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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	16204/23
No. prev. doc.:	9488/2/24 REV 2
Subject:	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 – Mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 28 November 2023 the Commission submitted to the Council and the European Parliament a legislative package to fight migrant smuggling. This package includes a proposal for a Directive on criminal law and a proposal for a Regulation[1] to enhance police cooperation as well as Europol's support for the fight against migrant smuggling and trafficking in human beings.

2. The legal basis of the Commission proposal for a Regulation is Articles 85, 87 and 88 of the Treaty on the Functioning of the European Union (TFEU).

[1] 16204/23

3. 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 announced its desire to take part in the adoption and application of this Regulation.

4. 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 participating in the adoption of this Regulation and is not bound by it or subject to its application.

II. WORK IN OTHER INSTITUTIONS

5. In the European Parliament (EP), the Committee on Civil Liberties, Justice and Home Affairs (LIBE) has the lead responsibility. Mr Jeroen Lenaers (EPP/NL) was appointed rapporteur. No draft report has yet been tabled. The report will be tabled by the new EP. The EP has requested the preparation of an impact assessment of its own.

6. The European Data Protection Supervisor delivered its opinion on 23 January 2024[2].

III. WORK IN THE COUNCIL'S PREPARATORY BODIES

7. The proposal was discussed at the Law Enforcement Working Party – Police (LEWP-P) meetings held on 1 December 2023, 19 January, 16 February, 30 April, 8 May, 3 June, and 14 June 2024.

8. The Belgian Presidency decided to discuss the main concepts (building blocks) of the proposal, before launching an article-by-article examination. This debate clearly revealed the reluctance of a majority of delegations to enshrine Europol's migrant smuggling centre in the self standing Regulation. Furthermore, following a request from delegations, the Commission agreed to prepare a staff working document as a partial replacement for a missing impact assessment.

[2] 2023-1247_d0187_opinion_en.pdf (europa.eu)

9. Following the presentation of the Commission staff working document, the Presidency identified several areas of compromise. Subsequently, the Presidency put forward text compromise proposals narrowing down the initial Commission proposal to a targeted amendment to the Europol Regulation (EU) 2016/794, with Article 88 TFEU as its legal basis.

10. The following are the key elements included in the Presidency compromise text:

- Codification of operational task forces (OTFs).

  The proposal includes a definition of OTFs as well as the obligation for the Member States setting up, participating in, or supporting the OTFs to share all relevant information with Europol and other involved Member States.

- Codification of Europol's deployments for operational support.

  The proposal clarifies the conditions for Europol's deployment in the Member States or third countries notably in the context of complex, large-scale and high-profile investigations, providing analytical, operational, technical and forensic support.

- Strengthening of information exchange.

  The proposal enhances the sharing of information on migrant smuggling and trafficking in human beings with Europol, e.g. listing these two crime areas as specific examples and by including Member States' immigration liaison officers in these exchanges. The additional financial resources will allow Europol effectively and efficiently support Member States through the processing of biometric data.

- Enhancement of Europol's support for the European Multidisciplinary Platform Against Criminal Threats (EMPACT).

  The proposal strengthens the support provided by Europol to EMPACT operational and strategic activities led by Member States, including the related information exchange.

PUBLIC

- Enhancement of inter-agency cooperation (Europol, Frontex, Eurojust).

  The proposal invites Frontex and Eurojust to permanently second their liaison officers to the European Migrant Smuggling Centre (EMSC) at Europol in order to ensure the effective, timely and systematic coordination and exchange of information among agencies.

- Addition of 'violation of Union restrictive measures' to the list of crimes for which Europol is responsible (Annex I).

  The proposal adds this type of crime to Europol's list of crimes, in order to effectively support Member States that are increasingly confronted with this form of crime.

- Additional resources for Europol

  In the accompanying legal financial statement, additional human and financial resources to implement the new tasks are foreseen for Europol.

11. The Presidency's compromise proposals were examined at the meeting of LEWP-P on 14 June 2024, and received broad support from delegations.

12. Additions to the Commission proposal are marked with **bold and underline**, while deletions from it are marked with ~~strikethrough~~.

IV. CONCLUSIONS

13. The Permanent Representatives Committee is therefore invited to confirm agreement of the text of the mandate for negotiations with the European Parliament, as set out in the Annex to this note, to enable the Presidency to conduct those negotiations.

14. In accordance with the approach to legislative transparency endorsed by Coreper on 14 July 2023, and in full compliance with Regulation (EC) 1049/2001 and the Council's Rules of Procedure, the text of the mandate thus agreed will be made public, unless the Permanent Representatives Committee objects.

