Basic information

2009/0808(CNS) CNS - Consultation procedure Decision	Procedure completed
Europol: relations with partners (exchange of data and classified information). Implementing rules Repealed by 2013/0091(COD) **Subject** 1.20.09 Protection of privacy and data protection 7.30.05.01 Europol, CEPOL	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	LIBE Civil Liberties, Justice and Home Affairs	IN 'T VELD Sophia (ALDE)	02/09/2009
Council of the European Union	**Council configuration**	**Meetings**	**Date**
	Justice and Home Affairs (JHA)	2979	2009-11-30
European Commission	**Commission DG**	**Commissioner**	
	Justice and Consumers	BARROT Jacques	

Key events

Date	Event	Reference	Summary
24/07/2009	Legislative proposal published	11944/2009	Summary
14/09/2009	Committee referral announced in Parliament		
12/11/2009	Vote in committee		Summary
13/11/2009	Committee report tabled for plenary, 1st reading/single reading	A7-0064/2009	
23/11/2009	Debate in Parliament		
24/11/2009	Results of vote in Parliament		
24/11/2009	Decision by Parliament		Summary
30/11/2009	Act adopted by Council after consultation of Parliament		
30/11/2009	End of procedure in Parliament		
11/12/2009	Final act published in Official Journal		

Technical information	
Procedure reference	2009/0808(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Amendments and repeals	Repealed by 2013/0091(COD)
Legal basis	Rules of Procedure EP 204
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/00536

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE430.414	05/11/2009	
Amendments tabled in committee		PE430.624	10/11/2009	
Committee report tabled for plenary, 1st reading/single reading		A7-0064/2009	13/11/2009	

Council of the EU

Document type	Reference	Date	Summary
Legislative proposal	11944/2009	24/07/2009	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Justice and Home Affairs act 2009/0934
OJ L 325 11.12.2009, p. 0006 Summary

Europol: relations with partners (exchange of data and classified information). Implementing rules

2009/0808(CNS) - 30/11/2009 - Final act

PURPOSE: to adopt the implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information.

LEGISLATIVE ACT: Council Decision 2009/934/JHA adopting the implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information.

BACKGROUND: in accordance with Council Decision 2009/371/JHA establishing Europol as a Community agency, it is for the Council, acting by qualified majority after consulting the European Parliament to adopt implementing rules on the confidentiality of information which is obtained by, or exchanged with, Europol.

The purpose of this decision is to establish those rules.

CONTENT: the rules set out in this text govern the relations of Europol with EU bodies and third parties, including the exchange of personal data and classified information and set out the procedures applicable to the negotiation and conclusion of **cooperation agreements and working arrangements**.

Below is a summary of the main points regarding those rules:

1) Conclusion of cooperation agreements and working arrangements: Europol may establish and maintain cooperative relations with **EU bodies or third parties** (those on the list referred to in the Europol Decision) in so far as it is relevant to the performance of its tasks. To that end, it shall conclude agreements or working arrangements with EU bodies or agreements with third parties. Such agreements may concern the exchange of operational, strategic or technical information, including personal data and classified information. The transmission of classified information shall be permissible only insofar as agreement on confidentiality exists between Europol and the EU body or third party.

In the case of agreement with a third State, the information shall be transmitted via a designated contact point identified in the agreement.

Moreover, where the conclusion of an operational agreement is envisaged with a third party (in particular those included in Council Decision 2009/935/JHA establishing a list of third states and organisations for conclusion of agreements), Europol shall carry out an assessment of the existence of an adequate level of data protection ensured by the third party.

2) Exchange of information: **before the entry into force of an agreement** or working arrangement with an EU body or third party, **Europol may directly receive and use information**, including personal data and classified information, insofar as it is necessary for the legitimate performance of its tasks.

The Decision also sets out detailed **conditions for the transmission of information** to EU bodies and third parties, both **after the conclusion and prior to the entry into force of an agreement**/working arrangement. Europol shall keep a record of all transmissions of data under these rules and of the grounds for such transmissions. Note that Europol may directly transmit information, with the exception of personal data and classified information, to third parties which are not included in the aforementioned list, insofar as it is absolutely necessary in individual cases for the purposes of preventing or combating criminal offences in respect of which Europol is competent. **Europol shall be responsible** for the legality of the transmission of data.

More specific measures are provided in the following cases:

- **Exceptional cases**: Europol may transmit personal data and classified information which it holds to third parties insofar as the Director considers their transmission to be **absolutely necessary** to safeguard the essential interests of the Member States concerned within the scope of Europol's objectives or in the interests of preventing imminent danger associated with crime or terrorist offences. The Decision contains provisions for the transmission of both personal and classified information in such cases. The Director shall in all circumstances consider the data protection level applicable to the third party in question with a view to balancing that data protection level and those interests.

- **Transmission of personal data**: transmission of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade-union membership and the transmission of data concerning a person's health or sex life shall not be permitted unless strictly necessary. When Europol transmits personal data to an EU body or third party, it shall ensure that the recipient EU body or third party give an undertaking that the personal data shall be corrected or deleted if it emerges that they are incorrect, inaccurate, no longer up to date or should not have been transmitted.

