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Committee on Civil Liberties, Justice and Home Affairs

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DRAFT REPORT

on the draft Council decision amending Decision 2009/935/JHA as regards the list of third States and organisations with which Europol shall conclude agreements
(16229/2012 – C7-0011/2013 – 2013/0801(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Philip Claeys

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council decision amending Decision 2009/935/JHA as regards the list of third States and organisations with which Europol shall conclude agreements (16229/2012 – C7-0011/2013 – 2013/0801(CNS))

(Consultation)

The European Parliament,

- having regard to the draft Council decision (16229/2012),
- having regard to Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol), and in particular Article 26(1)(a) thereof, pursuant to which the Council consulted Parliament (C7-0011/2013),
- having regard to Council Decision 2009/934/JHA of 30 November 2009 adopting the implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information²,
- having regard to Council Decision 2009/935/JHA of 30 November 2009 determining the list of third States and organisations with which Europol shall conclude agreements¹,
- having regard to Rule 55 of its Rules of Procedure,
- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A7-0000/2013),

1. Rejects the draft Council decision;
2. Calls on the Council not to adopt the decision, as the Commission recently proposed a new regulation for Europol (Commission proposal of 27 March 2013 for a regulation on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA (COM(2013)0173)), under which the provisions and the procedure for concluding agreements with third States and organisations are modified; therefore there should not be any amendments to the measures implementing the existing Europol Decision;
3. Calls on the Director and the Management Board of Europol to refrain, in the event of the draft decision being adopted, from starting any negotiations on operational agreements with any of the countries listed in it until the new Europol regulation enters into force, because of concerns with the current level of data protection in some of the countries listed in the draft decision;
4. Instructs its President to forward its position to the Council, the Commission and Europol.

¹ OJ L 121, 15.5.2009, p. 37.

² OJ L 325, 11.12.2009, p. 6.

EXPLANATORY STATEMENT

This proposal

According to Article 26(1) of the Decision establishing Europol as it is in force (Decision 2009/371/JHA) it is for the Council to determine the list of the third States and organisations with which Europol shall conclude agreements. Pursuant to Decision 2009/371/JHA, the list is set out in the Annex to Decision 2009/935/JHA.

With this proposal the following third states should be added to the Annex to Decision 2009/935/JHA:

- Brazil
- Georgia
- Mexico
- United Arab Emirates.

A detailed justification for the need to conclude agreements with these states can be found in the recommendation of the Europol Management Board to the Council of 4 October 2012 (Council document 15237/12 available in the register of the Council).

The procedure

As outlined above this revision of the annex is proposed on the basis of the Europol decision as it is in force. The European Parliament is consulted on the Council's draft.

However, the Commission recently proposed a new Regulation for Europol (COM(2013)173) in which the provisions and the procedure for concluding agreements with third States and organisations are altered. Following the entry into force of the Treaty of Lisbon Parliament and Council will co-decide on this Regulation.

In an opinion delivered on 19 June 2013 Parliament's Legal Service considered the proposed procedure as legally not correct.

On the substance of the proposal

The rapporteur does not put into question the operational needs of Member States requesting Europol to conclude agreements with Brazil, Georgia, Mexico and the United Arab Emirates. However, the proposal cannot be adopted on the basis of provisions which are not in line with the Lisbon Treaty. There are also concerns about the current level of data protection in some of the countries listed in the proposal. Therefore, even if the proposal will be adopted, the Director and the Management Board of Europol should refrain from starting any negotiations on

¹ OJ L 325, 11.12.2009, p. 12.

operational agreements with any of the countries listed in the proposal until the new Europol Regulation enters into force.