats call for effective EU level support to the work of national law enforcement authorities.

This proposal also builds on the lessons learned and progress achieved since the renewed EU action plan against migrant smuggling (2021-2025) which strengthens further operational cooperation and information exchange among EU Member States and EU law enforcement agencies to investigate, and prosecute migrant smuggling networks.

Moreover, the proposal takes into account the recommendations provided by the European Court of Auditors in its 2021 special report on “Europol support to fight migrant smuggling”.

Previous reviews of Europol’s mandate and the growing demand for services by Member States as well as the pivotal role played by Europol in the EU’s internal security architecture has also clearly shown that **Europol’s tasks need to be backed by adequate financial and human resources**.

#### 1.5.4. *Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

The proposal responds to the fast changing security landscape as it will equip Europol with the necessary capabilities and tools to support Member States effectively in countering migrant smuggling, Trafficking in Human beings as well as other forms of serious crime. The proposal is fully in line with what was announced by President von der Leyen in her **2023 State of the Union address “new legislation and a new governance structure” to fight against migrant smugglers**. It is also fully in line with **Commission Work Programme for 2024** which announced a legislative initiative by the end of 2023 “to modernise the legal framework to fight the smuggling of migrants, to ensure that we have the necessary legal and operational tools to respond to the new modus operandi of smugglers”. It is finally fully in line with the **letter sent to all Heads of State or Government ahead of the European Council** (26-27 October) where President von der Leyen announced that “the Commission will be making proposals at the end of next month [November] to update our legislative framework to strengthen our collective action on smuggling of migrants, with a strong focus on maximising the impact of Europol”.

This proposal is also fully in line with the MFF as it supports some anti-smuggling activities planned in the Work Programme of the Thematic Facility under the Internal Security Fund for 2023, 2024 and 2025. In 2025 a call aiming at enhancing prevention and fight against migrant smuggling by establishing Common Operational Partnerships will be launched by the Commission. This activity will reinforce structured cooperation between law enforcement, judicial authorities and other relevant services of the participating Member States and third countries.

By contributing to the disruption of criminal businesses, this proposal also supports the objectives of the EU Security Union Strategy, as well as the EU Strategies to tackle Organised

Crime 2021-2025 and on Combating Trafficking in Human Beings 2021-2025 that will be implemented in full synergy.

Providing a strong European response to migrant smuggling inside and outside the EU is also an essential part of the comprehensive approach to migration, set out in the **New Pact on Migration and Asylum**.

The proposal will also create **synergies with the activities of Union agencies**, notably with the European Border and Coast Guard Agency, Eurojust and, where appropriate, other relevant Union bodies or agencies, strengthening overall cooperation with Europol, in line with their respective mandates and competences.

*1.5.5. Assessment of the different available financing options, including scope for redeployment*

Since 2022 and the last revision of Europol's mandate, the trend has been towards an exponential growth of the agency's data flows and of the demand on its services notably on migrant smuggling, leading to yearly budget and staff reinforcements above the levels initially programmed. Since the proposal will introduce important new tasks in Europol Regulation and will also clarify, codify and detail other tasks and tools, hereby extending Europol's capabilities within the context of the treaties, it therefore cannot be covered by a stable level of resources. The proposal needs to be backed by financial and human reinforcements.

The budgetary impact of the additional financial resources will be made available partially through the margin and via budgetary offsetting against BMVI and ISF programmes.

**1.6. Duration and financial impact of the proposal/initiative**

☐ **limited duration**

- ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY

☒ **unlimited duration**

- Implementation with a start-up period from 2025 to 2027,
- followed by full-scale operation.

