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Delegations find in Annex the Friends of the Presidency's report to the Future of Europol.

The purpose of the Annexed Options Paper is to present the results of the discussion held during the Austrian Presidency on the Future of Europol. The paper aims at providing an overview on the different ideas expressed during this process, and indicates the way to implement the specific options identified. It presents the diversity of views expressed by the participating experts but it is recognised that there is not an agreed consensus on every proposal. The findings seek to inform debate within the Council structures and do not in any way bind Member States.



Future of Europol

OPTIONS PAPER

**REFLECTING THE OUTCOME OF THE
DISCUSSION ON THE FUTURE OF EUROPOL
HELD DURING THE AUSTRIAN PRESIDENCY**

MAY 2006

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1. Introduction

a. Purpose of the Austrian Initiative

The purpose of the initiative of the Austrian Presidency to discuss the '*Future of Europol*' was to examine how best to manage current developments related to the European Police Office so that maximum benefit for the Member States law enforcement authorities can be derived from Europol's further advancement.

b. The starting position

Europol, the European Police Office, is based on the Europol Convention. The Europol Convention is the result of a political debate that took place from 1992 to 1995.

At that time, international organised crime was a comparatively new phenomenon at the European level. Terrorism was one threat amongst others. European co-operation on justice and home affairs took place in the TREVI-framework. There was no experience with legal acts in the area of justice and home affairs.

Today we have several hundred decisions, framework decisions and conventions that prove the livelihood of Third Pillar co-operation. Many of those instruments formed part of the Union's reaction to new levels of terrorist threats, as encountered

in the new century both within the European Union and abroad. Police co-operation via EU-channels became a daily routine.

In 1995, Europol stood alone as an institutional player in the Third Pillar.

Today, Eurojust is in the process of establishing itself as a partner in the field of judicial co-operation. With SITCEN, another position was created to support political decision making in the area of counter-terrorism. With CEPOL a new EU-organisation was set up with the aim of helping Member States in the training of their law enforcement staff. And, finally, FRONTEX will help Member States in their efforts to effectively secure the EU's external border.

Europol as the EU's institutionalised answer to the Member States wish to lift their co-operation to the operational level has recently celebrated its sixth birthday. In these six years it has risen from the starting grounds prepared by the Europol Drugs Unit to today's organisation of 500 staff.

After many years of negotiations the Europol Information System is up and running. With this system all three main pillars under Europol's operational roof are working: The information exchange mechanism, the criminal analysis function, and the information system. In other words, Europol has occupied the last white spot under its current mandate.

Europol has progressively started to convince Member States law enforcement authorities to provide it with the right information for information exchange and criminal analysis. Having advanced from the time when Europol could sell an idea only, the current Europol Director's main task is to negotiate realistic targets and priorities for concrete operational action with the stakeholders in the Member States.

Attempts by the Council to solve some teething problems in Europol's legal framework were halted by the many years long ratification process for changes of the Europol Convention. An attempt was made to provide for a completely new basis for Europol's work, but in the absence of the Constitutional Treaty the legal basis for Europol, including the modalities for changing it, will stay as they are. But there might be a need for a new thinking for adapting Europol's slightly old fashioned legal framework. In addition there could be room to manoeuvre within the current legal boundaries as well.

Europol will need to prepare for the time when the three protocols amending the Europol Convention will enter into force. Furthermore, the Hague Program has created a new momentum for increased co-operation in the area of Freedom, Security and Justice, and for Europol. The principle of availability has led to deliberations on how to facilitate the best possible data exchange between Member States' law enforcement agencies. The role for Europol therein still needs to be clarified. A call was made for increased operational co-ordination. Better harmonisation between the different institutional actors in the area of Freedom, Security and Justice is asked.

c. The steps undertaken

The Austrian Presidency launched a political debate on the framework and objectives for the further development of Europol. At the informal Meeting of the Ministers of Justice and Home Affairs held in Vienna from January 12 to 14, 2006, the ministers were invited to discuss how Europol could be developed further so that the law enforcement authorities of the Member States can derive maximum benefit from its

progress. The ministers gave a clear commitment to strengthen Europol and make it more operational without executive powers. The three protocols amending the Europol Convention have to be ratified as soon as possible. The Council should adopt conclusions on the framework and the objectives for the further development of Europol. In addition, it was stipulated that an options paper was to be drawn up by experts, which should permit the practical implementation of the goals defined by the Council. The conclusions and the options paper should serve as the basis for further work on this issue by the subsequent Presidencies.

As a first step, the High Level Conference on "The Future of Europol" was organised on February 23 and 24, 2006 in Vienna. The aim of the High Level Conference was to continue the discussion held at the Informal JHA Council by highlighting further issues that Member States feel should be scrutinised when contemplating changes to the way Europol works. The Conference was held in an open and constructive atmosphere and provided many ideas and ways forward.

In consequence a Friends of the Presidency Group was set up to prepare the options paper on the future development of Europol. In March and April 2006 three meetings of a 'Friends of the Presidency' working group at the Council took place to work on the options paper. Thanks to the committed and constructive work of the Member States' experts, the General Secretariat of the Council, the Commission and Europol the options paper was completed.

The options paper was submitted to the Art. 36 Committee on May 16 and 17, 2006 for discussion and will be presented in turn, together with draft Council conclusions on the Future of Europol, to the JHA-Council of June 1 and 2, 2006.

d. Key Elements of the discussion process

More than six years after Europol taking up its activities, the following was observed:

Firstly, Europol has become increasingly effective in fulfilling its mandate. The demand of MS's law enforcement authorities for participation in one of Europol's Analysis Work Files has been growing regularly. Similarly, the functioning of the Europol Information System as one of the law enforcement system with the largest number of LE users can be named here. Also, with the OCTA Europol has opened the door to becoming a serious player in EU strategic crime analysis, policy advice and law enforcement prioritising mechanisms.

Secondly, the European Union has seen the emergence of several organisations that complement the activities of Europol as the EU police office: FRONTEX was established to specialise on helping MS in border management, OLAF was given the role to fight crime that has an impact on the EU's financial interests, whilst Eurojust supplements the intelligence cooperation and investigative support work of Europol by offering support to MS in the phase of judicial cooperation.

As a result of the discussion process commenced in January 2006 and continued in the subsequent months, many views on concrete options to further enhance the functioning of Europol were brought up. The main findings are the following:

1. The fundamental structure of Europol is very strong. Europol as an organisation built for information exchange and analysis is ideally equipped to provide the very service that is sought for at the European level. Information exchange and intelligence analysis cover the range of law enforcement activities that MS LEAs widely support. This is because, firstly, this method has emerged in recent times as

the key stepping stone for advanced law enforcement work. The nature of the current priority crimes (organised crime and terrorism) means they need to be tackled in a proactive fashion - which is supported by Europol's working method. Secondly, information exchange and intelligence analysis has emerged as the area where EU cooperation is at its strongest. The reason for this can be found in the transnational dimension of organised crime and terrorism. Furthermore, it is increasingly accepted that efficient law enforcement action must be based on a strong legal basis and be subject to efficient control. Both are not possible in the international police cooperation channels in the same way as it can be guaranteed within the framework of the Area of Freedom, Security and Justice.

2. Due to its historical position as the first institutional element of third pillar cooperation Europol can look back to the longest experience of EU law enforcement cooperation. Younger brother organisations were built in a complimentary fashion to the European Police Office.

