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Briefing Note

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Non-binding opinion on the innovation lab's project on CSE image classification

	Department or function	Approved by (name)	Approval date
			DS 04.07.23
From	FRO	Dirk Allaerts	
To	ED		4.7.23
Cc	CAB, Innovation lab	///////////	///////////

1. Aim

In compliance with article 33a 2a of the Europol regulation, Europol's Executive Director shall authorise any research and innovation project in consultation with the Data Protection Officer and the Fundamental Rights Officer. Under article 41c 2a of the Europol regulation the Fundamental Rights Officer (FRO) advises Europol where he or she deems it necessary or where requested on any activity of Europol without impeding or delaying those activities.

With this briefing note the FRO advises the Executive Director on a proposition of the Innovation Lab to develop a tool for the classification of CSE images and videos. The FRO has been briefed by the innovation lab on the 9th of June and he received a Research Project Initiation Document (R-PID) on the 16th of June and a data protection assessment on the 19th of June.

2. Assessment

The projects aims at developing a tool that uses artificial intelligence (AI) to classify automatically alleged child sexual abuse (CSE) images and videos. To train the tool the project uses CSE and non-CSE material. The CSE content is provided by NCMEC and the member countries, owner of the information, have given their formal consent to use the data for the project. The project will be developed on a dedicated server within a closed network. Further, very limited persons can access the sensible data, except the data scientist, all staff from AP TWINS, who are used to work with this kind of images.

Because of these precautions, the risk of a violation of fundamental rights sensu stricto (this is without the right to privacy – that is covered by the DPO) at the start of the project is very limited or non-existing. Once developed, the use of the tool can cause fundamental rights issues e.g. the violation of the right to defence or a fair trial if the tool delivers false positives or false negatives. The risk for a false positive can be mitigated by a mandatory human intervention. False negatives are a risk for the rights of the victims and possibly

also for the right to a fair trial. This will be much more difficult to mitigate because of the huge volumes of data that prevents a detailed human assessment.

Another risk, as for all AI tools, are the biases. This will need special attention during the development phase. Both CSE and non-CSE data used during this phase have to be assessed so all genders, race and ages are sufficiently present to limit the risk the tool will recognise CSE only for specific races or genders.

3. Conclusions and advice

If this project leads to a positive result it can be very beneficiary for law enforcement. The efficiency of an investigation can be enhanced, but also the wellbeing of the police officers investigating these offences can improve. They will be less exposed to horrific and sensible material.

There is no risk for violation of fundamental rights sensu stricto to run the project. Though during the project special attention is needed to avoid the tool will produce biased results, false positives or false negatives.

4. Way forward

This note is sent to the ED as a non-binding advice, and to the innovation lab for their information.