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COMMISSION STAFF WORKING DOCUMENT

S subsidiarity grid

Accompanying the document

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the European Union Agency for Law Enforcement Cooperation (Europol), amending Regulation (EU) 2018/1726 and Regulation (EU) 2024/982, and repealing Regulation (EU) 2016/794

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Subsidiarity Grid

1. Can the Union act? What is the legal basis and competence of the Unions' intended action?
1.1 Which article(s) of the Treaty are used to support the legislative proposal or policy initiative?
The legal basis is Article 88 of the Treaty on the Functioning of the European Union (TFEU), which provides for the establishment and functioning of Europol and for the determination of its tasks, structure and operation.
1.2 Is the Union competence represented by this Treaty article exclusive, shared or supporting in nature?
In the case of law enforcement cooperation, the Union's competence is shared (Article 4(2)(j) TFEU). Pursuant to Article 88(2) TFEU, Europol's role is limited to supporting, coordinating and strengthening cooperation between national law enforcement authorities, while executive law enforcement powers remain with the Member States. The new Europol proposal does not alter this distribution of competences but further develops Europol's supporting role within the framework of shared competence.
<i>Subsidiarity does not apply for policy areas where the Union has exclusive competence as defined in Article 3 TFEU¹. It is the specific legal basis which determines whether the proposal falls under the subsidiarity control mechanism. Article 4 TFEU² sets out the areas where competence is shared between the Union and the Member States. Article 6 TFEU³ sets out the areas for which the Unions has competence only to support the actions of the Member States.</i>
2. Subsidiarity Principle: Why should the EU act?
2.1 Does the proposal fulfil the procedural requirements of Protocol No. 2⁴: <ul style="list-style-type: none">- Has there been a wide consultation before proposing the act?- Is there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at Union level?
The preparation of the proposal was supported by a thorough and comprehensive consultation process to gather input from Member States, Europol, other EU bodies, law enforcement networks, private sector actors and civil society, ensuring that the proposal was informed by a broad range of perspectives.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E003&from=EN>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E004&from=EN>

³ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E006:EN:HTML>

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E/PRO/02&from=EN>

Initial scoping discussions between April and June 2025 involved high-level exchanges with the Standing Committee on Operational Cooperation on Internal Security (COSI), the Europol Management Board, and national police chiefs.

These exchanges were followed by in-depth evidence gathering between July 2025 and February 2026 through a Call for Evidence, a public consultation and thematic workshops with Member States' experts.

The preparation of the impact assessment also relied on an external study, which provided a comprehensive evidence base drawing on desk research, interviews, surveys, focus groups and case studies involving Member States, Union bodies, law enforcement networks and other relevant stakeholders.

The input received from the stakeholders directly informed the design of the proposal, in particular by confirming the need to address information gaps, operational fragmentation and technological capability constraints. It also guided the development of measures to strengthen data exchange, simplify procedures and enhance cooperation, while ensuring appropriate safeguards and respecting the limits of Europol's mandate under the Treaty.

The explanatory memorandum of the proposals and the impact assessment (chapter 3) contain a section on the principle of subsidiarity (see the reply to question 2.2 below).

2.2 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the conformity with the principle of subsidiarity?

The conformity with the principle of subsidiarity is assessed in the explanatory memorandum and in the Impact Assessment accompanying the legislative proposal.

The challenges addressed by this proposal are inherently cross-border and cannot be effectively tackled by Member States acting in isolation. The most serious and organised forms of crime are now predominantly transnational in nature, with criminal networks operating seamlessly across jurisdictions and digital environments. They exploit the fragmentation of national information, operational action and capabilities. As a result, Member States have only partial visibility of criminal activities and face structural limitations in connecting investigations and responding effectively to criminal activities that extend beyond their national jurisdiction.

