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## N O T E

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by: the Presidency

dated: 14 October 1994

to : the K.4 Committee

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Subject : Suggestion on Article 31 (Information of the European Parliament) and Article 37 (Jurisdiction) of the draft convention on the establishment of Europol

At its meeting on 12/13 October 1994 in Nuremberg the K4 Committee discussed major outstanding problems in regard to the above Convention.

It agreed to pursue the discussion on Articles 31 and 37 on the basis of presidency suggestions (see Annexes I, and III) and an amended suggestion by the Netherlands delegation on Article 31 (see Annex II).

Subject: Article 31: Information of the European Parliament

On the base of the discussion in the K4 Committee on 12 October 1994 the presidency suggests the following compromise text to Article 31.

Article 31

Information of the European Parliament

(1) The Presidency of the Council shall forward a report annually to the European Parliament on the work performed by Europol.

(2) In the context of the European Parliament's involvement, the Presidency of the Council or the representative appointed by the Presidency shall take account of the requirements of discretion and secrecy.

(3) This shall be without prejudice to the rights of national Parliaments, Article K.6 of the Treaty on European Union and the general principles applicable to relations with the European Parliament under Title VI of the Treaty on European Union.

Amended suggestion by the Netherlands delegation

## Article 31

## Informing the European Parliament

1. The European Parliament shall be regularly informed on and consulted about EUROPOL in accordance with the provisions of Article K6 of the TEU, and with due regard to the requirements of confidentiality. For these purposes the Presidency of the Council shall inter alia forward an annual report to the European Parliament on the work performed by Europol.
2. For the purposes of consulting the Parliament as provided for by Article K.6 the Presidency of the Council shall consider as being among the principal aspects of Europol's activities any decisions taken on the possible amendment of this Convention.
3. The Director of Europol shall provide appropriate assistance to the Council for the purposes of answering written or oral questions by the European Parliament regarding Europol's work. It shall be the responsibility of the Presidency of the Council to answer the European Parliament's questions.

Subject: Article 37 Jurisdiction, Art. 41 Reservations, Art. 42:

On the base of the discussion in the K 4 Committee on 12. October 1994 the presidency suggests the following compromise text for article 37, 41 and 42.

## Article 37

### Jurisdiction

- (1) Differences of opinion between Member States or between Member States and Europol on the application of this Convention shall be discussed in the Council using the procedure in Titel VI of the Treaty on European Union with the aim of finding a settlement. If the difference of opinion is between Member States and Europol, Europol shall have the opportunity of indicating its position; in other cases the Council may ask Europol to indicate its position (-).
- (2) Anyone may bring proceedings for infringement of his rights under Articles 17, 18, 20 or 35 or other individual provisions of this Convention for the protection of the rights of individuals before the court competent under national law or a comparable independent examining body of any Member State in accordance with the procedural provisions of the Member State. Concerned Europol shall be bound to implement the judicial decisions of the Member States. If a Member State has entered the data in the information system (Articles 6 and 7), that Member State shall be bound to implement the decisions.
- (3) [Where proceedings involving the same course of action are brought by the same party in the courts of different Member States, the court to which a later application is made shall of its own motion decline jurisdiction in favour of the court to which an earlier application was made.] Where proceedings are brought against a national central unit, it shall inform the national central units of the other Member States and Europol thereof.
- (4) If a question of interpretation of this Convention is put to a court or comparable independent examining body of a Member State in proceedings under paragraph 2, and that court or examining body considers a ruling on the question to be necessary for issuing a decision, it may submit the question to the Court of Justice of the European Communities for a ruling. If such a question is put in proceedings pending before the court or comparable examining body of a Member State against whose decisions there is no longer any appeal under national law, that court or examining body shall be bound to make application to the Court of Justice.

(5) Any dispute arising from application of the staff regulations or implementation of the employment contracts shall be settled pursuant to the staff regulations. It can be provided in these regulations that the Court of Justice of the European Communities is competent for disputes.

(6) [A rule should be included here on legal enquiries into refusal to permit a statement pursuant to Article 29(3) of the Convention. The wording of this rule should be decided on at the meeting of the Working Party on Europol from 17 to 21 October 1994.]

(7) Save as otherwise provided in this Convention, the Protocol on the Statute of the Court of Justice of the European Communities and Rules of Procedure of the Court of Justice of the European Communities shall also apply to proceedings brought under this Convention; Article 37 and Article 39 of that Protocol shall apply only to the Member States.

#### Article 41

##### Reservations

(1) No reservations shall be permissible in respect of this Convention.

#### Article 42

(1) This Convention shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the Council of the European Union. He shall notify all Member States of their deposit.

(2) to 7. as in Europol 98