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2007/0076 (CNS)

Recommendation for a

**COUNCIL DECISION**

**concerning the accession of Bulgaria and Romania to the Convention of 26 July 1995,  
based on Article K.3 of the Treaty on European Union, on the establishment of a  
European Police Office (Europol Convention)**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

The 2005 Act of accession of Bulgaria and Romania<sup>1</sup> has introduced a simplified system for the accession of Bulgaria and Romania to the conventions (and protocols) concluded by the Member States on the basis of Art. 34 TEU (previously Art. K.3 TEU) or Art. 293 EC. It is indeed not anymore necessary, as in the past, to negotiate and conclude specific accession protocols to these conventions (which would have implied ratification by 27 States): Article 3(3) of the Act provides simply that Bulgaria and Romania accede to these conventions and protocols by virtue of the Act of Accession.

Article 3(3) and 3(4) of the Act of Accession provide that, to that effect, the Council shall adopt a decision in order to determine the date on which these conventions shall enter into force for Bulgaria and Romania and to make all the necessary adjustments to these conventions required by reason of the accession of the two new Member States (which would include, in any event, the adoption of the conventions in the Bulgarian and Romanian languages, so that these versions can be "equally authentic"). The Council shall act on a recommendation of the Commission, after consulting the European Parliament.

Annex I to the Act of Accession gives the list of the seven conventions and protocols concerned in the Justice and Home Affairs area.

The list includes the Convention of 26 July 1995, based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention), the Protocol of 24 July 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the establishment of a European Police Office, the Protocol of 19 June 1997, drawn up on the basis of Article K.3 of the Treaty on European Union and Article 41 (3) of the Europol Convention, on the privileges and immunities of Europol, the members of its organs, the deputy directors and employees of Europol, the Protocol of 30 November 2000, drawn up on the basis of Article 43(1) of the Convention on the establishment of a European Police Office (Europol Convention) amending Article 2 and the Annex to that Convention, the Protocol of 28 November 2002 amending the Convention on the establishment of a European Police Office (Europol Convention) and the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol, and the Protocol of 27 November 2003, drawn up on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention), amending that Convention.

This Commission Recommendation for a Council Decision is intended to make the adjustments required by reason of the accession of Bulgaria and Romania to the aforementioned Convention and Protocols, in accordance with Article 3(4) of the Act of Accession.

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<sup>1</sup> OJ 2005, L 157, p. 203.

Recommendation for a

## **COUNCIL DECISION**

**concerning the accession of Bulgaria and Romania to the Convention of 26 July 1995,  
based on Article K.3 of the Treaty on European Union, on the establishment of a  
European Police Office (Europol Convention)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty of Accession of Bulgaria and Romania,

Having regard to the Act of Accession of Bulgaria and Romania (hereinafter referred to as the "Act of Accession"), and in particular Article 3 (4) thereof,

Having regard to the recommendation from the Commission<sup>2</sup>,

Having regard to the opinion of the European Parliament<sup>3</sup>,

Whereas:

- (1) The Convention on the establishment of a European Police Office (Europol Convention) (hereinafter referred to as the "Europol Convention") was signed at Brussels on 26 July 1995 and entered into force on 1 October 1998.
- (2) The Europol Convention was complemented by two Protocols signed on 24 July 1996 and 19 June 1997 which entered into force respectively on 29 December 1998 and 1 July 1999<sup>4</sup>.
- (3) The Europol Convention was amended by three other Protocols signed on 30 November 2000<sup>5</sup>, 28 November 2002<sup>6</sup> and 27 November 2003<sup>7</sup>, which shall enter into force 90 days after the notification by the Member State which, being a member of the

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<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> The Protocol of 24 July 1996 on the basis of Article K.3 of the Treaty on the European Union on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the establishment of a European police office (Europol) (OJ C 299, 9.10.1996, p. 2); the Protocol of 19 June 1997 drawn up on the basis of Article K.3 of the Treaty on the European Union and Article 41 (3) of the Europol Convention, on the privileges and immunities of Europol, the members of its organs, the Deputy Directors and employees of Europol (OJ C 221, 19.7.1997, p. 2).

<sup>5</sup> OJ C 358, 13.12.2000, p. 2.

<sup>6</sup> OJ C 312, 16.12.2002, p. 2.

<sup>7</sup> OJ C 2, 6.1.2004, p. 3.

European Union on the date of adoption by the Council of the Act drawing up this Protocol, is the last to fulfil that formality.

- (4) The Europol Convention entered into force in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia following their accession to the European Union.
- (5) Article 3 (3) of the Act of Accession provides that Bulgaria and Romania accede to the conventions and protocols concluded between the Member States, listed in Annex I to the Act of Accession, which comprises, *inter alia*, the Europol Convention and the Protocols of 24 July 1996, 19 June 1997, 30 November 2000, 28 November 2002 and 27 November 2003. They are to enter into force in relation to Bulgaria and Romania on the date determined by the Council.
- (6) In accordance with Article 3 (4) of the Act of Accession the Council is to make all adjustments required by reason of accession to those conventions and protocols,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

The Europol Convention and the Protocols of 24 July 1996 and of 19 June 1997, shall enter into force for Bulgaria and Romania on the first day of the first month following the date of adoption of this decision.

#### *Article 2*

The Protocols of 30 November 2000, 28 November 2002 and 27 November 2003 shall enter into force for Bulgaria and Romania on the date of entry into force of these Protocols.

#### *Article 3*

The texts of the Europol Convention and the Protocols of 24 July 1996, 19 June 1997, 30 November 2000, 28 November 2002 and 27 November 2003, drawn up in the Bulgarian and Romanian languages and annexed to this Decision, shall be authentic under the same conditions as the other texts of the Europol Convention and the Protocols of 24 July 1996, 19 June 1997, 30 November 2000, 28 November 2002 and 27 November 2003.

#### *Article 4*

This Decision shall take effect on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council*  
*The President*

## **ANNEX**

**Text of the Europol Convention and of the Protocols of 24 July 1996, 19 June 1997, 30 November 2000, 28 November 2002 and 27 November 2003 in the Bulgarian and Romanian languages.**