Action at Union level is therefore more effective and necessary. The scale, speed and cross-border nature of criminal activity require a level of coordination, data aggregation and analytical capacity that cannot be achieved by Member States acting individually. By operating at Union level, Europol is able to combine information from multiple jurisdictions, identify patterns and connections that would otherwise remain undetected, and support the prioritisation and coordination of operational action across borders. In doing so, it enhances the impact of national investigations and ensures that responses to cross-border crime are not fragmented but aligned and mutually reinforcing. It also enables the development and deployment of advanced capabilities that are beyond the reach of individual Member States acting alone, which also enables economies of scale in areas where the development of capabilities is resource-intensive and requires critical mass. By centralising such capacities

at Union level and making them available across Member States, the proposal avoids duplication, reduces costs and ensures a consistent and high level of effectiveness.

In a Schengen area without internal frontiers, this collective capacity is essential to ensure that the level of law enforcement cooperation is commensurate with the level of integration achieved.

2.3 Based on the answers to the questions below, can the objectives of the proposed action be achieved sufficiently by the Member States acting alone (necessity for EU action)?

The objectives of the proposal cannot be achieved sufficiently by Member States acting alone. Serious and organised crime, terrorism, cyber-enabled crime and hybrid threats increasingly operate across borders and exploit differences between national systems. Individual Member States have only a partial view of criminal activities and cannot independently generate a comprehensive EU-wide criminal intelligence picture. While national authorities remain responsible for investigations and enforcement, only action at Union level can effectively connect information, support coordinated operational responses, and provide advanced analytical and technological capabilities that require economies of scale. Europol therefore addresses challenges that are inherently transnational and exceed the capacities of individual Member States.

(a) Are there significant/appreciable transnational/cross-border aspects to the problems being tackled? Have these been quantified?

Yes. The problems addressed are inherently transnational. Serious and organised crime networks and terrorist groups operate across multiple jurisdictions, use digital infrastructures that transcend national borders and exploit differences between national legal and operational systems. The explanatory memorandum highlights that crime is increasingly "international by default", requiring cross-border intelligence gathering, operational coordination and information sharing. Europol's evaluation covering 2017-2024 also confirmed that a significant share of the Agency's operational support concerns cross-border investigations.

(b) Would national action or the absence of the EU level action conflict with core objectives of the Treaty⁵ or significantly damage the interests of other Member States?

The absence of EU-level action would undermine the Treaty objective of providing citizens with a high level of security within an area of freedom, security and justice. It would also risk creating further operational blind spots and reducing the effectiveness of cross-border investigations, thereby negatively affecting other Member States whose security increasingly depends on effective cooperation and information sharing across the Union.

(c) To what extent do Member States have the ability or possibility to enact appropriate measures?

Member States can adopt national measures and remain responsible for law enforcement activities and investigations. However, they cannot by themselves establish a complete criminal intelligence picture across the Union, systematically connect information originating from different jurisdictions, or provide the same level of cross-border