**1.7. Method(s) of budget implementation planned<sup>36</sup>**

☐ **Direct management** by the Commission through

- ☐ executive agencies

☐ **Shared management** with the Member States

☒ **Indirect management** by entrusting budget implementation tasks to:

☐ international organisations and their agencies (to be specified);

☐ the EIB and the European Investment Fund;

☒ bodies referred to in Articles 70 and 71;

☐ public law bodies;

☐ bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;

☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;

☐ bodies or persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

Comments

<sup>36</sup> Details of budget implementation methods and references to the Financial Regulation may be found on the BUDGpedia site: <https://myintracomm.ec.europa.eu/corp/budget/financial-rules/budget-implementation/Pages/implementation-methods.aspx>

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

*Specify frequency and conditions.*

The monitoring and reporting of the proposal will follow the principles outlined in Europol's Regulation<sup>37</sup>, Financial Regulation<sup>38</sup> and in line with the Common Approach on decentralised agencies<sup>39</sup>.

Europol must notably send each year to the Commission, the European Parliament and the Council a Single Programming Document containing multi-annual and annual work programmes and resources programming. The Document sets out the objectives, expected results and performance indicators to monitor the achievement of the objectives and the results. Europol must also submit a Consolidated Annual Activity Report to the management board. This report notably includes information on the achievement of the objectives and results set out in the Single Programming Document. The report must also be sent to the Commission, the European Parliament and the Council.

Moreover, as outlined in Article 68 of Europol's Regulation, the Commission must commission an evaluation of Europol by 29 June 2027 and every five years after that. This evaluation will assess, in particular, the impact, effectiveness and efficiency of Europol and of its working practices. The evaluation reports must be submitted to the specialised Joint Parliamentary Scrutiny Group, which politically monitors Europol's activities in fulfilling its mission, including as regards the impact of those activities on the fundamental rights and freedoms of natural persons. The reports are also submitted to the Council, the national parliaments and Europol's Management Board. Where appropriate, the main findings of the evaluation reports are made public.

To regularly monitor the provision of information by the Member States, Europol will also report annually to the Commission, European Parliament, the Council and national parliaments on the information provided by each Member State as concerns the information Europol needs to fulfil its objectives, including information relating to forms of crime the prevention or combating of which is considered a priority by the Union. The reports are drawn up on the basis of the quantitative and qualitative evaluation criteria defined by Europol's Management Board.

### 2.2. Management and control system(s)

#### 2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

Considering that the proposal impacts the annual EU contribution to Europol, the EU budget will be implemented via indirect management.

<sup>37</sup> Regulation (EU) 2016/794

<sup>38</sup>

<sup>39</sup> [https://www.europol.europa.eu/sites/default/files/documents/decision\\_of\\_the\\_europol\\_management\\_board\\_on\\_the\\_adoption\\_of\\_the\\_financial\\_regulation\\_applicable\\_to\\_europol\\_.pdf](https://www.europol.europa.eu/sites/default/files/documents/decision_of_the_europol_management_board_on_the_adoption_of_the_financial_regulation_applicable_to_europol_.pdf)

[https://europa.eu/european-union/sites/europaeu/files/docs/body/joint\\_statement\\_and\\_common\\_approach\\_2012\\_en.pdf](https://europa.eu/european-union/sites/europaeu/files/docs/body/joint_statement_and_common_approach_2012_en.pdf)

Pursuant to the principle of sound financial management, the budget of Europol shall be implemented in compliance with effective and efficient internal control<sup>80</sup>. Europol is therefore bound to implement an appropriate control strategy coordinated among appropriate actors involved in the control chain.

Regarding ex-post controls, Europol, as a decentralised agency, is notably subject to :

- internal audit by the Internal Audit Service of the Commission
- annual reports by the European Court of Auditors, giving a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions
- annual discharge granted by the European Parliament
- possible investigations conducted by OLAF to ensure, in particular, that the resources allocated to agencies are put to proper use.

As partner DG to Europol, DG HOME will implement its Control Strategy on decentralised agencies to ensure reliable reporting in the framework of its Annual Activity Report (AAR). While decentralised agencies have full responsibility for the implementation of their budget, DG HOME is responsible for regular payment of annual contributions established by the Budgetary Authority.

Finally, the European Ombudsman provides a further layer of control and accountability at Europol.