3. The drawback of the in comparison 'old' age of Europol is that its legal basis, a Convention, does not reflect state of the art legislation that is possible under the current Treaty on the European Union. As a result, changing provisions of even minor importance has proven to last five years and longer. Particularly in comparison to younger institutions like Eurojust or CEPOL this becomes an obvious and unnecessary disadvantage. With a view to the required level of preparedness for future demands at the EU level, the time frame for changing the Europol legal framework is generally considered to be unacceptable. A delay of more than five years for putting a minor change to Europol's mandate into effect is clearly not tolerable.

For the time being there seems to be general consensus that the present priority is to allow Europol to keep growing on the basis of its current institutional setup, particularly with regard to the implementation of the three protocols amending the Europol Convention. No disturbances should be caused to the organic growth and maturing of Europol that could be observed over the last few years. To support the further growth of Europol a number of quick wins were identified that can be implemented quickly and without causing distraction to the ongoing work at Europol.

In addition, and even though the current priority must be to let Europol continue its progression within the confinements of the Europol Convention, a conscientious outlook to future challenges of EU law enforcement cooperation must recognise that it should become easier to adapt Europol's institutional set up.

2. The issues under discussion

The following gives an overview of the six different clusters of the options on the future of Europol.

a. Future role of Europol

The future role of Europol shall be based on the general principle that the main responsibility for combating serious international crime and terrorist offences in the EU will remain within the competence of national law enforcement agencies of the MS. Europol should operate as a multi-agency organisation in full cooperation with all competent national authorities.

a) Mandate

The current mandate is too narrow to allow Europol to address all forms of international crime and to assist with national investigations. Member States suggested two different options for phrasing the mandate of Europol:

- "Europol's objective shall be to support and strengthen action by the Member States' competent authorities and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy), or
- "Europol's objective shall be to support and strengthen action by the Member States' competent authorities and their mutual cooperation in preventing and combating serious international crime and terrorist offences affecting two or more Member States."

Europol would also profit from a more clear distinction between its objective, competences and tasks.

Without prejudice to Europol giving priority to its core business, it should be possible for Europol, where requested by the Member State(s) concerned, to provide intelligence and analytical support to MS in relation to major events with public order policing impact.

Europol should also be enabled to act as a service provider for EU information systems within the area of internal security but outside its current competence (e.g. a DNA or PNR database).

In exceptional cases Europol should not be prohibited from assisting Member States upon request in combating forms of serious crime which are only related to one Member State. This shall particularly be the case for crimes that due to their serious nature or dimension have the potential to affect other MS.

b) Tasks

Europol's value lies in its ability to support MS' investigations by providing high quality analysis of criminal intelligence. Europol should focus on maximising its expertise and fulfilling its potential in this field. There are additional means by which Europol could support Member States' operational activities especially by supporting joint investigation teams assisting in communication and administration.

Europol could, upon MS request, provide analytical support to operational projects under MS responsibility (normally for projects where two or more MS are involved but exceptionally also for a single MS).

Europol should be in a position to coordinate (not lead) a JIT, if requested. This competence would imply the possibility for Europol to suggest that the national members of the JIT perform executive measures in the Member State which they represent since the execution of coercive measures would remain the sole responsibility of the competent authorities of the concerned MS. It could also imply the possibility of Europol financing JITs.

In order to widen the scope of Europol's knowledge management centre it should be possible for Europol to collate and maintain a list of specialist equipment held in one Member State which is available for loan or use in another Member State.

As a long term option, the role of Europol in the fight against the Euro counterfeiting and possibly EU crimes (to be defined) should be reinforced by granting Europol investigative (but not coercive) competences (following the model of OLAF with regard to fight against defrauding the Communities' financial interests).

Particularly when suggested by the OCTA the Member States should grant Europol a stronger role in the fight against serious international crime originating from specific regions (e.g. the Western Balkans) by allowing the secondment of Europol experts to coordinate the numerous EU and, with the approval of the MS concerned, MS law enforcement initiatives in the specific region. They should work in close cooperation with MS' LOs in the region to ensure coherence with Member State initiatives. Also, where suggested by relevant documents in the field of terrorism, it was suggested by some Member States that Europol could be granted a role also in the fight against terrorism originating from specific regions that have been identified as a priority area.

Europol's relation to other EU law enforcement and intelligence agencies partly lacks a clear division of functions. An overall catalogue of the tasks of Europol and of other EU law enforcement and intelligence agencies needs to be drawn up, making clear divisions. In this respect, Europol deserves a central role because of its long experience and its unique legal framework and multi-disciplinary character, e.g. regarding information analysis and processing. With a view to the ongoing discussion on the EU internal security architecture, a security plan at the European level would be advantageous and it would help to define the role of Europol and thereby allow Europol to exploit its full potential.

Europol should play a stronger role in the fight against internet crime. Subject to an appropriate business case, Europol could monitor the internet for serious crime such as child pornography and, subject to ongoing discussions within the Council structure, terrorism related offences.

In order for Europol to support cross-country controlled deliveries in a more efficient manner a mechanism for aligning national systems for controlled deliveries should be established. In the long term, consideration could be given to setting up a European tracking system.

Europol could act as a service provider for a general EU-wide DNA database that is not limited to the forms of crime under Europol's mandate.

Europol could also become a communication platform to support specific police units in different MS who feel the need to communicate more easily and cooperate more closely. (CARIN-network and ATLAS-project).

Allowing the usage of Europol's secure ICT infrastructure for bilateral exchange of information between the Member States (Europol as service provider) would also be beneficial. Where possible, information exchanged bilaterally should be included in appropriate Europol databases.

b. Europol's support to operational work

Current arrangements for sharing information with Europol are up to the task, and allow the necessary flexibility to protect sensitive sources. Further legislation to guarantee the exchange of data may not be required, but an improved will to share information where it is appropriate to do so is.

a) Information processing

In the area of information exchange it is necessary to work on faster and more accurate feedback from MS on their use of Europol analytical outputs. The Member States should also provide more relevant information or outputs regarding ongoing investigation.

Member States should ensure that National Units can obtain and provide information without delay. The means of fulfilling this obligation will depend on each Member State, but one option to facilitate this could be to create at national level a legal framework that allows for the integration of police databases to enable/simplify the flow of information to Europol.

Europol's databases are not fully compatible with the databases used across the EU. The flow of information is not always legally and technically possible and is therefore not always determined on operational grounds. The MS, Europol and other EU actors should take the requirement of interoperability into consideration when designing their ICT systems.

Europol should be allowed to cooperate with private entities such as universities or credit card companies in order to obtain information from them. An intelligence-led approach entails that information from multiple sources is combined to allow for the best possible assessment of a particular crime-related problem or situation. This means the combination of information from law enforcement sources - both within and outside the European Union - with information from open sources and information from private parties. Arrangements for public-private partnership in this area must be explored and promoted.

Europol does not have the same possibilities and access conditions as the Member States to the databases already existing within the EU. Where relevant, Europol should be given access to EU information systems (e.g. SIS, VIS, Eurodac, CIS).

Currently the Europol National Units are impeded from having the same access to all information in the Europol Information System as Europol officials. The limitation stemming from Art. 7 (1) of the Europol Convention (restricted access for ENUs to EIS information) should be removed.

