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## **REPORT**

on the initiative of the Kingdom of Belgium with a view to the adoption of a Council Decision adjusting the basic salaries and allowances applicable to Europol staff  
(14628/2001 – C5-0682/2001 – 2001/0830(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Gérard M.J. Deprez

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

By letter of 17 December 2001 the Council consulted Parliament, pursuant to Article 39 of the EU Treaty, on the initiative of the Kingdom of Belgium with a view to the adoption of a Council Decision adjusting the basic salaries and allowances applicable to Europol staff (14628/2001 – 2001/0830(CNS)).

At the sitting of 16 January 2002, the President of Parliament announced that he had referred this proposal to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and the Committee on Budgets for its opinion (C5-0682/2001).

At its meeting of 20 February 2002 the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Gérard M.J. Deprez rapporteur.

At its meetings of 19 March 2002 and 14 May 2002, the committee considered the initiative of the Kingdom of Belgium and the draft report.

At the last meeting it adopted the draft legislative resolution rejecting the initiative unanimously.

The following were present for the vote: Ana Palacio Vallelersundi, chairman; Robert J.E. Evans, Lousewies van der Laan and Giacomo Santini, vice-chairmen; Gérard M.J. Deprez, rapporteur; Hans Blokland (for Ole Krarup, pursuant to Rule 153(2)), Christian Ulrik von Boetticher, Giuseppe Brienza, Kathalijne Maria Buitenweg (for Alima Boumediene-Thiery), Marco Cappato (for Mario Borghesio), Charlotte Cederschiöld, Carmen Cerdeira Morterero, Ozan Ceyhun, Carlos Coelho, Giuseppe Di Lello Finuoli, Jorge Salvador Hernández Mollar, Pierre Jonckheer, Anna Karamanou (for Gerhard Schmid), Margot Keßler, Timothy Kirkhope, Lucio Manisco (for Fodé Sylla), Luís Marinho (for Sérgio Sousa Pinto), William Francis Newton Dunn, Arie M. Oostlander (for Thierry Cornillet), Elena Ornella Paciotti, Paolo Pastorelli (for Eva Klamt), Hubert Pirker, Martine Roure, Heide Rühle, Olle Schmidt (for Baroness Sarah Ludford), Ilka Schröder, Ole Sørensen (for Francesco Rutelli), Patsy Sörensen, The Earl of Stockton (for Hartmut Nassauer), Joke Swiebel, Anna Terrón i Cusí, Maurizio Turco, Gianni Vattimo (for Martin Schulz) and Olga Zrihen Zaari (for Adeline Hazan).

The opinion of the Committee on Budgets is attached.

The report was tabled on 15 May 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## LEGISLATIVE PROPOSAL

### **Initiative of the Kingdom of Belgium with a view to the adoption of a Council Decision adjusting the basic salaries and allowances applicable to Europol staff (14628/2001 – C5-0682/2001 – 2001/0830(CNS))**

The initiative is rejected.

## DRAFT LEGISLATIVE RESOLUTION

### **Legislative resolution of the European Parliament on the initiative of the Kingdom of Belgium with a view to the adoption of a Council Decision adjusting the basic salaries and allowances applicable to Europol staff (14628/2001 – C5-0682/2001 – 2001/0830(CNS))**

#### **(Consultation procedure)**

*The European Parliament,*

- having regard to the initiative of the Kingdom of Belgium (14628/2001<sup>1</sup>),
  - having been consulted by the Council pursuant to Article 39 of the EU Treaty (C5-0682/2001),
  - having regard to Rules 106 and 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinion of the Committee on Budgets (A5-0165/2002),
1. Rejects the initiative of the Kingdom of Belgium;
  2. Calls on the Kingdom of Belgium to withdraw its initiative and submit a fresh initiative;
  3. Instructs its President to forward its opinion to the Council, Commission and the government of the Kingdom of Belgium.

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<sup>1</sup> OJ C 374, 29.12.2001, p. 70.

## EXPLANATORY STATEMENT

### Substance of the proposal

The initiative under consideration here provides for a 5.2% increase in the basic salaries and allowances applicable to Europol staff. The legal basis for the initiative is Article 44 of the Staff Regulations applicable to Europol employees<sup>1</sup>, pursuant to which the Europol Management Board carries out an annual review of the remuneration of Europol staff on the basis of changes in the cost of living in The Hague, taking particular account of any changes in salaries in the public service in the Member States and Europol recruitment needs. On the basis of a proposal from the Management Board, the Council then takes a decision on an adjustment, if appropriate, in accordance with the procedure laid down in Title VI of the EU Treaty.

