

**From:** [REDACTED]  
**To:** [REDACTED] ZERDICK  
Thomas <thomas.zerdick@edps.europa.eu>; [REDACTED]  
[REDACTED] EDPS-  
CABINET <cabinet@edps.europa.eu>  
**CC:** [REDACTED]  
**Sent at:** 05/07/22 17:51:17  
**Subject:** RE: Europol MB implementing decisions

Dear [REDACTED]

Thank you, well noted.

Before next steps are discussed, could you provide me with the short recap of the contacts with Europol on these internal rules for Wojciech's information? E.g. dates of meetings, including informal ones, milestones, quotes from the correspondence underlining that we do not consider our contacts as any form of consultation etc., replies on this, minutes from the meetings. I would be very grateful if these could be done quickly, ideally by the end of the tomorrow.

Best,  
[REDACTED]

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**From:** [REDACTED]  
**Sent:** 05 July 2022 17:43  
**To:** ZERDICK Thomas <thomas.zerdick@edps.europa.eu>; [REDACTED]  
[REDACTED] EDPS CABINET  
<cabinet@edps.europa.eu>  
**Cc:** [REDACTED]  
**Subject:** Europol MB implementing decisions

Dear Thomas,  
Dear [REDACTED]  
Dear [REDACTED]

A couple of hours ago the Chairman of Europol's MB transmitted the four MB Decisions implementing Articles 18 and 18a of the amended Europol Regulation to the Supervisor for consultation.

Before discussing the substance of the Decisions, I wanted to inform you that contrary to our informal advice:

- The four MB Decisions **are adopted**;
- The MB takes note that the **EDPS had received the first drafts** of these Decisions and that subsequent draft versions had been prepared by Europol with the support of both MB Working Groups **to reflect the comments provided by the EDPS both in writing and during dedicated meetings**;

- The MB having noted that the EDPS considered that the formal consultation could only take place upon the entry into force of the amended Regulation, **transmits the Decisions to the EDPS;**
- The MB **will duly consider any further observation the EDPS may wish to make** and revisit its Decisions as appropriate

I would like to remind Thomas' and [REDACTED] comment that in case Europol adopts the MB decisions without consulting the EDPS, this would be in breach of the provisions requiring consultation of the EDPS read in the light of the principle of loyal cooperation. Non-respect of any of the above constitutes a violation of the procedure foreseen by the legislator for adoption of these kinds of decisions, liable to cause their annulment.

As to the way forward, we already see two options (with [REDACTED])

- Issue the opinion as soon as possible based on our informal comments and already issue a warning with regard to Article 18a;
- Issue a two page opinion noting the violation of the administrative procedure that could be a cause for annulment and issue our Opinion in substance within the regular deadlines.

Happy to further discuss and receive your guidance.

Best regards,

[REDACTED]