The prohibition to connect Europol systems with other systems than the system of the Europol National Units should also be removed, subject to maintaining the security of Europol's own systems.

MS should also ensure that due attention is paid to putting the Europol Information System into running order as far as MS' data delivery is concerned, which requires a common effort and must not suffer any further delay.

Europol should continue to work on its 'state of the art', business driven IT-strategy in order to enable Europol and the MS's law enforcement authorities to work with full efficiency on the exchange and analysis of information.

To make full use of Europol, an automated cross-check mechanism should be put in place that automatically checks information in the different Europol systems (e.g. AWF, IS, InfoEx) for cross-references, and wherever the handling codes applied allow for this, notify the owners of the information (Europol should be enabled to act as a black-box facilitator for all data exchanged via and processed at Europol).

b) The role of Europol in the implementation of the principle of availability

The principle of availability will enhance the flow of information between Member States and, where appropriate, with Europol. When finding technical solutions to implement the principle there is a need to consider the existing channels. Europol would be one possible service provider.

It was emphasised that discussions on the principle of availability and the associated role of Europol should be in line with the Hague Programme which drew an important distinction between law enforcement activity and security and intelligence activities. The principle of availability should 'govern' the exchange of information for law enforcement purposes, but must only be 'taken into account' when exchanging information between security services.

Where necessary for the fulfilment of its tasks Europol should get access to the IT systems of the Member States on the same footing as law enforcement authorities in other Member States (e.g. regarding DNA, fingerprints, etc).

Building on the 2003 protocol and with reference to the Europol National Unit, Europol's databases (with the exception of AWFs and the Index System) should be made directly accessible for MS law enforcement authorities and competent EU institutions and bodies.

c) Data protection rules

There should be coherence between the Europol legal framework and the forthcoming third pillar instrument on data protection on assessing the adequacy of data protection arrangements in third countries.

More flexible data protection rules should be put in place whilst maintaining the high level of data protection standards currently guaranteed.

A more efficient and flexible system for individuals' right of access to Europol data should be put in place.

In addition, the function of a data protection officer should be established in Europol's main legal instrument.

It should also be legally ensured that the JSB is involved in the process of drafting secondary legislation dealing with information processing (e.g. analysis rules).

d) Data Processing Rules

The current rules on the processing of personal data make it almost impossible to entrust new tasks in the area of data processing to Europol. A legal basis should be created for specialised databases at Europol, e.g. in the area of child pornography and terrorism.

The current review process for personal data is too time consuming for analysts and diverts them from their operational tasks. Therefore the annual data review should be changed into a review every three years.

Requirements from Europol as regards the technical and operational prerequisites for data to be submitted by MS law enforcement agencies need to be adhered to.

e) Analytical support and intelligence-led policing

In order to provide maximum support to Member States' competent authorities, Europol's analytical capacity should be used as efficiently as possible. Its analytical capacity should be further enhanced by finalizing OASIS as soon as possible with full involvement of the IMT department, employing more analytical assistants, and Member States adhering to the requirements for data to be submitted.

Europol and the HENUs should draw up an inventory of the methods, skills, knowledge and so on required for successfully implementing intelligence-led policing. This should result in recommendations on intelligence-led policing for Europol and the Member States. Europol and Cepol should organise training on the subject.

Europol should draw up a proposal describing how it intends to deal with the OCTA priorities.

f) Europol Liaison Officers (ELOs)

ELOs do not always have direct access to relevant information held by their MS. Therefore MS should try to ensure that their ELOs have online access to national databases, but in any case they should be in the position to deliver replies in an appropriate time.

g) Europol National Units (ENUs)

The ENUs are not always capable of fulfilling their role as outlined in the Europol Convention due to their position within national structures. It is important to promote the reinforcement of the role of National Units within national structures.

All competent authorities at national level should be determined as (part of the) Europol National Unit(s), subject to a decision by the MS with reference to the specific mandate of these authorities.

h) Europol's contact with other LEA (non-ENU)

It is not determined how contacts between Europol and law enforcement agencies (LEA) other than the Europol National Unit should take place. MS are invited to make full use of the possibilities for direct contact as provided for by the 2003 Protocol amending the Europol Convention.

i) Regional initiatives

Regional threats become more relevant for MS and therefore regional initiatives to counter these threats become more important. Without prejudice to Europol giving priority to its core business, Europol should play an active part in bi- or multilateral projects (of at least two MS with third states and organisations) aiming at increasing the stability and security of key foreign partners and regions, for instance in the Western Balkans.

j) Role of MS liaison officers

It is unclear whether ELOs may exchange non-mandate information via Europol channels. Liaison officers should be formally allowed to exchange all information (including non-mandate information) between themselves.

c. Partnership with EU institutions and bodies - Europol's role within the architecture of internal security in the EU

a) Partnership with EU institutions and bodies

At present many different bodies are dealing with serious international crime without clear coordination on EU level. Therefore a comprehensive concept for the relations between Europol and other relevant institutions in the EU and the Member States should be established.

The Europol strategy for external relations should be updated and brought in line with the EU action oriented paper on Western Balkans, and it should consider the role of Europol in the Western Balkans and in other regions.

The procedure to set up a cooperation agreement as a basis for operational cooperation between Europol and EU bodies takes far too long and should therefore be simplified.

b) Rules for cooperation with third parties

The modalities for Europol to enter into structured cooperation with third states and bodies (four different instruments) are complicated and unclear. The rules for cooperation with third partners should be reviewed in order to provide more clarity (within JHA decision making process) and eliminate lengthy procedures. The rules should be simplified by replacing the four instruments with two (one MB decision and one Council decision).

It is necessary to clarify the possibilities under the current provision on transmission of personal data to third parties that permit Europol to exchange information also with countries that do not have an adequate data protection standard as stipulated in article 18 of the Europol Convention.

d. Corporate governance and oversight

Europol needs more flexible and efficient procedures for its management and supervision. Setting clear objectives for the Management Board on the one hand and the Director on the other hand is essential.

a) Management Board (MB)

The MB is currently the sole body ensuring representation of MS within Europol. It was proposed to make the MB a strategic body dealing with high level decisions, not being a forum for Member States' representation. Some advocated a new Management Board that convenes with a limited number of members only, other said that every MS should have a seat on the board.

The tasks of the Management Board, the Director and other key organs in the governance arrangements of Europol should be clearly defined. The Management Board (and the related groups) should focus their activities on the adequate level of policy, legal and administrative issues (no micro management), and meet based on business needs (in order to save substantial human and financial resources, both at Europol and in the Member States). The Director should manage the day-to-day affairs of the organisation.

When it comes to more operational matters, such as Analysis Work Files, more responsibility should be given to the Heads of Europol National Units (HENUs), who could become an operational expert group to advise also the MB, not just the Director (as already legally possible). More often the work currently done by the MB should be prepared by sub-groups of the MB.

Management support should be available to the Europol Director in a smaller forum of the Management Board like the Troika, Friends of Presidency or in an expert structure.

For better cost-effectiveness the supervision of Europol could be divided into two, administrative (functioning of the organisation) and professional. Professional supervision could be managed by the PCTF. The MB would be responsible for the supervision of the functioning of the organisation (administrative, financial tasks etc). In between these two sessions a new body (an "Executive Management Board" - a broader Troika consisting of several MS) would have the responsibility of managing other questions, holding meetings in accordance with its business needs. In addition, several points could be arranged by subcommittees or in the framework of written procedure or at the level of experts.

