EU/New Zealand Agreement: exchange of personal data between Europol and New Zealand

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PURPOSE: to conclude the Agreement between the European Union, of the one part, and New Zealand, of the other part, on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the authorities of New Zealand competent for fighting serious crime and terrorism.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: Regulation (EU) 2016/794 of the European Parliament and of the Council provides that Europol may transfer personal data to an authority of a third country on the basis of, *inter alia*, an international agreement between the Union and the third country in question, which offers sufficient safeguards with regard to the protection of privacy and fundamental rights and freedoms of individuals.

In a globalised world where serious crime and terrorism are increasingly transnational and multi-faceted, law enforcement authorities should be well equipped to cooperate with external partners to ensure the safety of their citizens. Europol should therefore be able to exchange personal data with law enforcement authorities of third countries to the extent necessary for the performance of its tasks.

In this sense, **law enforcement cooperation with New Zealand is essential** to help the European Union better protect its security interests.

As demonstrated by the follow-up to the Christchurch attack in March 2019, the Commission believes that Europol should be able to exchange personal data with the competent New Zealand authorities in the fight against serious crime and terrorism.

Europol and New Zealand Police signed a working arrangement in April 2019. However, that working arrangement does not provide for a legal basis for the exchange of personal data. In light of this, on 30 October 2019, the Commission presented a recommendation, proposing that the Council authorises the opening of negotiations for an agreement between the European Union and New Zealand on the exchange of personal data between Europol and the New Zealand authorities competent for fighting serious crime and terrorism.

On 13 May 2020, the Council authorised the Commission to open negotiations with New Zealand and adopted negotiation directives. The chief negotiators initialled the draft text of the Agreement in November 2021.

CONTENT: the Commission proposes that the Council decide to approve on behalf of the Union the Agreement between the European Union and New Zealand on the **exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the competent authorities of New Zealand** to combat serious crime and terrorism.

The objective of this Agreement is to allow the transfer of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the competent authorities of New Zealand, in

order to support and strengthen the action by the authorities of the Member States of the European Union and those of New Zealand, as well as their mutual cooperation in preventing and fighting criminal offences, including serious crime and terrorism, while ensuring appropriate safeguards with respect to the human rights and fundamental freedoms of individuals, including privacy and data protection.

The Agreement includes provisions on:

- **exchange of information and data protection** (general data protection principles; special categories of personal data and different categories of data subjects; automated processing of personal data; onward transfer of personal data received);

- the **rights of data subjects** (right of access; right of rectification/correction, erasure/deletion and restriction; notification to the data subject of a personal data breach; retention, review, correction and deletion of personal data; record keeping and data security);

- the **establishment of a supervisory authority**, ensuring that there is an independent public authority responsible for data protection to oversee matters affecting the privacy of individuals;

- **administrative and judicial redress**, ensuring that data subjects have the right to effective administrative and judicial redress for violations of the rights and safeguards recognized in the Agreement resulting from the processing of their personal data;

- dispute settlement;

- a suspension clause and the possibility for the termination of the Agreement.