

EU/Brazil Agreement: cooperation with and through Europol and the Federal Police of Brazil

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PURPOSE: to conclude, on behalf of the Union, the Agreement between the European Union and the Federative Republic of Brazil on cooperation with and through the European Union Agency for Law Enforcement Cooperation (Europol) and Federal Police of Brazil.

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: Europol has flagged that, among others, the growing demand for drugs and increased drug trafficking routes into the European Union justifies the need for enhanced cooperation with Latin American countries. Recent reports confirm that cocaine availability in Europe is at an all-time high and the drug is more affordable and accessible for consumers than in the past. Most of the product seized in the European Union is transported by sea, primarily in maritime shipping containers, and shipped to the European Union directly from the countries of production as well as from neighbouring countries of departure in Latin America, including Brazil. Although cooperation between Europol and Brazil (including the Federal Police of Brazil) is ongoing, a legal basis is needed, notably, for the exchange of personal data.

Regulation (EU) 2016/794 of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation (Europol) provides that it is possible for the European Union Agency for Law Enforcement Cooperation (Europol) to transfer personal data to an authority of a third country, *inter alia*, on the basis of an international agreement concluded between the Union and that third country pursuant to Article 218 of the Treaty on the Functioning of the European Union (TFEU), adducing adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals.

In accordance with a Council Decision, the Agreement between the European Union and the Federative Republic of Brazil on cooperation with and through the European Union Agency for Law Enforcement Cooperation (Europol) and the Federal Police of Brazil was signed, subject to its conclusion at a later date.

CONTENT: the Commission proposal aims to **conclude**, on behalf of the European Union, the Agreement between the European Union and the Federative Republic of Brazil on cooperation with and through the European Union Agency for Law Enforcement Cooperation (Europol) and Federal Police of Brazil.

Objective

The Agreement aims to establish cooperative relations between the European Union Agency for Law Enforcement Cooperation (Europol) and the competent authorities of Brazil and to allow the **transfer of personal and non-personal data between them**, in order to support and strengthen the action by the authorities of the Member States of the Union and those of Brazil, as well as their mutual cooperation in preventing and combating criminal offences, including serious crime and terrorism, while ensuring appropriate safeguards with respect to the human rights and fundamental freedoms of individuals, including the right to privacy and data protection.

Exchange of personal data

The exchange of personal data and its processing by the authorities of a third country constitutes an interference with the fundamental rights to privacy and data protection. However, this Agreement ensures the necessity and proportionality of any such interference by guaranteeing the application of adequate data protection safeguards to the personal data transferred, in line with European Union law.

In particular, the proposal provides, *inter alia*, for:

- special categories of personal data and different categories of data subjects, such as personal data in respect of victims of a criminal offence, witnesses or other persons who can provide information concerning criminal offences, or in respect of persons under the age of 18;
- the automated processing of personal data as well as a basis for onward transfer of the personal data received;
- the right of access, ensuring that the data subject has the right, at reasonable intervals, to obtain information on whether personal data relating to him or her are processed under the Agreement;
- the communication of a personal data breach to the data subject, ensuring that the competent authorities of both Parties of the Agreement communicate the data subject without undue delay in the event of a personal data breach likely to have serious adverse effect upon his or her rights and freedoms;
- the keeping of logs of the collection, alteration, access, disclosure including onward transfers, combination and erasure of personal data;
- the supervisory authority, ensuring that there is an independent public authority responsible for data protection (supervisory authority) to oversee matters affecting the privacy of individuals, including the domestic rules relevant under the Agreement to protect the fundamental rights and freedoms of natural persons in relation to the processing of personal data.