The standard quorum in the MB should be simple majority and where specifically mentioned in the Europol legal instrument, two thirds majority.

b) Director

Member States who were in favour of giving the Director more managerial competences proposed that he should be granted more autonomy in areas such as expression of Europol's views at Council level, cooperation with external partners, human resources management, budget management and IT development and implementation. The Director should be allowed to take more decisions without having to consult the MB beforehand. The Director should still be accountable to the MB for the decisions taken.

c) HENUs

In some MS the HENUs lack the power to implement at national level the decisions made in the HENU group. The HENUs should be represented at the appropriate level in order to be in the position to implement decisions in their national authorities.

d) Other EU actors

There is no clarity with regard to the distribution of tasks between Europol and the Police Chiefs' Task Force. Co-operation between the PCTF and Europol also lacks a formal legal basis. The relationship between Europol (MB and Director) and the PCTF should be defined.

e) European Parliament

At the moment the role of the EP is limited (EP is only informed of Europol's actions) and most national parliaments do not play any direct role in the work of Europol. Parliamentary oversight and control over Europol's activities should be ensured in order to increase transparency and democratic accountability. Parliamentary oversight and control over Europol's activities must be adequate in order to ensure transparency and democratic accountability whilst maintaining the confidentiality of operational information and procedures.

In line with the 2003 Protocol, the Director, upon invitation and together with the Presidency could report to the EP. A joint supervisory committee could be set up by the EP and national parliaments.

f) European Court of Justice

The present Europol legal framework sets a limited role for the Court of Justice. The role of the Court of Justice with regard to Europol should be compatible with Article 35 Treaty on European Union.

e. Europol awareness

At present Europol is not visible enough for the law enforcement community and the general public. Within its mandate it has an important role to play in promoting awareness of its effectiveness in adding value to Member States' law enforcement activities. National law enforcement authorities should have more contacts with Europol and the achievements of Europol should be better "marketed".

f. Institutional Issues

a) Europol primary legislation - bringing the Europol legislation up to date

The present legal framework (Convention) is too cumbersome to amend and it makes Europol inflexible (compared to Eurojust and CEPOL). A "state of the art" third pillar legal framework for Europol should be created and the Europol Convention should be transformed into a Council decision.

b) Europol secondary legislation - the implementing measures

Many implementing measures (secondary legislation) are presently too detailed. Secondary legislation should be simplified, e.g. by creating one single procedure for preparing and deciding secondary legislation. The Management Board could be designated as the legislative authority (the final authority to decide on the legal text) for staff and financial regulations, rules governing the relations with third parties, and analysis as well as confidentiality rules.

3. The options in matrix format

a. Purpose and boundaries

The purpose of the Options Paper is to present the results of the discussion held during the Austrian Presidency on the Future of Europol. The paper aims at providing an overview on the different ideas expressed during this process, and indicates the way to implement the specific options identified. It presents the diversity of views expressed by the participating experts but it is recognised that there is not an agreed consensus on every proposal. The findings seek to inform debate within the Council structures and do not in any way bind Member States.

b. Structure

The options paper is structured into six different clusters with several themes and problems each. The description of the problem is accompanied by concrete proposals for implementing measures that were proposed to overcome the problem described, information on whether the option can be implemented without delay ('quick win') and whether implementing the option in question has resource implications.

c. Categories used

The 'implementation measure' could either be a change to Europol's main legal instrument, a change to Europol's secondary legislation, a political decision by the Council, a decision by the Management Board, a decision by the Europol Director or a decision by national decision makers.

'Quick wins' are options that can be implemented right away without the need of additional preparatory work. In some cases, quick wins still require the adoption of a legal act or need to be included into the Europol business planning (e.g. work programme).

'Additional resources required' is applicable to those options that can not be implemented by Europol without giving up part of the work currently performed. At this stage it is premature to speculate on the level of additional resources which may be needed.

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
1. Future role of Europol					
<p>a. Mandate</p> <p><i>The future role of Europol shall be based on the general principle that the main responsibility for combating serious international crime and terrorist offences in the EU will remain within the competence of the national law enforcement agencies of the MS.</i></p> <p><i>For Europol to fulfil its potential it must focus on a limited number of priority themes where it can add most value and excel. Reference needs to be made to the existing mechanism for prioritisation by the Council, and the OCTA-process informing this mechanism.</i></p> <p><i>Europol should operate as a multi-agency organisation in full cooperation with all competent national authorities. The definition of which authority is considered to be a competent authority within this context will remain with the MS.</i></p>					
2.	The current mandate is too narrow to allow Europol to address all forms of international crime and to assist with national investigations	Change the Europol mandate as follows: Europol's objective should be to support and strengthen action by the Member States' competent authorities and their mutual cooperation in preventing and combating <u>serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.</u>	Change to Europol main legal instrument	N	N
3.		Change the Europol mandate as follows: Europol's objective should be to support and strengthen action by the Member States' competent authorities and their mutual cooperation in preventing and combating <u>serious international crime and terrorist offences affecting two or more Member States.</u>	Change to Europol main legal instrument	N	N
4.	The area of competence and specific tasks of Europol are not clearly defined. Europol would profit from a clearer distinction between its area of competence and the concrete tasks it has to fulfil.	A new mandate should distinguish clearly between 1. <i>objective</i> [the wording of the current article 2], 2. <i>competences</i> ["instruments": AWF, IS, etc] and 3. <i>tasks</i> [information exchange, analytical work, technical support, etc] following the example of Eurojust).	Change to Europol main legal instrument	N	N
5.	Europol can not respond to requests to support MS in areas	Without prejudice to Europol giving priority to its core business, make it possible for Europol, when requested to do so by the	Change to Europol's main	N	Y

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
	such as threats assessment for major international public events (e.g. Olympic Games, football championships)	Member State(s) concerned, to provide intelligence and analytical support to MS in relation to major events with public order policing impact.	legal instrument		
6.	Currently Europol cannot be entrusted with managing EU-wide internal security databases.	A clause should be included in Europol's legal framework enabling Europol to act as a service provider for EU information systems within the area of internal security but outside the current competence (e.g. a DNA or PNR database).	Change to Europol's main legal instrument	N	Y
7.	Europol cannot support purely national investigations	Without prejudice to Europol giving priority to its core business, in exceptional cases, Europol should not be prohibited from assisting a Member State upon its request in combating forms of serious crime which are only related to that one Member State. This should particularly be the case for crimes that due to their serious nature or dimension have the potential to affect other MS.	Change to Europol's main legal instrument	N	Y

b. Tasks

Europol exists to improve the effectiveness and co-operation of Member States' law enforcement authorities in combating serious international crime and terrorism by facilitating the exchange of information between Member States and by collating and analysing this information.

Europol's added value continues to lie in its ability to support MS' investigations by providing high quality analysis of criminal intelligence. Europol should focus on maximising its expertise and fulfilling its potential in this field.

There are additional means by which Europol could support Member States' operational activities especially by supporting joint investigation teams assisting in processing and analysing information and administration.