### Appraisal

Although the recitals forming part of the initiative state that the Management Board took account of the factors referred to above and that the review justifies a 5.2% increase in remuneration, it is nowhere made clear what data the Management Board drew on in conducting that review. At the committee meeting, neither the Council Presidency nor the Belgian Permanent Representation, which had both been invited to the meeting and notified of this agenda item in advance, were a position or prepared to comment on this point. Setting aside the issue of whether a 5.2% increase is justified, your rapporteur takes the view that Parliament cannot approve a proposal for an increase if that proposal is not accompanied by a properly argued justification.

In the case in point the need for a justification is all the greater because the proposed increase of 5.2% is well in excess of the 4.3% increase applicable to EU officials in The Hague. According to unofficial information which the draftsman for the Committee on Budgets has obtained directly from Europol, the reasons are as follows: to determine increases in remuneration, both the EU institutions and the Europol Management Board add the figure for the increase in the cost of living in the Netherlands to the figure for the increase in purchasing power in the Member States. However, as regards the increase in the cost of living the Europol Management Board does not draw on the figure calculated for the Netherlands by the SIO/OECD, the one used by most international organisations, including the EU institutions, but rather the 24% higher figure calculated by the Netherlands Statistics Office, thereby producing an increase of 4.6% instead of 3.7%. Your rapporteur acknowledges that this is a figure calculated by an official agency and would not categorically rule out the fact that the use of that figure may be justified, particularly if that figure had been used in calculating similar adjustments in previous years, regardless of whether it is higher or lower than the figure calculated by the SIO/OECD. However, as the opinion of the Committee on Budgets makes clear the Management Board did not put forward this entirely comprehensible justification, but instead an argument based on recruitment needs, even though it is perfectly clear that a 0.9% differential will have no impact on recruitment, rendering such a justification invalid. On the basis of the information available, your rapporteur is therefore unable to approve the proposed figure for the adjustment of Europol salaries.

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<sup>1</sup> Council act of 3 December 1998 laying down the Staff Regulations applicable to Europol employees, OJ C 26, 30.1.1999, p. 23.

Your rapporteur would like to make a final important point: it is highly inconsistent that the Council should consult Parliament on a relatively minor issue such as this, but should refuse to do so on more significant matters, such as Europol's general budget. The Council's argument, that there is no need to consult Parliament because funding is provided by the Member States, is not valid: the budget is established and salaries are adjusted on the basis of a Council decision taken in accordance with the procedure set out in Title VI of the EU Treaty (Article 35(5) of the Europol Convention and Article 44 of the Europol Staff Regulations). Title VI of the EU Treaty provides for no amendment to the procedure in cases where the Council decides, pursuant to Article 41(3) of the EU Treaty, that certain items of operational expenditure should not be charged to the Community budget. Accordingly, Parliament must be consulted in the same way in both cases. It is indeed inconsistent to refer the issue of salary increases to Parliament if it is not consulted on the issue of Europol's overall budget.

### **Conclusion**

For the reasons outlined above, your rapporteur cannot approve initiative of the Kingdom of Belgium and therefore recommends that it be rejected.

18 March 2002

## **OPINION OF THE COMMITTEE ON BUDGETS**

for the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

on the initiative of the Kingdom of Belgium with a view to the adoption of a Council Decision adjusting the basic salaries and allowances applicable to Europol staff (14628/2001 - C5-0682/2001 - 2001/0830(CNS))

Draftsman: Juan Andrés Naranjo Escobar

### **PROCEDURE**

The Committee on Budgets appointed Juan Andrés Naranjo Escobar draftsman at its meeting of 22 January 2002.

It considered the draft opinion at its meeting of 18 March 2002.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Terence Wynn, chairman; Reimer Böge and Anne Elisabet Jensen, vice-chairmen; Juan Andrés Naranjo Escobar, rapporteur; Herbert Bösch (for Bárbara Dührkop Dührkop), Kathalijne Maria Buitenweg, Joan Colom i Naval, Carlos Costa Neves, Den Dover, Göran Färm, Salvador Garriga Polledo, Catherine Guy-Quint, María Esther Herranz García, Juan de Dios Izquierdo Collado (for Neena Gill), Guido Podestà, Esko Olavi Seppänen (for Chantal Cauquil), Per Stenmarck, Kyösti Tapio Virrankoski and Ralf Walter.