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

The following risks are identified:

- strained operational resources due to increasing operational needs from Member States and constantly evolving criminal activities in the area of migrant smuggling and trafficking in human beings
- fragmentation of Europol's core business due to multiplication of tasks and requests
- lack of adequate levels of financial and human resources to match operational needs
- lack of ICT resources, resulting in delays in necessary core system developments and updates

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

The ratio of "control costs/payment made in relation to Indirect Management Entrusted Entities and Decentralised Agencies, including Europol" is reported on by the Commission and is 0.12% for 2022.

The European Court of Auditors confirmed the legality and regularity of Europol's annual accounts for 2022, which implies an error rate below 2%. There are no indications that the error rate will worsen in the coming years.



Moreover, article 80 of Europol's Financial Regulation provides for the possibility for the agency to share an internal audit capability with other Union bodies functioning in the same policy area if the internal audit capability of a single Union body is not cost-effective.

## 2.3. Measures to prevent fraud and irregularities

*Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.*

The measures related to combating fraud, corruption and any other illegal activities are outlined, inter alia, in article 66 of Europol's Regulation and under Title X of Europol's Financial Regulation.

Europol shall notably participate in fraud prevention activities of the European Anti-fraud Office and inform the Commission without delay on cases of presumed fraud and other financial irregularities – in line with its internal anti-fraud strategy.

The MB approved the revised Europol Anti-Fraud Strategy for the period 2022-2024, at its meeting in March 2022.

Moreover, as partner DG, DG HOME has developed and implemented its own anti-fraud strategy on the basis of the methodology provided by OLAF. Decentralised agencies, including Europol, fall within the scope of the strategy.

DG HOME has developed and implemented its own anti-fraud strategy since 2013, based on the methodology provided by OLAF.

Based on the available information, DG HOME 2022 AAR concluded that the anti-fraud measures in place are effective overall.

## 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. <sup>40</sup>	from EFTA countries <sup>41</sup>	from candidate countries and potential candidates <sup>42</sup>	From other third countries	other assigned revenue
5	12 10 01	Diff.	YES/NO	YES/NO	YES/NO	YES/NO

<sup>40</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>41</sup> EFTA: European Free Trade Association.

<sup>42</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework		5	Security and Defence				
Europol			2024	2025	2026	2027	TOTAL
TOTAL appropriations for Europol		Commitments	-	15,758	19,678	13,457	48,892
		Payments	-	15,758	19,678	13,457	48,892

	Heading of multiannual financial framework	7	Administrative expenditure				
	DG HOME		2024	2025	2026	2027	TOTAL
	• Human Resources	<input type="checkbox"/>	-	0,132	0,435	0,606	1,173
	• Other administrative expenditure	<input type="checkbox"/>	0,002	0,002	0,002	0,002	0,008
	TOTAL DG HOME	Appropriations	0,002	0,134	0,437	0,608	1,181
	TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	0,002	0,134	0,437	0,608	1,181
			2024	2025	2026	2027	TOTAL
	TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework	Commitments	0,002	15,892	20,115	14,065	50,073
Payments		0,002	15,892	20,115	14,065	50,073	

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

### 3.2.2. Estimated impact on Europol's appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

Amounts in EUR million (to three decimal places)