Europol should concentrate on its core tasks which are:

- *Facilitating the exchange of information (by means of the IS).*
- *Producing a periodical future orientated threat assessment (OCTA and relevant documents in the field of terrorism)).*
- *Provide added value to the national law enforcement agencies by producing high quality analysis (AWF's).*
- *Cooperating effectively with third countries, international organisations and other European bodies in the context of European internal security.*

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
<i>- Assisting the ELO's network and the network of the liaison officers of Europol in view of their optimal use by the Member States</i>					
8.	Europol's tasks are presently too narrowly defined and MS cannot make full use of Europol's potential.	Europol should not be able to lead JITs. However, building on the protocol of 2002, Europol should be in a position to coordinate a JIT, if requested. This competence would imply the possibility for Europol to suggest that the national members of the JIT perform executive measures in the Member State which they represent, since the execution of coercive measures would remain the sole responsibility of the competent authorities of the concerned MS. It could also imply the possibility of Europol financing JITs.	Possible change to Europol's main legal instrument	N	Y
9.		Europol could, upon MS request, provide analytical support to operational projects under MS responsibility (normally for projects where two or more MS are involved but exceptionally also for a single MS).	Change to Europol's main legal instrument	N	Y
10.		In order to widen the scope of Europol's knowledge management centre it should be possible for Europol to collate and maintain a list of specialist equipment held in one Member State which is available for loan or use in another Member State.	Management Board decision	Y	Y
11.	Europol is not sufficiently recognised as the EU's central office for combating Euro counterfeiting for third parties.	For the exchange of information with third parties Europol should be designated as the principal (alternatively: single) EU central office for combating Euro counterfeiting.	Council political decision	Y	Y
12.		As a long term option, the role of Europol in the fight against counterfeiting of the Euro and possibly other EU crimes (to be defined) should be reinforced by granting Europol investigative (but not coercive) competences (following the model of OLAF with regard to fight against defrauding the Communities' financial interests).	Change to Europol's main legal instrument	N	Y
13.	Experience has shown that	Particularly when suggested by the OCTA, the Member States	Council political decision	Y	Y

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
	combating serious international crime requires regional support.	should grant Europol a stronger role in the fight against serious international crime originating from specific regions (e.g. the Western Balkans) that have been identified as a priority (e.g. through the OCTA) by allowing the secondment of Europol experts to coordinate the numerous EU and, with the approval of the MS concerned, MS law enforcement initiatives in the specific region. They should work in close cooperation with MS' LOs in the region to ensure coherence with Member State initiatives.			
13a		Also, where suggested by relevant documents in the field of terrorism, it was suggested by some Member States that Europol should be granted a role in the fight against terrorism originating from specific regions that have been identified as a priority area.	Council political decision	Y	Y
14.	Europol's relation to other EU law enforcement and intelligence agencies partly lacks a clear division of functions.	<p>An overall catalogue of the tasks of Europol and of other EU law enforcement and intelligence agencies needs to be drawn up, making clear divisions. In this respect, Europol deserves a central role because of its long experience and its unique legal framework and multi-disciplinary character, e.g. regarding information analysis and processing.</p> <p>In this respect, and with a view to the ongoing discussion on the EU internal security architecture, a security plan at the European level would be advantageous and it would help to define the role of Europol and thereby allow Europol to exploit its full potential.</p>	Council political decision on architecture of EU internal security	Y	N
15.	Europol's potential is not fully used in terms of fighting internet crimes that are by nature of an international dimension.	To coordinate MS activities in this field and to avoid duplication of efforts Europol should play a stronger role in the fight against internet crime. Subject to an appropriate business case, Europol could monitor the internet for serious crime such as child pornography and, subject to ongoing discussions within the Council structure, terrorism related offences.	Council political decision and Director's decision (possibly reinforced by a change to Europol's main legal instrument)	Y	N

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
16.	The coordination of EU-wide controlled deliveries is not fully efficient (and would benefit from Europol establishing a tracking system).	In order for Europol to support cross-country controlled deliveries in a more efficient manner a mechanism for aligning national systems for controlled deliveries should be established. In the long term, consideration could be given to setting up a European tracking system.	Council political decision	Y	Y
17.	National investigations cannot be carried out with full efficiency due to inflexible/slow access to DNA related information. A call was made for an EU-wide DNA database to support national investigations.	Europol should act as a service provider for a general EU-wide DNA database.	Change to Europol's main legal instrument	N	Y
18.	Europol's potential to serve as a platform for information exchange is not fully exploited. MS specialised law enforcement units would benefit from increased support in the area of information exchange systems.	Europol should become a communication platform to support specific police units in different MS who feel the need to communicate more easily and cooperate more closely. (CARIN-network and ATLAS-project).	Council political decision	Y	N
19.	Europol's ICT infrastructure is not fully used by MS. Better use could be made by MS of the existing Europol ICT infrastructure.	Allowing the usage of Europol's secure ICT infrastructure for bilateral exchange of information between the Member States (Europol as service provider). Where possible, information exchanged bilaterally should be included in appropriate Europol databases.	Management Board decision	Y	N

4. Europol's support to operational work

a. Information processing – concepts for enhancing and guaranteeing the exchange of data between MS and Europol

It is the responsibility of the Member States to eliminate all technical and legal obstacles hampering the continuous and full flow of relevant information to Europol. Current arrangements for sharing information with Europol are up to the task, and allow the necessary flexibility to protect sensitive sources. Further legislation to guarantee the exchange of data may not be required, but an improved will to share information where it is appropriate to do so is.

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
<i>MS should also ensure that due attention is paid to putting the Europol Information System into running order as far as MS' data delivery is concerned, which requires a common effort and must not suffer any further delay.</i>					
20.	Europol's information processing potential is not fully used by MS.	In the area of information exchange it is necessary to work on faster and more accurate feedback from MS on their use of Europol analytical outputs. The Member States should also provide more relevant information or outputs regarding ongoing investigations.	MS management decision	Y	N
21.	In some MS there is a problem with legislation regulating (national) information systems, i.e. police databases are sometimes regulated by heterogeneous laws.	Member States should ensure that National Units can obtain and provide information without delay. The means of fulfilling this obligation will depend on each Member State, but one means to facilitate this could be to create a legal framework at national level which allows for the integration of police databases to enable/simplify the flow of information to Europol.	MS management decision	N	N
22.	Currently there is no solid legal basis for Europol to receive data from other entities than those mentioned in Art. 10 (4) of the Europol Convention (public entities). There is a need to enable Europol to receive data from private bodies.	Europol should be allowed to cooperate with private entities such as universities or credit card companies in order to obtain information from them. An intelligence-led approach entails that information from multiple sources is combined to allow for the best possible assessment of a particular crime-related problem or situation. This means the combination of information from law enforcement sources - both within and outside the European Union - with information from open sources and information from private parties. Arrangements for public-private partnership in this area must be explored and promoted.	Change to Europol's main legal instrument	N	N
23.	Europol does not have the same possibilities and access conditions as the Member States to the databases already existing within the EU.	Where relevant for the fulfilment of its tasks, Europol should be given access to EU information systems (e.g. SIS, VIS, Eurodac, CIS).	Change to legal instruments governing EU databases	N	Y
24.	The current legal framework does	The prohibition to connect Europol systems with other systems	Change to Europol's main	N	N