## SHORT JUSTIFICATION

### 1. Background

The Council proposes to adjust salaries and allowances of Europol staff by 5.2% for the period 1 July 2001 to 1 July 2002. The adjustment is based on the annual review of remuneration, salaries and allowances as stated in Article 44 of the staff regulations of Europol.<sup>1</sup>

The reason why the Parliament is being consulted is due to the reference in Article 44, according to which the adjustment should be decided in accordance with the procedure of Title VI of the EU Treaty. Article 39 of the Treaty stipulates that "the Council shall consult the European Parliament before adopting any measure referred to in Article 34(...)". On the other hand, it states that "in the absence of an opinion (...), the Council may act". Therefore, it is clear that the Parliament's opinion has only a limited influence on the Council.

According to Article 44, "the Management Board shall each year review the remuneration of the officials of Europol. During this review the Management Board shall consider whether, as a consequence of changes in the cost of living in the Netherlands<sup>2</sup>, the remuneration should be adjusted. Particular account should be taken of any changes in salaries in the public service in the Member States and the needs of recruitment to Europol."

The Management Board has now come up with a salary adjustment, which is based on an increase in the consumer price index of 4.6% for the Netherlands. By contrast, according to the information provided by SIO/OECD<sup>3</sup> and used by most international organisations, including EU institutions, the annual adjustment for the Netherlands should be 3.7% for the same period. Both Europol and the EU institutions add to this figure a further 0.6%, which represents the average increase in the purchasing power of civil servants working in the Member States. In total, this amounts to an adjustment of 5.2% according to Europol compared to 4.3% according to the information provided by SIO/OECD and used by the Community (see table below).

#### Adjustment of basic salaries and allowances: increase from 1 July 2000 to 1 July 2001

Source of information	Cost of living in the Netherlands	Civil servants' purchasing power	Proposed annual adjustment
Europol Management Board	4.6%**	0.6%	5.2%
EU institutions*	3.7%***	0.6%	4.3%

\* Based on estimates provided by SIO/OECD.

\*\* This figure is based on information provided by the Dutch Central Statistical Office and represents the change in the consumer price index in the Netherlands between July 2000 and July 2001.

\*\*\* This estimate is calculated on the basis of the increase in the cost of living in Brussels (3.1%) and by adding the correction coefficient for the Netherlands (0.6%).

### 2. General assessment

In principle, the salary adjustment is a simple formality with no implications to the general budget as Europol is fully financed by the Member States. This time, however, two questions

<sup>1</sup> Council Act of 3 December 1998, OJ C 26, 30.1.1999.

<sup>2</sup> In accordance with the latest modification made by Council Act of 15.3.2001, OJ C 112, 12.4.2001.

<sup>3</sup> Inter-organisation section, OECD, Paris.

need to be raised. First, it is difficult to understand why the salary adjustment for staff working at Europol should be set at 5.2% if, according to the data provided by SIO/OECD, it should be 4.3% for the Netherlands.

The reason is simple. Rather than relying on the estimates from SIO/OECD concerning the salary adjustment for the Netherlands, Europol's Management Board has opted for the change in the consumer price index provided by the Dutch Central Statistical Office, which has produced a higher adjustment level compared to the one used by the Community.

The Management Board justifies its choice by the recruitment needs stated in Article 44 of Council Act 1999/C26/07, whereby it has wanted to maintain a good level of remuneration for the staff working at Europol. The rapporteur considers, however, that such a practice is in contradiction with the principles of sound financial management, which are applied to the general budget of the Community.

Furthermore, it remains unclear why the Council has decided to consult the Parliament on a minor issue such as salary adjustments but not on other, more relevant questions, such as budget planning and the financial regulation of Europol, as requested by the Parliament in its Resolutions of 1996 and 1999.<sup>1</sup> This would seem all the more justified considering that Articles 34 and 39 of the EU Treaty point out that the Council should consult the European Parliament before adopting decisions for any purpose consistent with the objectives of Title VI of the Treaty.

According to Articles 28, 35 and 36 of the Europol Convention, Europol's annual report, budget proposal and audit report shall be submitted to the Council in accordance with the procedure laid down in Title VI of the EU Treaty. The question remains why the Parliament has not been consulted on these items.

The rapporteur considers that the Council should clarify these points before the Parliament gives its opinion on salary adjustments.