- **Onward transmission of data**: transmission of personal data by Europol to third States and transmission within that State shall be restricted to competent authorities, which shall be explicitly mentioned in any agreement concluded. The Decision establishes the conditions under which the onward transmission of information may take place (for instance, in the interests of preventing imminent danger associated with crime or terrorist offences). In particular, no onward transmission of data communicated to Europol by a Member State shall be allowed without the prior consent of the Member State concerned.

Lastly, the decision establishes specific conditions for the **receipt of information by Europol from third parties**, including an assessment of the source and of the information to determine the reliability and provisions for the correction and deletion of information received. If Europol has reason to believe that information supplied is inaccurate or no longer up-to-date, it shall inform the EU body or third party which supplied the information and request that the EU body or third party inform Europol of its position. Where information is corrected or deleted by Europol, it shall inform the supplying EU body or third party of the correction or deletion. Information which has clearly been obtained by a third State in obvious violation of human rights shall not be processed.

ENTRY INTO FORCE: 01/01/2010.

Europol: relations with partners (exchange of data and classified information). Implementing rules

2009/0808(CNS) - 24/07/2009 - Legislative proposal

PURPOSE: to adopt the implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information.

PROPOSED ACT: Council Decision.

BACKGROUND: in accordance with Council Decision 2009/371/JHA establishing Europol as a Community agency, it is for the Council, acting by qualified majority after consulting the European Parliament to adopt implementing rules on the confidentiality of information which is obtained by, or exchanged with, Europol.

The purpose of this proposal is to establish those rules.

CONTENT: the rules set out in this text govern the relations of Europol with EU bodies and third parties, including the exchange of personal data and classified information and set out the procedures applicable to the negotiation and conclusion of cooperation agreements and working arrangements.

Below is a summary of the main points regarding those rules:

1) Conclusion of cooperation agreements and working arrangements: Europol may establish and maintain cooperative relations with EU bodies or third parties (those on the list referred to in the Europol Decision) in so far as it is relevant to the performance of its tasks. To that end, it shall conclude agreements or working arrangements with EU bodies or agreements with third parties. Such agreements may concern the exchange of operational, strategic or technical information, including personal data and classified information. The transmission of classified information shall be permissible only insofar as agreement on confidentiality exists between Europol and the EU body or third party.

In the case of agreement with a third State, the information shall be transmitted via a designated contact point identified in the agreement.

Moreover, where the conclusion of an operational agreement is envisaged with a third party (in particular those included in Council Decision establishing a list of third states and organisations for conclusion of agreements), Europol shall carry out an assessment of the existence of an adequate level of data protection ensured by the third party.

2) Exchange of information: before the entry into force of an agreement or working arrangement with an EU body or third party, Europol may directly receive and use information, including personal data and classified information, insofar as it is necessary for the legitimate performance of its tasks. The Decision also sets out detailed conditions for the transmission of information to EU bodies and third parties, both after the conclusion and prior to the entry into force of an agreement/working arrangement. Europol shall keep a record of all transmissions of data under these rules and of the grounds for such transmissions.

Note that Europol may directly transmit information, with the exception of personal data and classified information, to third parties which are not included in the aforementioned list, insofar as it is absolutely necessary in individual cases for the purposes of preventing or combating criminal offences in respect of which Europol is competent.

Europol shall be responsible for the legality of the transmission of data.

More specific measures are provided in the following cases:

- **Exceptional cases**: Europol may transmit personal data and classified information which it holds to third parties insofar as the Director considers their transmission to be absolutely necessary to safeguard the essential interests of the Member States concerned within the scope of Europol's objectives or in the interests of preventing imminent danger associated with crime or terrorist offences. The Decision contains provisions for the transmission of both personal and classified information in such cases.
- **Transmission of personal data**: transmission of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade-union membership and the transmission of data concerning a person's health or sex life shall not be permitted unless strictly necessary. The recipient shall give an undertaking that the personal data shall be corrected or deleted if it emerges that they are incorrect, inaccurate, or no longer up-to-date or should not have been transmitted.
- **Onward transmission of data**: transmission of personal data by Europol to third States and transmission within that State shall be restricted to competent authorities, which shall be explicitly mentioned in any agreement concluded. The Decision establishes the conditions under which the onward transmission of information may take place (for instance, in the interests of preventing imminent danger associated with crime or terrorist offences). In particular, no onward transmission of data communicated to Europol by a Member State shall be allowed without the prior consent of the Member State concerned.
- **Receipt of information by Europol from third parties**: the Decision establishes specific conditions for the receipt of information by Europol from third parties, including an assessment of the source and of the information to determine the reliability and provisions for the correction and deletion of information received. If Europol has reason to believe that information supplied is inaccurate or no longer up-to-date, it shall inform the EU body or third party which supplied the information and request that the EU body or third party inform Europol of its position. Where information is corrected or deleted by Europol, it shall inform the supplying EU body or third party of the correction or deletion. Information which has clearly been obtained by a third State in obvious violation of human rights shall not be processed.

IMPACT ASSESSMENT: not applicable.

BUDGETARY IMPLICATIONS: the proposal has no implications for the Community budget.