

## EXECUTIVE SUMMARY

This Supervisory Opinion is issued in response to a request for prior consultation from the European Union Agency for Law Enforcement Cooperation (Europol) regarding a planned processing of operational personal data, including biometric data (fingerprints and facial images) and personal data relating to special categories of data subjects, for the purpose of querying and retrieving information from the Entry-Exit System (EES).

The EES is a system that registers third-country nationals each time they cross an external border of the European Union. Upon entry, refusal of entry or exit, both alphanumeric and biometric data are recorded in the EES central system by the concerned Member State.

Article 33 of Regulation (EU) 2017/2226 (ESSR) allows Europol to query the EES for two purposes, namely: (i) to identify an unknown suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence, and (ii) to consult the travel history or the periods of stay on the territory of the Member States of a known suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence.

Analysts can only access the EES through the Europol Designated Authority (EDA) once approved by the Central Access Point (CAP). Europol provides guidance and templates addressed to the EDA when requesting access to the CAP, and addressed to the CAP when assessing whether such request meets the conditions laid down in Articles 32 and 33 EESR.

Searches in the EES can be carried out using alphanumeric data, but also on the basis of biometric data within the meaning of Article 30(2) Regulation (EU) 2016/794 (ER), as well as personal data relating to categories of data subjects referred to in Article 30(1) ER.

The EDPS considers that Europol correctly identified that querying the EES constitutes a new form of processing that inherently involves a high risk to data subjects' fundamental rights and freedoms that triggered the obligation to prior consult the EDPS pursuant to Article 90(1)b Regulation (EU) 2018/1725 (EUDPR).

With regard to the lawfulness of the planned processing, recalls that Europol should limit the searches to the categories of data subjects listed in the EES Regulation.

With it comes to the risk assessment conducted by Europol, the EDPS commends the Agency for implementing the recommendations formulated in its Opinion issued in Case 2025-0286 concerning VIS dactyloscopic searches. Nonetheless, the EDPS also formulates a series of recommendations to improve the processes for requesting and authorising access to the EES with a focus on the documentation of the proportionality tests and the motivation for confirming the matches following a search in the EES. The EDPS also invites Europol to clarify whether matches returned from eu-LISA using biometric data will be accompanied by a matching score, and specify whether and, if so, how that score will be integrated in the human validation process and technical interfaces.