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ANNEX

2023/0438 (COD)

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, as regards the strengthening of Europol's support to preventing and combating migrant smuggling and trafficking in human beings

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[3] ~~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~~.

(1a) Europol's core tasks is to support and strengthen actions 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, to act as the principal Union criminal information hub, to deliver agile operational support by being at the forefront of law enforcement innovation and research and providing European policing solutions. Europol – with its core tasks of information-sharing, analysis and operational support – provides genuine added value for the security of the European Union.

(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 **overall** capabilities of Europol~~, and in particular its Union centre of specialised expertise for combating migrant smuggling and trafficking in human beings~~.

[3] 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.

(2a) To prevent, detect and investigate cross-border serious organised crime and terrorism, coordination and concerted action is necessary. The role of Europol in supporting Member States' criminal intelligence exchange activities and investigations has evolved significantly through the development of innovative concepts targeting criminal actors constituting a high threat. This support and cooperation become more and more complex and requires specific expertise and resources that both Member States and Europol need to invest in. The use of operational task forces enables Member States, with the support of Europol, to conduct joint, coordinated and prioritised criminal intelligence exchange activities - which entails exchanging criminal intelligence, the discovery of links, the conducting of analysis - and investigations notably on criminal networks and groups as well as individual criminal actors who constitute a high risk for security. When supporting this flexible, operational and temporary cooperation Europol should be able to make available its analytical, operational, technical, forensic and financial support to the participating Member States.

(2b) Operational task forces constitute a flexible concept for cooperation to support Member States' criminal intelligence exchange activities and investigations targeting individuals and networks and groups that constitute the highest serious and organized crime threat and therefore should be embedded as far as possible with EMPACT. Criminal intelligence exchange activities carried out in an operational task force can be accompanied by the opening of criminal investigations in one or more Member States that may as a complementary approach benefit from setting up a joint investigation team in order to produce criminal evidence. In accordance with article 5 (5) of Regulation (EU) 2016/794, Europol may propose the to the Member States concerned to set up a joint investigation team.

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(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 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.

PUBLIC

~~(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.~~

(5a) Confirming the role and functions of the Management Board, in particular by deciding, taking into consideration both business and financial requirements, upon the establishment of Europol's internal structures, including Union centres of specialised expertise as referred to in point (l) of Article 4(1), upon a proposal of the Executive Director.

~~(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.~~

PUBLIC

~~(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.~~

(7a) The threats posed by serious and organised crime, including activities of criminal networks engaged in migrant smuggling and trafficking in human beings, as well as related crimes and enabling factors, demand a coordinated, coherent, multi-disciplinary and multi-agency response. The European Multidisciplinary Platform Against Criminal Threats ('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 the Union response to prevent and combat serious and organised crime, including migrant smuggling and the trafficking in human beings, Europol and all relevant competent authorities under this Regulation should increase their connection within EMPACT and the operational support to the activities developed by that platform. To that end, Europol should be able to reinforce its strategic, operational and financial support to operational activities implemented within EMPACT, including by involving the core actors of EMPACT whenever relevant. Member States' competent authorities involved in the implementation of operational activities within EMPACT should provide Europol with all relevant information.

PUBLIC

(7b) 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. Due to the nature of migrant smuggling and trafficking in human beings and the modus operandi of criminal networks, it is often difficult to determine whether an isolated incident of migrant smuggling or trafficking in human beings relates to a wider organised crime scheme. Member States' competent authorities should provide Europol with information held by its competent authorities relating to the criminal offences of migrant smuggling and trafficking in human beings to enable the Agency to fulfil its objectives as hub for law enforcement information exchange in the Union, to establish possible links between isolated incident of migrant smuggling or trafficking in human beings, and to detect the criminal networks that are responsible for these serious crimes.

(7c) Europol should provide Member States' competent authorities with non-personal data (such as relevant crime area, modus operandi, Member States' competent authorities involved) regarding Operational Task Forces and facilitate the communication flow between Member States leading Operational Task Forces and those leading EMPACT operational actions.