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
	not allow Europol to fully employ possibilities offered by new technology to identify links between information.	than the system of the Europol National Units should be removed, subject to maintaining the security of Europol's own systems.	legal instrument		
25.	Europol is often requested to report on the information flow towards Europol without being in the possession of the data necessary for this task.	The mechanism to assess and report on the quantity and quality of the cooperation between MS and Europol should be further developed.	MB decision	Y	N
26.	Europol's databases are not fully compatible with the databases used across the EU. The flow of information is not always legally and technically possible and is therefore not always determined on operational grounds.	The MS, Europol and other EU actors should take the requirement of interoperability into consideration when designing their ICT systems.	Council political decision	Y	N
27.	Currently the Europol National Units are impeded from having the same access to all information in the Europol Information System as Europol officials.	The limitation stemming from Art. 7 (1) of the Europol Convention (restricted access for ENUs to EIS information) should be removed.	Change to Europol's main legal instrument	N	Y
28.	Since the operational activities of Europol build entirely on the exchange and analysis of information, Europol must have a 'state of the art' business driven IT-strategy.	Europol should continue to work on its 'state of the art', business driven IT-strategy in order to enable Europol and the MS's law enforcement authorities to work with full efficiency on the exchange and analysis of information.	Director's decision	Y	N
29.	The majority of cross links between data exchanged via Europol are not detected. In addition, information exchanged by the Liaison Officers	To make full use of Europol an automated cross-check mechanism should be put in place that automatically checks information in the different Europol systems (e.g. AWF, IS, InfoEx) for cross-references and wherever the handling codes	Director's decision on a Europol Information Plan (possibly reinforced by a change to Europol's main	Y	Y

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
	via Europol is in many cases not cross-checked against other information available at Europol.	applied allow for this, notify the owners of the information (Europol should be enabled to act as a black-box facilitator for all data exchanged via and processed at Europol).	legal instrument)		
b. The role of Europol in the implementation of the principle of availability					
<i>The principle of availability will enhance the flow of information between Member States and, where appropriate, with Europol. When finding technical solutions to implement the principle there is a need to consider the existing channels. Europol would be one possible service provider.</i>					
<i>It was emphasised that discussions on the principle of availability and the associated role of Europol should be in line with the Hague Programme which drew an important distinction between law enforcement activity and security and intelligence activities. The principle of availability should 'govern' the exchange of information for law enforcement purposes, but must only be 'taken into account' when exchanging information between security services. Importance was attached to this distinction when considering what degree of regulation is necessary to improve information exchange.</i>					
30.	Europol does not always have direct access to information relevant to its tasks.	Where necessary for the fulfilment of its tasks Europol should get access to the IT systems of the Member States on the same footing as law enforcement authorities in other Member States (e.g. regarding DNA, fingerprints, etc).	Change to Europol's main legal instrument and relevant national legislation	N	Y
31.	The information held in Europol's databases is not fully available for MS law enforcement authorities and competent EU bodies and thus not fully used.	Building on the 2003 protocol and with reference to the Europol National Unit, Europol's databases (with the exception of AWFs and the Index System) should be made directly accessible for MS law enforcement authorities and competent EU institutions and bodies.	Change to Europol's main legal instrument	N	N
c. Data protection rules					
<i>There should be coherence between the Europol legal framework and the forthcoming third pillar instrument on data protection on assessing the adequacy of data protection arrangements in third countries.</i>					
32.	Data protection rules are sometimes too rigid and outdated.	More flexible data protection rules should be put in place whilst maintaining the high level of data protection standards currently guaranteed.	Change to Europol's main legal instrument and secondary legislation	N	N
33.	The current system for individuals' right of access to information related to them held at Europol is	A more efficient and flexible system for individuals' right of access to Europol data should be put in place, possibly following the example of the relevant provisions in the Eurojust	Change to Europol's main legal instrument	N	N

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
	neither helpful for the individuals nor workable for Europol.	Decision.			
34.	At the moment there is no obligation to involve the JSB in the elaboration of all secondary data processing legislation.	It should be legally ensured that the JSB is involved in the process of drafting secondary legislation dealing with information processing (e.g. analysis rules).	Change to Europol's main legal instrument	N	N
35.	The function of a data protection officer is not mentioned in the Europol Convention.	The function of a data protection officer should be established in Europol's main legal instrument following the example of the Eurojust decision.	Change to Europol's main legal instrument and to secondary legislation	N	N
d. Data Processing rules					
36.	The current rules on the processing of personal data make it almost impossible to entrust new tasks in the area of data processing to Europol.	A legal basis should be created to allow Europol to set up specialised databases, e.g. in the area of child pornography and terrorism. For example, Europol could easily set up a system accessible to specialised law enforcement authorities where the websites used in distributing child pornography (material) are already the subject of investigation by the authorities in Member States, thus avoiding duplication of efforts, and allowing interested parties to become associated with an on-going investigation. The same could be done for web-sites related to terrorism.	Change to Europol's main legal instrument	N	Y
37.	The current review process for personal data is too time consuming for analysts and diverts them from their operational tasks.	The current annual data review should be changed into a review every three years.	Change to Europol's main instrument and secondary legislation	N	N
38.	Europol can not process data provided by MS LEA if they are not provided in line with technical and operational requirements	Requirements from Europol as regards the technical and operational prerequisites for data to be submitted by MS law enforcement agencies need to be clearly established and adhered to.	Management decision	Y	N
e. Analytical support and intelligence-led policing					

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
<i>Together with information exchange, analysis forms Europol's core business. In order to provide maximum support to Member States' competent authorities, Europol's analytical capacity should be used as efficiently as possible. With the OCTA, the concept of intelligence-led policing was introduced at Europol.</i>					
39.	Europol's suffers from a lack of analytical capacity - analytical capacity should be further enhanced.	Increase analytical capacity through: -finalising OASIS as soon as possible with full involvement of the IMT department, - employing more analytical assistants, - requiring Member States to adhere to the requirements for data to be submitted (see option 38)	Management decision	Y	Y
40.	The concept of intelligence-led policing is relatively new and there are therefore only a few organisations in the EU that have experience with it.	Europol and the HENUs should draw up an inventory of the methods, skills, knowledge and so on required for successfully implementing intelligence-led policing. This should result in recommendations on intelligence-led policing for Europol and the Member States. Europol and Cpol should organise training on the subject.	Management decision	Y	N
41.	The JHA-Council will for the first time designate EU priorities based on the OCTA.	Europol should draw up a proposal describing how it intends to deal with the OCTA priorities.	Management decision	Y	N
f. Europol Liaison Officers (ELOs)					
42.	ELOs do not always have direct access to relevant information held by their MS.	Member States should try to ensure that their ELOs have online access to national databases, but in any case they should be in a position to deliver replies within an appropriate timeframe.	Management Decision at national level.	Y	N
g. Europol National Units (ENUs)					
43.	The ENUs are not always capable of fulfilling their role as outlined in the Europol Convention due to their	It is important to promote the reinforcement of the role of National Units within national structures.	Management decision at national level	Y	N

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
	position within national structures.				
44.		All competent authorities at national level should be determined as (part of the) Europol National Unit(s), subject to a decision by the MS with reference to the specific mandate of these authorities.	Management decision at national level	Y	N
45.	Sometimes it takes too much time to receive a response from a National Unit.	National units need to be enabled to reply to Europol requests in due time.	Management decision at national level	Y	N
h. Europol contact with other LEA (non-ENU)					
46.	It is not determined whether contacts between Europol and law enforcement agencies (LEA) other than the Europol National Unit should take place via the ENU (as stipulated by the current Europol Convention), when permitted by the ENU (as mentioned in the third protocol) or directly between Europol and all LEA. Neither is it clear whether a distinction should be made within this context between administrative and operational information.	MS are invited to make full use of the possibilities for direct contact as provided for by the 2003 Protocol amending the Europol Convention.	Management decision at national level	Y	N
i. Regional initiatives					
47.	Regional threats become more relevant for EU MS, therefore regional initiatives become more important.	A key factor for success is to support and increase regional co-operation or co-operation between MS with a common problem.	Management Board decision Director's decision	Y	N