Finally, the Parliament should make sure that Europol's activities continue to be financed by the Member States, and that neither operational nor administrative expenditure are covered from the Community budget as long as Europol continues to be an instrument of intergovernmental co-operation.

As to the next IGC, the rapporteur suggests that the Treaty should be revised so as to incorporate new provisions on the democratic scrutiny of Europol. This would be also in line with the legislative amendment approved in November 2001, in which the Parliament called on the Commission to present a proposal to revise the Europol Convention following best practices and methods of democratic control of police services in the Member States. According to the Parliament, this comprehensive reform "should aim gradually to communitise those instruments, to strengthen judicial control by the Court of Justice and to fund those instruments through the Community budget".<sup>2</sup>

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<sup>1</sup> Paragraph 9 of EP resolution A4-0061/1996 of 14.3.1996, and recommendation 3 of EP recommendation A4-0064/1999 of 13.4.1999.

<sup>2</sup> Amendment 1 of Turco report (A5-370/2001) adopted on 13.11.2001.

## CONCLUSIONS

The Committee on Budgets calls on the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Reminds that the European parliament has on several occasions requested the democratic and parliamentary control of Europol (A4-0064/1999<sup>1</sup>, A5-0312/2000<sup>2</sup> and A5-370/2001<sup>3</sup>), and that it has asked the Council to inform and consult the Parliament on Europol's budget planning, financial regulation, audit report and staff regulations, among others, in accordance with Article 39 of the EU Treaty; refers in this context to Article 34 of the EU Treaty, which clearly stipulates that the Council shall consult the European Parliament before adopting decisions for any purpose consistent with the objectives of Title VI of the Treaty; considers that this principle should be applied to all legal acts concerning Europol;
2. Calls on the Council to take into account the opinion of the Parliament in all matters related to Articles 28, 30, 35 and 36 of the Europol Convention in accordance with Title VI of the EU Treaty, since it would be contradictory to issue a consultation on the annual adjustment of the remuneration and allowances of the staff, without doing so as well with Europol's budget;
3. Asks the Council whether it considers appropriate to adjust salaries and allowances by 5.2% for staff working at Europol if the adjustment level used by the Community is 4.3% for the Netherlands; believes that the principles of sound financial management, and in particular those of economy and cost-effectiveness, should apply to Europol in the same way as to the EU institutions;
4. Considers that as long as Europol continues to be an instrument of intergovernmental co-operation, its activities and performance should be financed directly by the Member States, except for the financial contribution of EUR 5 million approved by the European Parliament for budget 2002, which aims to improve the Member States' cooperation against terrorism<sup>4</sup>; urges the Commission to propose as soon as possible a legal base so that the funds dedicated for this purpose could be released from the reserve;
5. Estimates that, at present, Europol does not have adequate democratic scrutiny; refers in this respect to the Commission's recommendations of 26 February 2002<sup>5</sup>, according to which the current fragmented, and thereby less effective, control, should be gradually transformed into

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<sup>1</sup> European Parliament recommendation to the Council on Europol: reinforcing parliamentary controls and extending powers; A4-0064/1999 adopted on 13 April 1999 (Rapporteur: Hartmut Nassauer).

<sup>2</sup> Report on the initiative from the Portuguese Republic with a view to the adoption of a Council Act on the drawing up on the basis of Article 43 (1) of the Europol Convention of a protocol amending Article 2 and the Annex to the Convention; A5-0312/2000 adopted on 14 November 2000 (Rapporteur: Anna Karamanou).

<sup>3</sup> Report on the initiative of the Kingdom of Belgium and the Kingdom of Sweden with a view to adopting a Council decision extending Europol's mandate to deal with the serious forms of international crime listed in the Annex to the Europol Convention.; A5-0370/2001 Final of 24 October 2001 adopted on 13 November 2001 (Rapporteur: Maurizio Turco).

<sup>4</sup> In budget 2002, the Parliament decided to enter EUR 5 million under B5-822 in order to "provide Europol with the necessary resources to step up and coordinate Member State action to combat terrorism", as well as to "set up an anti-terrorism control centre and communications systems".

<sup>5</sup> Commission Communication on democratic control over Europol, COM(2002) 95 of 26.2.2002.

a structured and unified control at EU level, based upon an enhanced cooperation between the Member States' parliaments and the European Parliament; calls therefore on the Council, in the context of the next IGC, to incorporate in the Treaty provisions on the full involvement of the European Parliament in the follow-up and approval of Europol's activities.