~~(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.~~

PUBLIC

(9) For the purpose of strengthening operational ~~and technical~~ support to preventing and combating migrant smuggling and trafficking in human beings, **Europol** ~~the European Centre Against Migrant Smuggling~~ should, ~~for operational tasks, involve~~ **invite** 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.~~

PUBLIC

(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.~~ **, including in the context of EMPACT. Usage of SIENA at basic protection level (BPL) is to be regarded as an acceptable standard.**

(12a) Effective law enforcement information sharing includes biometric data (e.g., fingerprints, facial images) as defined in Article 3 (13) of Directive (EU) 2016/680. The effective use of biometric data is key to closing the gaps and blind spots that terrorists and other criminals seek to exploit by hiding behind false or multiple identities. Europol's legal framework already allows the Agency to process biometric data for operational purposes and for preventing or combating crime that falls within its objectives as mentioned under Article 30 (2) of Regulation (EU) 2016/794. However, as highlighted by the European Court of Auditors' special report in 2021 on Europol's support to fight migrant smuggling, there is a need to enable Europol to use biometric data effectively. Europol should therefore be enabled to process biometric data in order to be able to effectively and efficiently support Member States.

PUBLIC

(13) **The** active ~~engagement~~ **involvment** of the Member States and **the** sharing of information with Europol ~~is key~~ **are essential** to ~~ensuring~~ **provide** a comprehensive and coordinated ~~Union~~ **EU** approach to ~~countering~~ **the fight against** migrant smuggling. ~~With a view to strengthening Member States' capacities~~ **To this end**, Member States ~~should designate specialised~~ **are encouraged to set up central** services ~~for countering~~ **specialized in the fight against** migrant smuggling, ~~ensuring~~ **providing** that ~~they are adequately resourced~~ **these services have sufficient resources** 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.~~

(13a) Member States' immigration liaison officers posted in third countries **under the Regulation (EU) 2019/1240,** should also share information with Europol; for this purpose, they should **- unless legal, organisational or technical reasons render such a connection not feasible -** 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~~. **Member States are free to decide on whether they allow information from their immigration liaison officers to be sent to Europol. Information originating from immigration liaison officers should be sent using SIENA.**

PUBLIC

(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.

PUBLIC

~~(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. **Europol should set up a voluntary reserve pool for the purpose of Europol deployments for operational support. When an operational deployment is approved, Europol should request the deployment of the expert to his national authority, which may refuse on the basis of the expert's own availability or for urgent needs in the context of their own national situation**. 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[4]. Europol should also make use of these deployments to support Member States in relation to major international events. Europol should also be able **- exceptionally and after approval of the its Management Board -** 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

[4] 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).

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.~~

PUBLIC

(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. **As laid down under the EU Directive 2024/1226. The** 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 maintaining international peace, preventing conflicts and strengthening international security in line with the aims and principles of the United Nations Charter. **While this specific criminal offence is not currently covered by Annex I of Regulation 2016/794, Europol nevertheless already supported Member States' investigations in targeting criminal assets owned by individuals and legal entities subject to EU sanctions or criminal investigations linked the circumvention of EU-imposed trade and economic sanctions. Since v**iolations of Union restrictive measures ~~therefore~~ constitute a form of crime which affects a common interest covered by Union policy~~, and in relation to which~~ **and constitute a form of crime Member States are increasingly confronted against,** Europol should **therefore** have **a** competence to act in order to support and strengthen action **conducted** 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[5], and has delivered an opinion on ~~[…]~~**23 January 2024**[6].

(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,

HAVE ADOPTED THIS REGULATION:

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5 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).

6 OJ C …

~~**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.~~

PUBLIC

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*][7];

(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[8];

(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.

[7] [please add the title and the publication reference]

[8] 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).

PUBLIC

~~**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[9], Eurojust shall

[9] 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).

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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 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;

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(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;

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~~(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.~~

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~~**Chapter III**~~

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

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~~*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~~ **1***

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) **and (z)** 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~~ **temporary group** set up by Member States among their competent authorities with the support of Europol to ~~conduct~~ **facilitate** joint, coordinated and prioritised criminal intelligence **exchange** 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 **or a third country**, upon request of that Member State **or third country**, to provide analytical, operational, technical and forensic support **under the conditions laid down by the national law of the requesting Member State or third country,** in liaison and in agreement with the competent authorities of that Member State~~.~~[2] **or third country**;

(z) 'immigration liaison officer' means a liaison officer of a Member State designated and deployed under the Regulation (EU) 2019/1240 on the creation of a European network of immigration liaison officers, in a third country by the competent authorities of a Member State within the meaning of Article 2 (a) of this Regulation, in accordance with respective national legal basis, to deal with immigration-related issues, also when that is only a part of their duties.';

(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 Member States and third countries** 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;';

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(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 **Centre**;

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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 **exchange** 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) **process biometric data in order to be able to effectively and efficiently** support Member States ~~with~~ **in accordance with Art.30 (2) of this Regulation** ~~the effective and efficient processing of biometric data~~.’;

