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European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Draft COUNCIL IMPLEMENTING DECISION approving the conclusion by the European Police Office (Europol) of the Agreement on Operational and Strategic Cooperation between Ukraine and Europol

DRAFT

COUNCIL IMPLEMENTING DECISION (EU) 2016/...

of ...

**approving the conclusion by the European Police Office (Europol)
of the Agreement on Operational and Strategic Cooperation
between Ukraine and Europol**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol)¹, and in particular Article 23(2) thereof,

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, and in particular Articles 5 and 6 thereof,

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 agreements³,

Having regard to the opinion of the European Parliament⁴,

¹ OJ L 121, 15.5.2009, p. 37.

² OJ L 325, 11.12.2009, p. 6.

³ OJ L 325, 11.12.2009, p. 12.

⁴ Opinion of 22 November 2016 (not yet published in the Official Journal).

Whereas:

- (1) Pursuant to Decision 2009/371/JHA and Decision 2009/934/JHA, Europol is to conclude agreements with the third States which have been put on the list determined by Decision 2009/935/JHA. Such agreements have the objective of supporting and strengthening action by the competent authorities of the Member States and their mutual cooperation in preventing and combating organised crime, terrorism and other forms of serious crime affecting two or more Member States, and may concern the exchange of operational, strategic or technical information, including personal data and classified information. Strategic agreements involve the exchange of information excluding personal data, whereas operational agreements involve the exchange of information including personal data. Strategic agreements may be concluded by Europol only after approval by the Council, the latter having previously consulted the Management Board of Europol ('Management Board'). Operational agreements require, in addition, that the Council obtain, via the Management Board, the opinion of the Joint Supervisory Body of Europol ('Joint Supervisory Body'), in so far as the agreement concerns the exchange of personal data.
- (2) Ukraine is included in the list determined by Decision 2009/935/JHA.

- (3) In order to increase effectiveness in preventing and combating serious forms of crime and, in particular, given that Ukraine is a potential candidate State and a close neighbour of the Union, with which Ukraine has many links and exchanges, Europol has initiated, in accordance with Decision 2009/934/JHA, the procedure for the conclusion of an Agreement on Operational and Strategic Cooperation between Ukraine and Europol ('Operational and Strategic Agreement').
- (4) The terms of the cooperation governed by the Operational and Strategic Agreement provide for: the exchange of information, which may, in accordance with the tasks of Europol as outlined in Decision 2009/371/JHA, include specialist knowledge, general situation reports, results of strategic analysis, information on criminal investigation procedures and information on crime-prevention methods; participation in training activities; and the provision of advice and support in individual criminal investigations.
- (5) In addition, following an assessment in accordance with Decision 2009/934/JHA to determine whether an adequate level of data protection is ensured by Ukraine, the Operational and Strategic Agreement contains provisions relating to the exchange of personal data. The Operational and Strategic Agreement received a positive opinion from the Joint Supervisory Body with regard to those provisions.
- (6) The Management Board approved the Operational and Strategic Agreement on 11-12 May 2016.

- (7) The conditions for triggering the exercise of the implementing powers by the Council pursuant to Decisions 2009/371/JHA, 2009/934/JHA and 2009/935/JHA have been met and an implementing decision should therefore be adopted in order to approve the conclusion of the Operational and Strategic Agreement.
- (8) Denmark is bound by Decision 2009/371/JHA and is therefore taking part in the adoption and application of this Decision which implements Decision 2009/371/JHA.
- (9) The United Kingdom and Ireland are bound by Decision 2009/371/JHA and are therefore taking part in the adoption and application of this Decision which implements Decision 2009/371/JHA.
- (10) On 2 May 2016, the Joint Supervisory Body delivered its opinion.
- (11) On 29 July 2016, the Management Board delivered its opinion,

HAS ADOPTED THIS DECISION:

Article 1

Europol is hereby authorised to conclude the Agreement on Operational and Strategic Cooperation between Ukraine and Europol.

Article 2

This Decision shall take effect on the date of its notification.

Article 3

This Decision is addressed to Europol.

Done at ...,

For the Council

The President
