EUROPOL

Management Board

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Management Board Decision on the conditions related to the processing of data on the basis of Article 18(6) of the Europol Regulation

THE MANAGEMENT BOARD OF EUROPOL,

Having regard to Regulation (EU) 2022/991 of the European Parliament and of the Council of 8 June 2022 amending Regulation (EU) 2016/794, as regards Europol's cooperation with private parties, the processing of personal data by Europol in support of criminal investigations, and Europol's role in research and innovation, and Regulation 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol), hereafter "the Regulation", and in particular, Article 18(6) and Article 18(6b) thereof;

Having regard to Regulation 2018/1725, and in particular Article 71 and Article 73 thereof;

Considering that this Decision takes into account and incorporates the safeguards and data protection guarantees provided for in Regulation (EU) 2022/991 of the European Parliament and of the Council of 8 June 2022 amending Regulation (EU) 2016/794, as regards Europol's cooperation with private parties, the processing of personal data by Europol in support of criminal investigations, and Europol's role in research and innovation;

Whereas the Management Board, acting on a proposal from the Executive Director and after consulting the European Data Protection Supervisor ("EDPS"), shall specify the conditions relating to the provision and processing of personal data;

Whereas the EDPS delivered an opinion on 17 November 2022,

HAS DECIDED AS FOLLOWS:

Article 1
Scope

This Decision shall apply to the processing of personal data received or retrieved by Europol under Articles 17(1) and 17(2) of the Regulation for the purpose of determining whether such data are relevant to Europol's tasks. This processing shall occur, if necessary, prior to the processing pursuant to Article 18(6a) or Article 18(2) of the Regulation.

Article 2
Provision of data

When providing personal data to Europol, Member States, Union bodies, third countries and international organisations, may determine that the personal data are provided for the purpose of Article 18(6) of the Regulation. Where a provider has not indicated this specifically, Europol, if required, can process the provided data for the purpose of determining whether such data are relevant to Europol's tasks, prior to the processing pursuant to 18(6a) or Article 18(2) of the Regulation.

Article 3
Access to data for Europol staff

Only trained and duly authorised Europol staff members shall have access to the personal data processed by Europol pursuant to Article 18(6) of the Regulation and this Decision. The Executive Director shall identify specifically which staff members will have access to such personal data by means of a specific authorisation process. These staff members shall only have access to the data for which they have a need to know for the performance of their duties and without prejudice to the security requirements in accordance with Article 67 of the Regulation.

Article 4
Use of the data

1. Personal data processed by Europol under this Decision shall only be used for the sole purposes of determining whether such data are relevant for Europol's tasks, and if so, for which of the purposes referred to in Article 18(2) of the Regulation in consultation with the provider of the data if necessary.

2. Europol shall determine whether the personal data are relevant for Europol's tasks on the basis of Europol's objective defined in Article 3 of the Regulation.

3. Where Europol determines that the personal data are relevant to its tasks and can be processed pursuant to Article 18(6a) or Article 18(2) of the Regulation, Europol shall inform the provider of the data about the allocation of the identified purpose(s) if needed and without prejudice to the determination of the purpose in accordance with Article 19(1) of the Regulation.

Article 5
Time limit for the processing

1. A decision on the use of personal data in accordance with Article 4(3) shall be taken as soon as possible and in any case no later than six months from the receipt of those data by Europol.

2. In the absence of a decision mentioned in paragraph 1, upon expiry of the six-month period, Europol shall erase such personal data without prejudice to Article 31(6) of the Regulation.

3. In the cases mentioned in paragraph 2, Europol shall notify the provider of the data prior to the erasure.

Article 6
Review

The Management Board may review and adjust this Decision when deemed appropriate.

Article 7
Entry into force

This Decision shall enter into force on the day of its adoption and shall replace the Decision of 28 June 2022.

Done at The Hague on 21 March 2023

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Jérôme Bonet

Chairperson of the Management Board