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
48.		Without prejudice to Europol giving priority to its core business, Europol should play an active part in bi- or multilateral projects (of at least two MS with third states and organisations) aiming at increasing the stability and security of key foreign partners and regions (as defined in the OCTA and relevant documents in the field of terrorism, for instance TESAT), for instance in the Western Balkans. This can be done by either providing expertise from Europol personnel on the ground or by providing analytical support, and making use of the common knowledge accumulated by Europol.	Management Board decision Director's decision	Y	N
j. Role of MS liaison officers					
49.	It is unclear whether ELOs may exchange non-mandate information via Europol channels.	Liaison officers should be formally allowed to exchange all information (including non-mandate information) between themselves.	Change to Europol's main legal instrument	N	N
5. Partnership issues					
a. Partnership with EU institutions and bodies – Europol's role within the architecture of internal security in the EU					
50.	At present many different bodies are dealing with serious international crime without clear coordination on EU level.	A comprehensive concept for the relations between Europol and other relevant institutions in the EU and the Member States should be established. The action of all EU bodies and organs involved in the fight against serious international crime, including cooperation between Europol and EU police missions, should be coordinated.	Council political decision	Y	N
51.		The Europol strategy for external relations should be updated and brought in line with the EU strategy and the EU action oriented paper on the Western Balkans, and it should consider the role of Europol in the Western Balkans and in other	Management Board decision	Y	N

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
		regions.			
52.	The procedure to conclude a cooperation agreement as a basis for operational cooperation between Europol and other EU bodies and agencies takes far too long.	The procedure for concluding cooperation agreements between Europol and EU bodies and agencies should be simplified.	Change to Europol's secondary legislation	Y	N
b. Rules for cooperation with third parties <i>It is important that negotiations with third parties are governed by operational need and strategic objectives. The task of identifying countries should be proactive rather than reactive.</i>					
53.	The modalities for Europol to enter into structured cooperation with third states and bodies are complicated and unclear (since they are regulated by four different instruments).	The rules for cooperation with third partners should be reviewed in order to provide more clarity (within JHA decision making process) and eliminate lengthy procedures although the system of EU supervision shall be guaranteed. The rules should be simplified by replacing the four instruments with two (one MB decision and one Council decision).	Change to Europol's secondary legislation	Y	N
54.	The possibilities under the current legal framework to exchange data with third parties are not fully exploited due to uncertainty as to their precise scope.	It is necessary to clarify the possibilities under the current provision on transmission of personal data to third parties that permit Europol to exchange information also with countries that do not have an adequate data protection standard as stipulated in article 18 of the Europol Convention.	Management Board decision	Y	N
6. Corporate Governance and oversight <i>Europol needs more flexible and efficient procedures for its management and supervision. Setting clear tasks and objectives for the Management Board on the one hand and the Director on the other hand is essential. In particular, the Board must allow the Director greater freedom to develop Europol and to take day to day management decisions without constant recourse to the Board. But the Board must set priorities and the Director has to be accountable to the Board for the implementation of strategies and priorities.</i>					
55.	The structures for governing Europol are neither fully efficient	The corporate governance of Europol needs to be streamlined; the Director should be given the possibility to effectively	Management Board decision	Y	N

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
	nor effective. Roles and responsibilities within the existing legal framework are not sufficiently clear.	implement the strategic directives given by the Member States. The work of the MB subgroup on corporate governance should be taken into consideration in this endeavour.			

a. Management Board (MB)

It was stated that a clear structure for oversight, planning, and supervising the implementation of the planning is needed. The MB is currently the sole body ensuring representation of MS within Europol. It was proposed to make the MB a strategic body dealing with high level decisions not a forum for Member States' representation. Some advocated for a new Management Board that convenes with a limited number of members only, others said that every MS should have a seat on the board.

The Management Board (and related groups) should:

- *focus their activities on the adequate level of policy, legal and administrative issues (no micro management);*
- *meet based on business needs (in order to save substantial human and financial resources, both at Europol and in the Member States);*

In the discussion on the future corporate governance of Europol reference should be made to the work in the relevant Management Board subgroups.

The real shareholders (and stakeholders) should be represented at the MB, making decisions for the benefit of the law enforcement authorities.

56.	The level of Europol's internal bureaucracy is currently too high which weakens the functioning of the organisation. The tasks of the MB, the Director have not been clearly determined.	The tasks of the Management Board, the Director and other key organs in the governance arrangements of Europol should be clearly defined. The Management Board should be refocused on strategic oversight. The Director should manage the day-to-day affairs of the organisation. When it comes to more operational matters, such as Analytical Work Files, more responsibility should be given to the Heads of Europol National Units (HENUs), which could become an operational expert group to advise also the MB, not just the Director (as already legally possible). Management support should be available to the Europol Director in a smaller forum of the Management Board like the	Management Board decision	Y	N
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Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
		Troika, Friends of the Presidency or in an expert structure.			
57.	The MB's work involves too much paper work.	<p>Resources could possibly be saved on both sides if a clear expectation would be expressed on the precise role of the MB in Europol's corporate governance.</p> <p>The Secretariat should assist by ensuring that all documentation tabled for the Management Board was sufficiently focused and presented clear recommendations for action.</p> <p>Making the bodies representing the Member States at Europol act in a more coherent way and have them express their views on Europol's direction with one voice should clearly increase the efficiency of Europol's corporate governance system.</p>	Management Board decision	Y	N
58.	The MB should be given the possibility to focus more on the core issues like strategic management and less on micro management.	MB actions should be more strategy based. More often the work currently done by the MB should be prepared by sub-groups of the MB. For that to be possible clear instructions from the Management Board are needed as well as consistent representation of the Member States at the different levels of Europol's corporate governance.	Management Board decision	Y	N
59.	There are too many MB meetings.	The number of MB meetings should be decided in accordance with business needs.	Management Board decision	Y	N
60.	The MBs structure and decision making procedures are not in line with the needs of the current EU of 25 MS – possibly because of the existing lack of clarity as regards its role and remit.	The standard quorum in the MB should be simple majority and where specifically mentioned in the Europol legal instrument, two thirds majority.	Change to Europol's main legal instrument and to secondary legislation	N	N
61.		The supervision of Europol should be divided into two, administrative (functioning of the organisation) and professional. Professional supervision should be managed by	Management Board decision	Y	N

