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REGULATORY SCRUTINY BOARD OPINION

Impact assessment (with back-to-back evaluation) / Review of Regulation
on the European Union Agency for Law Enforcement Cooperation
(Europol)

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Brussels,
RSB

Opinion

Title: Impact assessment (with back-to-back evaluation) / Review of Regulation on the European Union Agency for Law Enforcement Cooperation (Europol)

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

Europol is the European Union Law Agency for Law Enforcement Cooperation. Building on the reform of the agency's mandate in 2022, the impact assessment (with back-to-back evaluation) aims at further strengthening Europol's coordination role in responding actively, effectively and efficiently to the changing security landscape and to the most serious forms of online and offline crime and terrorism.

(B) Key issues

The Board notes the additional information provided and commitments to make changes to the report.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the lead Service(s) to rectify the following aspects:

- (1) The report does not sufficiently analyse the impacts of the intervention, in particular on fundamental rights, data protection and cybersecurity.**
- (2) Given the 2022 reform, the magnitude of the problems is not sufficiently demonstrated with evidence, including based on observational data.**
- (3) The specific objectives are not formulated in a SMART manner, and some policy measures are not sufficiently described.**
- (4) The assessment of costs is insufficient.**
- (5) The monitoring and evaluation framework does not allow a clear understanding of how performance will be measured in terms of outputs, results and impacts.**

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

- (1) The report should substantially improve the assessment of the impact on fundamental rights related to a number of measures impacting data protection, such as changes in data protection safeguards. It should clearly demonstrate how safeguards will work in practice to address the data protection risks. It should also analyse potential cybersecurity risks which would arise from the proposed measures such as EU police cloud, including how these risks could be mitigated.
- (2) The report should provide for a clear overview of the legal and operational environment under which Europol operates, including its interactions with EU bodies in the field of security and anti-fraud. It should explain, based on the analysis of the 2022 reform, why another revision of the mandate with similar objectives is already required.
- (3) The report should clearly distinguish between regulatory, operational and resources-related problem drivers, for example when mentioning that Europol's support of national authorities is not always deployed to its full potential. The magnitude of the problems should be substantiated with evidence, including evidence based on observational data.
- (4) The specific objectives should be formulated in SMART terms. The link with sub-policy options should be clear and the way in which the latter address the problems better illustrated.
- (5) Some of the policy measures should be better defined, including how the interaction with other agencies (including with Eurojust) would work in practice or how the EU Police Cloud would function.
- (6) The report should clarify the key elements (such as overall period) on which the assessment of costs is based, present the annual costs over a given period, and ensure coherence between its different sections. The same basis for calculation should be used for the main body of the impact assessment and relevant annexes.
- (7) Based on SMART specific objectives, the monitoring and evaluation framework should be revised to link objectives with indicators, outputs, outcomes and impacts, with measurable targets allowing for measuring the intervention's success.

Some more technical comments have been sent directly to the author Service.

(D) Conclusion

The DG must revise the report and its executive summary in accordance with the Board's findings before launching the interservice consultation.

Full title	Strengthening Europol – Review of Regulation on the European Union Agency for Law Enforcement Cooperation (Europol)
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