	Indicate objectives and outputs	2024	2025	2026	2027	TOTAL
↓	Type	Cost	Cost	Cost	Cost	Cost
SPECIFIC OBJECTIVE NO 1: strengthening Europol and its European Centre Against Migrant Smuggling as the Centre of gravity for EU-level investigative and operational action as well as strategic analysis						
Output	Reinforce the ESMC and the other migrant-smuggling related entities	-	1,186	2,628	2,673	6,487
<i>Subtotal for specific objective N°1</i>		-	1,186	2,628	2,673	6,487
SPECIFIC OBJECTIVE NO 2: enhancing cooperation and coordination between the Member States, Europol and other Union agencies						
Output	Establish a governance structure for effective inter-agency cooperation, steer and coordination	-	0,075	0,242	0,410	0,727
<i>Subtotal for specific objective N°2</i>		-	0,075	0,242	0,410	0,727
SPECIFIC OBJECTIVE NO 3: reinforcing Europol as the EU criminal information hub on migrant smuggling and THB and fully developing the exchange of information between the Member States, Europol, other EU agencies as well as third countries						
- Output	Biometrics - development of systems & upgrade of SIENA (hardware, software, consultancy)	-	8,765	9,526	3,372	21,662
- Output	SIENA integrations (Secure Information Exchange Network Application)	-	1,137	1,345	0,876	3,358
<i>Subtotal for specific objective N°3</i>		-	9,902	10,871	4,248	25,021
SPECIFIC OBJECTIVE NO 4: providing Europol with the necessary tools to prevent and combat migrant smuggling and other crimes falling within the scope of Europol's objectives						
- Output	EMPACT grant - migrant smuggling and related crimes	-	2,000	2,000	2,000	6,000
- Output	OTF Grant	-	2,000	3,000	3,000	8,000
- Output	to support OTFs on migrant smuggling	-	0,595	0,938	1,125	2,658
<i>Subtotal for specific objective N°4</i>		-	4,595	5,938	6,125	16,658
<b>TOTAL for objectives 1 to 4</b>		-	<b>15,758</b>	<b>19,678</b>	<b>13,457</b>	<b>48,892</b>

Where applicable, amounts reflect the sum of the Union contribution to the agency and other revenue of the agency (fees and charges).

### 3.2.3. Estimated impact on Europol's human resources

#### 3.2.3.1. Summary

- ☐ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places) Where applicable, amounts reflect the sum of the Union contribution to the agency and other revenue of the agency (fees and charges).

	2025	2026	2027	<b>TOTAL</b>
Temporary agents (AD Grades)	0,298	1,014	1,759	<b>3,072</b>
Temporary agents (AST grades)	0	0	0	<b>0</b>
Contract staff	0,265	1,026	1,872	<b>3,162</b>
Seconded National Experts	0,595	0,938	1,125	<b>2,658</b>
<b>TOTAL<sup>43</sup></b>	<b>1,158</b>	<b>2,978</b>	<b>4,757</b>	<b>8,892</b>

Staff requirements (FTE):<sup>44</sup>

	2025	2026	2027	<b>TOTAL</b>
Temporary agents (AD Grades)	3	7	10	<b>10</b>
Temporary agents (AST grades)	0	0	0	<b>0</b>
Contract staff	5	14	20	<b>20</b>
Seconded National Experts	11	17	20	<b>20</b>
<b>TOTAL</b>	<b>19</b>	<b>38</b>	<b>50</b>	<b>50</b>

Details of the staff increase:

Specific objective	Additional staff	Allocation in Europol
Specific objective n°1	Additional staff needed to support European Smuggling Centre and to increase the number of Europol-supported Operational Task Forces (OTFs) and other investigations on organised migrant smuggling and related crimes, to cover the online dimension on investigations and to be able to provide technical and forensic support via ensuring extraction and	Operations Directorate

<sup>43</sup> Staff levels calculated on the basis of the average staff unit costs to be used for LFS, indexed to the correction coefficient for the Netherlands (111,8%).

<sup>44</sup> The Europol staff increase mentioned in the proposal will be offset with a reduction of the future reinforcement in FRONTEX staff. The two agencies will agree the concrete modalities for the transfer, within the respect of the criteria and timeline set by the co-legislators..



