



The Hague, 21 July 2020

Joint Parliamentary Scrutiny Group Secretariat

To the attention of the JOSG Co-Chairs

By email only:

jspg.libesecretariat@europarl.europa.eu

Reply to follow-up question by MEP Breyer of 26 February 2020

Dear JPSG Co-Chairs,

Following up on the request of clarifications, submitted in accordance to the Written and Oral Questions Guide, (*step 4*) in relations to Europol's replies to the written questions by MEP Breyer of 26 February, I am delighted to share with you Europol's clarifications.

Follow-up questions by MEP Breyer (28th April 2020)

1) Which of the Member States' intelligence services (e.g. Bundesamt für Verfassungsschutz) are providing personal data to Europol (please list)?

2) Does Europol treat information received from intelligence agencies (and possibly obtained using surveillance powers reserved to them) any different from information received from law enforcement agencies?

Europol's reply

In the sense of Regulation (EU) 794/2016 (hereafter: 'Europol Regulation'), "*competent authorities of the Member States*" means all police authorities and other law enforcement services existing in the Member States which are responsible under national law for preventing and combating criminal offences. The competent authorities shall also comprise other public authorities existing in the Member States which are responsible under national law for preventing and combating criminal offences in respect of which Europol is competent" (Article 2(a)).

It is the exclusive prerogative of Member States to decide and assess which national authorities fall under this definition. Europol receives Member States' data from the Europol National Units (ENU), which is the liaison body between Europol and the competent authorities of the Member States (Article 7). In accordance with Article 19, when providing information – including personal data – to Europol, Member States shall determine the purpose or purposes for which it is to be processed, as referred to in Article 18; they may moreover indicate, at the moment of providing information to Europol, any restriction on access thereto or the use to be made thereof, in general or specific terms, including as regards its transfer,

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erasure or destruction. The origin of the information within the Member State does not entail a different handling regime as, from the perspective of the provisions in the Europol Regulation, Europol receives the information from the Member State (via the ENU) and not from a specific national authority. The responsibility for the legality of a data transfer to Europol lies with the Member State providing the information to Europol. With respect to the situation in Germany, the national domestic intelligence service (Bundesamt für Verfassungsschutz) or the foreign intelligence service (Bundesnachrichtendienst) are not connected to the Secure Information Exchange Network Application (SIENA) or the Europol Information System (EIS).

I hope these answers will prove satisfactory.



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