⁵ https://europa.eu/european-union/about-eu/eu-in-brief_en

<p>coordination and shared technological capabilities. National action alone would therefore be insufficient to address information fragmentation and operational gaps affecting investigations with a cross-border dimension.</p>
<p>(d) How does the problem and its causes (e.g. negative externalities, spill-over effects) vary across the national, regional and local levels of the EU?</p>
<p>While operational impacts may vary between Member States, regions and local authorities depending on crime patterns and exposure to specific threats, information fragmentation, difficulties in linking investigations and limited access to advanced technological capabilities are common challenges across the Union that national measures alone cannot address.</p>
<p>(e) Is the problem widespread across the EU or limited to a few Member States?</p>
<p>The problem is widespread across the EU. Serious and organised crime, terrorism, cybercrime and hybrid threats affect all Member States, albeit to varying degrees. The functioning of the Schengen area without internal border controls further reinforces the need for coordinated responses across the Union.</p>
<p>(f) Are Member States overstretched in achieving the objectives of the planned measure?</p>
<p>Not necessarily in terms of legal competence or resources, but Member States acting individually face structural limitations in achieving the objectives of the proposal. They cannot independently overcome the fragmentation of information and operational action across the Union, nor can they efficiently develop and maintain certain advanced technological capabilities that require significant investment and critical mass. This assessment is supported by stakeholder consultations, which showed broad consensus on the need to strengthen Europol's information-processing, analytical and operational support functions, as well as EU-level technological capabilities.</p>
<p>(g) How do the views/preferred courses of action of national, regional and local authorities differ across the EU?</p>
<p>Overall, stakeholders expressed strong support for Europol's added value, particularly in facilitating cross-border information exchange, criminal intelligence analysis and operational coordination. At the same time, they identified important operational shortcomings limiting the Agency's effectiveness, in particular legal and procedural constraints related to data processing. Stakeholders also emphasised the need to strengthen Europol's operational support, develop more automated and interoperable systems, and enhance technological and analytical capabilities, including through EU-level digital tools and stronger cooperation with Union bodies. Private-sector stakeholders further underlined the importance of legal certainty in data sharing, particularly in the area of cybercrime.</p> <p>Consultations also highlighted the importance of ensuring that any strengthening of Europol's role remains fully consistent with fundamental rights, in particular data protection requirements, and respects Member States' responsibilities for national security and law enforcement. Diverging views emerged regarding a possible further expansion of Europol's in relation to hybrid threats, which several stakeholders considered politically sensitive but in principle well covered in Europol's legal framework. Nevertheless, there was broad consensus across Member States and operational authorities regarding the need to strengthen Europol's information-processing, analytical and operational support functions.</p>

2.4 Based on the answer to the questions below, can the objectives of the proposed action be better achieved at Union level by reason of scale or effects of that action (EU added value)?

The objectives can be better achieved at Union level because Europol provides clear added value as a central information, operational and technology hub. Union action allows information from different jurisdictions to be connected and analysed, facilitates coordinated cross-border investigations, and enables the development of advanced capabilities that would be difficult or costly for individual Member States to develop separately. The proposal therefore generates economies of scale, reduces duplication, strengthens legal certainty and ensures a more coherent response to security threats affecting the Union as a whole.

(a) Are there clear benefits from EU level action?

Yes. The evaluation of Regulation (EU) 2016/794, as amended by Regulation (EU) 2022/991, conducted in parallel with the impact assessment accompanying this proposal, confirms that Europol plays a central and unique role in supporting Member States in preventing and combating serious and organised crime and terrorism, particularly in cross-border investigations. Covering the period 2017-2024, the evaluation found that Europol has significantly strengthened information exchange and operational coordination at Union level.

EU-level action provides clear added value because Europol is uniquely positioned to aggregate and analyse information originating from multiple jurisdictions and to generate a Union-wide criminal intelligence picture that no individual Member State could establish on its own. By connecting information, identifying cross-border links and supporting coordinated operational responses, Europol enables Member States to address threats that extend beyond national borders more effectively and efficiently than would be possible through purely national action.

(b) Are there economies of scale? Can the objectives be met more efficiently at EU level (larger benefits per unit cost)? Will the functioning of the internal market be improved?

Yes. Significant economies of scale can be achieved through the centralised development of analytical tools, secure data infrastructures, technological capabilities and specialised expertise. Instead of each Member State developing equivalent capacities independently, Europol can provide shared services and capabilities at Union level, reducing duplication and increasing efficiency.

(c) What are the benefits in replacing different national policies and rules with a more homogenous policy approach?

A more homogeneous approach improves interoperability, information exchange and operational cooperation between national authorities. It reduces legal and procedural fragmentation, facilitates cooperation with other EU bodies and agencies, and ensures more consistent support for cross-border investigations throughout the Union.

(d) Do the benefits of EU-level action outweigh the loss of competence of the Member States and the local and regional authorities (beyond the costs and benefits of acting at national, regional and local levels)?

Yes. The proposal does not transfer core law enforcement powers to the Union. Member States remain fully responsible for investigations, operational decisions and the exercise of coercive powers. The benefits generated through improved information exchange, coordination and shared capabilities therefore outweigh the limited constraints associated with stronger Union-level cooperation.

(e) Will there be improved legal clarity for those having to implement the legislation?