	<p>processing large and complex data sets collected from member States and Third Countries.</p> <p>Estimated FTEs needed – additional FTE to be hired per year (not-cumulative):</p> <p>Investigative specialists and data analysts: 2025: +3; 2026: +4; 2027: +4</p> <p>OSINT/media monitoring specialists: 2025: +1; 2026: +2; 2027: +2</p> <p>Forensic, decryption and data specialists: 2025: +1; 2026: +2; 2027: +1</p>	
Specific objective n°2	<p>Additional staff to provide asset-tracing, financial expertise and related analysis services to support Member States' investigations concerning organised migrant smuggling, human trafficking and related crimes. As well as to support Member States' investigations, strategic and operational prioritisation, crime prevention and crime trend monitoring concerning organised migrant smuggling and related crimes by providing strategic analysis services</p> <p>Estimated FTEs needed – additional FTE to be hired per year (not-cumulative):</p> <p>Asset tracing and Financial Investigation specialists and analysts: 2025: +1; 2026: +1; 2027: +1</p> <p>Strategic analysis and data specialists: 2025: +1; 2026: +2; 2027: +1</p>	Operations Directorate
Specific objective n°3	<p>Additional staff to provide effective technical to Member States to use SIENA as the default channel of communication</p> <p>Estimated FTEs needed – additional FTE to be hired per year (not-cumulative): 2025: 0; 2026: +1; 2027: 0</p> <p>additional staff to work on requirements, architecture, security, data protection, development, project management and maintenance (both functional and infrastructure) of the new biometric capabilities.</p>	Capabilities Directorate

	Estimated FTEs needed – additional FTE to be hired per year (not-cumulative): 2025: +1; 2026: +1; 2027: 0	
Specific objective n°4	<p>Additional staff (short term costed SNEs) to support Member States' investigations within the framework of the OTFs concerning notably organised migrant smuggling , and related crimes from Europol HQ and in countries of origin, transit and destination, including both Member States and Third Countries.</p> <p>Estimated FTEs needed – additional FTE to be hired per year (not-cumulative): 2025: +11; 2026: +6; 2027: +3</p>	Operations Directorate

### 3.2.3.2. Estimated requirements of human resources for the parent DG

- ☐ The proposal/initiative does not require the use of human resources.
- ☒ The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full amounts (or at most to one decimal place)*

	2024	2025	2026	2027
<b>Establishment plan posts (officials and temporary staff)</b>				
20 01 02 01 and 20 01 02 02 (Headquarters and Commission's Representation Offices)		1	3	3
20 01 02 03 (Delegations)				
<b>External staff (in Full Time Equivalent unit: FTE) <sup>45</sup></b>				
20 02 01 (AC, END, INT from the 'global envelope')		1	1	1
20 02 03 (AC, AL, END, INT and JPD in the delegations)				
<b>TOTAL</b>		<b>2</b>	<b>4</b>	<b>4</b>

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	<ul style="list-style-type: none"> <li>- To implement the new measures aimed at preventing migrant smuggling, including the enhanced dialogue with legal entities suspected to be used for the smuggling of migrants, as provided for by the proposal for a Directive on preventing and countering the facilitation of unauthorised entry, transit and stay in the Union.</li> <li>- To ensure the service of the new governance framework established in the European Centre Against Migrant Smuggling, as provided for by the proposal for a Regulation on combating migrant smuggling.</li> <li>- to enhance the monitoring, collecting, analysing and sharing of information and data on the prevention, judicial and law enforcement response on migrant smuggling, to provide input for evidence-based policy making, as provided for by the proposal for a Directive on preventing and countering the facilitation of unauthorised entry, transit and stay in the Union and the Regulation on combating migrant smuggling.</li> </ul>
External staff	To support the enhanced operational framework of Europol supporting Member States on migrant smuggling, the organisation and running of relevant Operational Task Forces, Europol deployments for operational support, activities under the EMPACT, as provided for by the proposal for a Regulation on combating migrant smuggling.

<sup>45</sup> AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD = Junior Professionals in Delegations.

### 3.2.4. *Compatibility with the current multiannual financial framework*

- ☐ The proposal/initiative is compatible the current multiannual financial framework.
- ☒ The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

The budgetary impact of the additional financial resources will be made available partially through the margin (EUR 20 million) and via budgetary offsetting against BMVI and ISF programmes.

- ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>46</sup>.

### 3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

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<sup>46</sup> See Articles 12 and 13 of Council Regulation (EU, Euratom) No 2093/2020 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027.

### 3.3. Estimated impact on revenue

- ☐ The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
  - ☐ on own resources
  - ☐ on other revenue
  - please indicate, if the revenue is assigned to expenditure lines ☐