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
		the PCTF.			
62.		The MB would be responsible for the supervision of the functioning of the organisation (administrative, financial tasks etc). A new body (an "Executive Management Board" - a broader Troika consisting of several MS) would have the responsibility of managing other questions, holding meetings in accordance with its business needs. In addition, several points could be arranged by subcommittees or in the framework of a written procedure or at the level of experts. This cost-effective model would allow the Management Board to discuss mainly the management of the organisation (and not professional problems coming under the experts' tasks) while all professional related questions could be managed by professionals and experts.	Council political decision	Y	N
63.		A clause could be inserted in the MB's Rules of Procedure stating that not all but for example five MS (the extended Troika) could take decisions about ongoing matters whereby the MB could limit itself entirely to advising the JHA Council about major policy questions, the work programme, the budget and the annual report in addition to laying down a number of implementing regulations. The number of meetings of the full MB could then be reduced from the current six to two or three per year. Ad hoc committees of the MB and subgroups should be used more often.	Management Board decision	Y	N

b. Director

Those who were in favour of giving the Director more managerial competences proposed that he should be granted more autonomy in areas such as:

- *expression of Europol's views at Council level;*
- *cooperation with external partners;*
- *human resources management;*

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
<ul style="list-style-type: none"> • <i>budget management;</i> • <i>IT development and implementation.</i> 					
64.	The present governance structure does not leave enough room to manoeuvre to the Director.	The powers of the Director in the operational management of Europol should be strengthened. The Director should be allowed to take more decisions without having to consult the MB on beforehand. The Director should still be accountable to the MB for the decisions taken.	Change to secondary legislation	N	N
c. HENUs					
65.	In some MS the HENUs lack the power to implement at national level the decisions made in the HENU group.	The HENUs should be represented at the appropriate level in order to be in the position to implement decisions in their national authorities.	Management decision as national level	Y	N
d. Other EU actors					
66.	There is no clarity with regard to the distribution of tasks between Europol and the Police Chiefs' Task Force. Co-operation between the PCTF and Europol also lacks a formal legal basis.	The relationship between Europol (MB and Director) and the PCTF should be defined. Formalising the cooperation between Europol and the PCTF could clarify the situation and make the activity of Europol more operational, but it should be ensured that the PCTF does not become a second body assigning tasks to Europol.	Management Board decision (change to MB Rules of procedure)	Y	N
e. European Parliament					
67.	At the moment the role of the EP is limited (EP is only informed) and national parliaments do in many MS not play any direct role in the work of Europol. This may have a negative effect on transparency	Democratic control of Europol should be developed in accordance with the extension of Europol's powers. Parliamentary oversight and control over Europol's activities must be adequate in order to ensure transparency and democratic accountability whilst maintaining the confidentiality	Change to Europol's main legal instrument	N	N

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
	and democratic accountability.	of operational information and procedures. In case Europol's operational powers would be increased, an increase in the exchange of intelligence takes place and a more flexible legal framework is put in place, there is a clear case to be made for more parliamentary oversight over Europol's functioning. At the same time it must be ensured that such oversight would not have any unintended negative effects on Europol's effectiveness.			
68.		In line with the 2003 Protocol, the Director, upon invitation and together with the Presidency, could report to the EP. A joint supervisory committee could be set up by the EP and national parliaments.	Council political decision Change to Europol main legal instrument	Y	N
f. Court of Justice					
69.	The present Europol legal framework sets a limited role for the Court of Justice (compared to Article 35 TEU).	The role of the Court of Justice with regard to Europol should be compatible with Article 35 TEU.	Change to Europol's main legal instrument plus change to the relevant Protocol	N	N
<p>7. Europol awareness</p> <p><i>Europol should focus on delivering to its full potential within the priorities set by the Management Board. It should not become a pressure group pursuing an independent agenda. Within its mandate it has an important role to play in promoting awareness of its effectiveness in adding value to Member States' law enforcement activities. It should complement the work of the Member States in drawing the law enforcement authorities' attention to itself. The Director should also, within available resources, respond to reasonable requests to appear before national parliaments and other important national forums to speak and answer reasonable questions about Europol's work and the implementation of the Board's priorities as elaborated in Europol's Annual Reports. However, the Director is, and should remain, accountable to the Board.</i></p>					
70.	At present Europol is not visible enough for the law enforcement community and the general public.	National law enforcement authorities should have more contacts with Europol (via National Units or directly depending on the decision of the Member State concerned).	Management decision on national level	Y	N
71.		The successes of Europol should be better "marketed".	Director's decision plus	Y	Y

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
			Management decision on national level		
8. Institutional Issues					
a. Europol primary legislation - bringing the Europol legal framework up to date					
72.	The present legal framework (Convention) is too cumbersome to amend and it makes Europol inflexible (compared to Eurojust and CEPOL).	A "state of the art" third pillar legal framework for Europol should be created and the Europol Convention should be transformed into a Council decision.	Change to main legal instrument	N	N
b. Europol secondary legislation – the implementing measures					
73.	Many implementing measures (secondary legislation) are presently too detailed (for instance staff regulations).	Secondary legislation should be simplified, e.g. by creating one single procedure for preparing and deciding secondary legislation.	Change to main legal instrument and secondary legislation	N	N
74.	Staff Regulations	Designate the Management Board as the legislative authority (final authority to decide on the legal text).	Change to main legal instrument and secondary legislation	N	N
75.	Financial Regulations	Designate the Management Board as the legislative authority.	Change to main legal instrument and secondary legislation	N	N
76.	Rules governing the relations with third parties	Designate the Management Board as the legislative authority (with a possible clause in the Europol main legal instrument that foresees a role for the Council in deciding on the cooperation partners of Europol).	Change to main legal instrument and secondary legislation	N	N
77.	Analysis Rules	Designate the Management Board as the legislative authority (with a possible clause in the Europol main legal instrument	Change to main legal instrument and secondary	N	N

Nr	Problem	Concrete option	Implementation measure	Quick Win	Additional resources required
		that foresees a role for the Council for some data processing aspects).	legislation		
78.	Confidentiality Rules	Designate the Management Board as the legislative authority.	Change to main legal instrument and secondary legislation	N	N

4. List of possible quick wins

Options 10, 11, 13, 13a, 14, 15, 18, 19, 20, 25, 26, 28, 29, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, 61, 62, 64, 66.

5. List of options that require further work

Options 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 16, 17, 21, 22, 23, 24, 27, 30, 31, 32, 33, 34, 35, 36, 37, 45, 56, 60, 63, 65, 68, 69, 70, 71, 72, 73, 74.

6. List of resource neutral options

Options 2, 3, 4, 6, 11, 14, 15, 18, 19, 20, 21, 22, 24, 25, 26, 28, 31, 32, 33, 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, 69, 70, 71, 72, 73, 74.

7. List of options with resource implications

Options 5, 7, 8, 9, 10, 12, 13, 13a, 16, 17, 27, 29, 30, 36, 67.

8. List of options requiring a change to Europol's main legal instrument

Options 2, 3, 4, 5, 6, 7, 8, 9, 12, 15, 17, 22, 24, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 49, 60, 67, 68, 69, 72, 73, 74, 75, 76, 77, 78,

9. List of options requiring a change to Europol's secondary legislation

Options 32, 35, 37, 52, 53, 60, 64, 73, 74, 75, 76, 77, 78,

10. List of options for political decision at Council level (non-legal instrument)

Options 11, 13, 13a, 14, 15, 16, 18, 26, 50, 62, 68,

11. List of options for decisions at Europol MB level

Options 10, 19, 25, 38, 39, 40, 41, 47, 48, 51, 54, 55, 56, 57, 58, 59, 61, 63, 66,

12. List of options for decisions for the Europol Director

Options 15, 28, 29, 47, 48, 71,

13. List of options for national decision makers

Options 20, 21, 30, 42, 43, 44, 45, 46, 65, 70, 71,