(b) paragraph ~~5~~ **2** is ~~replaced by the following:~~ **amended as follows**:

~~‘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.';~~

'2. Europol shall provide strategic analyses and threat assessments to assist the Council and the Commission in laying down strategic and operational priorities of the Union for fighting crime. Europol shall also assist in the operational implementation of those priorities, in particular by supporting Member States' competent authorities in further strengthening the European Multidisciplinary Platform Against Criminal Threats (EMPACT) as a coherent framework to prevent and tackle the threats posed by criminal networks, including by facilitating and providing administrative, logistical, financial and operational support to operational and strategic activities led by Member States, including the related exchange of information.'

(3) the following Articles~~ 5a and~~ 5b ~~are~~ **is** 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

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~~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.~~

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'*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 **where requested by a Member State according to paragraph 1** shall take place in the context of complex and large-scale investigations **and criminal intelligence exhange activites** requiring Europol's support, including in the context of joint investigation teams or operational task forces, or to support **in accordance with the legal framework governing those databases** 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 **voluntary** 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~~ **ensure when relevant and possible and without prejudice to Article 7(7)**:

   (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~~ **evaluation** and **approval of** ~~profiles of experts to be included in~~ the **Member State's request, the modalities of the deployment and voluntary** reserve pool ~~and any subsequent changes thereto~~.

10. ~~This Article shall apply *mutatis mutandis*~~ **In the case** where **a third country as referred to in Article 25(1), point (a), (b) or (c) requests** Europol deployment for operational support ~~takes place~~ in **its territory, the Executive Director shall only accept such a request with the authorisation of the Management Board. The Management Board shall adopt implementing rules for the preparation and implementation of Europol deployments for operational support in the territory of** a third country as referred to in Article 25(1), point (a), (b) or (c)**, including on the evaluation and approval of that third country's request and the modalities of the deployment**.

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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).';

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(4) Article 7 is amended as follows:

(-a) in point (a) of paragraph 6, the following wording is added:

'including migrant smuggling and trafficking in human beings.'

(b) the following paragraph 6b is inserted:

'6b Each Member State setting up, or participating in, or supporting an operational task force shall 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), including information related to parallel financial investigations to identify and seize criminal assets.'

(ba) the following paragraph 6c is inserted:

'6c Each Member State setting up, or participating in EMPACT operational action supported by Europol shall, whenever feasible, use SIENA to provide all relevant information without delay to Europol and to other Member States.

(c) paragraph 7 is replaced by the following:

'7. Without prejudice to the discharge by Member States of their responsibilities with regard to the maintenance of law and order and the safeguarding of internal security, Member States shall not in any particular case be obliged to supply information in accordance with point (a) of paragraph 6 or paragraph 6b that would:

(a) be contrary to the essential interests of the security of the Member State concerned;

(b) jeopardise the success of an ongoing investigation or the safety of an individual; or

(c) disclose information relating to organisations or specific intelligence activities in the field of national security.

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However, Member States shall supply information as soon as it ceases to fall within the scope of points (a), (b) or (c) of the first subparagraph.'

(d) the following paragraph 7a is inserted:

'7a. 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 legal, organisational or technical reasons that immigration liaison officer shall submit the information relating to criminal offences on migrant smuggling and trafficking in human beings to a national competent authority through other secure channels. That competent authority shall provide the information to Europol, in accordance with paragraphs 5 and 6 (a).'

(4a) in Article 24, the following paragraph 4 is added:

'4. Europol shall invite a liaison officer of the European Border and Coast Guard Agency as a permanent representative at the European Migrant Smuggling Centre referred to in point (l) of Article 4(1) to facilitate the cooperation and exchange of information in accordance with this Article and Regulation (EU) 2019/1896.'

(4b) in Article 11, in paragraph 1, the following point (x) is added:

'(x) decide upon Europol deployment for operational support in exceptional cases in the territory of a third country as referred to in Article 25(1), point (a), (b) or (c) in accordance with Article 5b(10). '

(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;';

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(5a) in Article 21, the following paragraph 2a is inserted:

'2a. Europol shall invite a liaison officer of Eurojust as a permanent representative at the European Migrant Smuggling Centre referred to in point (l) of Article 4(1) to facilitate the cooperation and exchange of information in accordance with this Article and Regulation (EU) 2018/1727.'

(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'.

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~~**Chapter V**~~

~~**FINAL PROVISIONS**~~

*Article ~~10~~ **2***

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	*For the Council*
The President	*The President*

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