Yes. By repealing and replacing the current Regulation with a comprehensive and modernised framework, the proposal clarifies Europol's responsibilities, operational role, data-processing framework and cooperation mechanisms. This increases predictability and legal certainty for Member States, EU agencies and private stakeholders.

3. Proportionality: How the EU should act

3.1 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the proportionality of the proposal and a statement allowing appraisal of the compliance of the proposal with the principle of proportionality?

The explanatory memorandum and the Impact Assessment accompanying the legislative proposal contain adequate justification regarding the proportionality of the proposal.

In accordance with the principle of proportionality, as set out in Article 5 of the Treaty on the European Union, this Regulation does not go beyond what is necessary in order to achieve its objectives.

The proposal introduces a more integrated framework for Union-level support to law enforcement, reflecting the scale and complexity of cross-border crime. It focuses on enabling more effective use of information, strengthening support to cross-border investigations and improving access to shared capabilities, which cannot be achieved satisfactorily by Member States alone, without altering the fundamental balance of competences between the Union and the Member States. In particular, it does not confer any coercive powers on Europol, which remain the exclusive competence of Member States.

Where relevant, the proportionality of the measures is further supported by the analysis carried out in the accompanying impact assessment.

3.2 Based on the answers to the questions below and information available from any impact assessment, the explanatory memorandum or other sources, is the proposed action an appropriate way to achieve the intended objectives?

The proposal constitutes an appropriate and proportionate response to the identified problems. It focuses on those aspects that cannot be addressed effectively by Member States alone, namely the creation of an EU-wide criminal intelligence picture, enhanced cross-border operational support and the development of shared technological capabilities. The choice of a Regulation ensures legal certainty and uniform application across the Union, while preserving Member States' responsibility for law enforcement activities and maintaining the principle that Europol has no coercive powers.

<p>(a) Is the initiative limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better?</p>
<p>Yes.</p>
<p>(b) Is the form of Union action (choice of instrument) justified, as simple as possible, and coherent with the satisfactory achievement of, and ensuring compliance with the objectives pursued (e.g. choice between regulation, (framework) directive, recommendation, or alternative regulatory methods such as co-legislation, etc.)?</p>
<p>Yes. The choice of a Regulation is justified because Europol itself is established by a Regulation and operates directly across all Member States. Repealing and replacing Regulation (EU) 2016/794 ensures a coherent, comprehensive and directly applicable legal framework. The explanatory memorandum also explains that incremental amendments would not be sufficient to accommodate the substantial operational, analytical and technological changes envisaged by the proposal.</p>
<p>(c) Does the Union action leave as much scope for national decision as possible while achieving satisfactorily the objectives set? (e.g. is it possible to limit the European action to minimum standards or use a less stringent policy instrument or approach?)</p>
<p>Yes. The proposal leaves responsibility for criminal investigations, operational decisions, national security and coercive measures entirely with Member States. Europol's role remains supportive, analytical and coordinative. The proposal therefore limits Union action to what is necessary to achieve its objectives while preserving national discretion wherever possible.</p>
<p>(d) Does the initiative create financial or administrative cost for the Union, national governments, regional or local authorities, economic operators or citizens? Are these costs commensurate with the objective to be achieved?</p>
<p>Yes. As assessed in the impact assessment and the legislative financial and digital statement, the proposal has budgetary implications at both Union and Member State level. These investments relate in particular to enhanced data-processing and analytical capacities, operational support, technological capabilities and secure digital infrastructures. However, these adjustments are expected to be proportionate and are outweighed by the benefits arising from improved information exchange, stronger operational coordination, more efficient cross-border investigations and access to shared Union-level capabilities. By reducing fragmentation, avoiding duplication of effort and enabling economies of scale in the development and deployment of advanced technological and analytical capabilities, the proposal is expected to generate significant operational benefits for national authorities while enhancing the security of citizens across the Union.</p>
<p>(e) While respecting the Union law, have special circumstances applying in individual Member States been taken into account?</p>
<p>No, as there are no such special circumstances in the aspects addressed by the proposal.</p>