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RESTREINT

EUROPOL 19

NOTE

from: Presidency

to : Europol Working Party

Nos. prev. docs.: 10324/2/94 EUROPOL 112 REV 2, 4598/95 EUROPOL 10 and
4269/1/95 EUROPOL 5 REV 1

Subject: Draft Convention on the establishment of Europol
- Approval of texts of Articles 1 to 5

In preparation for the Europol Working Party meeting on 20 February 1995, delegations will find attached a note from the Presidency on approval of the text of Articles 1 to 5.

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PRESIDENCY NOTE

ON APPROVAL OF THE TEXTS OF ARTICLES 1 to 5

Having taken into account what has been agreed in the Europol Working Party and in higher groups, the Presidency proposes that Articles 1 to 5 of the Draft Convention in the wording attached should now be considered as finalized.

It would point out that these are the fundamental Articles regulating Europol's future activities, and it proposes that they be incorporated into Europol 112 Rev 2 10324/2/94.

- **Article 1: Establishment**

This is the version in Europol 112 Rev 2.

- **Article 2: Objectives**

This is a new Presidency proposal updated in the light of the discussions in the Europol Working Party on 7, 8 and 9 February 1995; Article 2 now incorporates a reference to the Annex for the definition of related criminal offences.

This version has been drawn up on the basis of Europol 10 4598/95, which was approved by Steering Group II at its meeting in Brussels on 2 February 1995.

- **Article 3: Tasks**

This is a Presidency proposal based on the wording in Europol 112 Rev 2 and reflects the withdrawal of the French delegation's reservation on paragraph 1(5).

The French delegation has also withdrawn its reservation on paragraph 3, proposing the addition of the following phrase to the first sentence: "**and within the limits laid down by the Management Board**".

- **Article 4: National Units**

This is a Presidency proposal based on the wording in Europol 112 Rev 2 and reflects the withdrawal of the French delegation's reservation on paragraphs 4 and 5.

- **Article 5: Liaison Officers**

This is a Presidency proposal submitted as a result of the Working Party's proceedings on 7, 8 and 9 February 1995; in the second sentence of paragraph 1, it replaces "which may be sent by each Member State" by "the Member States may send". In addition, the following is added to paragraph 7: "**Without prejudice to the other provisions of this Convention, details of the rights ...**".

This new version has been drawn up on the basis of Europol 5 Rev 1 4269/1/95 approved by Steering Group II in Brussels on 2 February 1995.

DRAFT EUROPOL CONVENTION
(EUROPOL 112 REV 2)

ARTICLE 1

ESTABLISHMENT

- (1) The Member States of the European Union, hereinafter referred to as "the Member States", hereby establish a European Police Office, hereinafter referred to as "Europol"
- (2) Europol shall liaise with a single national unit in each Member State, to be established or designated in accordance with Article 4.

PRESIDENCY PROPOSAL
DRAFT EUROPOL CONVENTION
(EUROPOL 10 4598/95)

ARTICLE 2

OBJECTIVES

- (1) The objective of Europol shall be, within the framework of cooperation between the Member States pursuant to Article K.1(9) of the Treaty on European Union, to improve, by means of the measures referred to in this Convention, the effectiveness and cooperation of the competent authorities in the Member States in preventing and combating terrorism, unlawful drug trafficking and other serious forms of international crime where there are factual indications that an organized criminal structure is involved and two or more Member States are affected by the forms of crime in question in such a way as, owing to the scale, significance and consequences of the offence, to require a common approach by the Member States.
- (2) In order to achieve progressively the objectives mentioned in paragraph 1, Europol shall initially act to prevent and combat unlawful drug trafficking, crime connected with nuclear and radioactive substances, illegal immigrant smuggling, traffic in human beings, motor vehicle crime (in particular trafficking to other States and theft of goods in transit) and illegal money-laundering activities in connection with these forms of crime and related criminal offences. **The notion of related criminal offences is defined in the Annex to this Convention.**

Europol will also deal, not later than two years after the entry into force of this Convention, with terrorist activities against life, limb, personal freedom and property. Under the procedure laid down in Title VI of the Treaty on European Union, the Council may unanimously decide to instruct Europol to deal with these terrorist activities before the expiry of that time limit.

Under the procedure laid down in Title VI of the Treaty on European Union, the Council may unanimously decide to instruct Europol to deal with other forms of crime listed in the Annex to this Convention or specific manifestations thereof. Before taking its decision, the Council shall instruct the Management Board to prepare its decision and in so doing in particular to set out the budgetary and staffing implications for Europol.

The extension of Europol's responsibilities to terrorist activities or to any of the other forms of crime listed in the Annex shall ipso facto empower Europol to deal with the related money-laundering activities and the related criminal offences.

- (3) For the purposes of this Convention, "competent authorities" shall mean all public bodies existing in the Member States which are responsible under national law for preventing and combating criminal offences.

- (4) For the purposes of paragraphs 1 and 2, "unlawful drug trafficking" shall mean the criminal offences listed in Article 3(1) of the United Nations Convention of 20 December 1988 against illicit Traffic in Narcotic Drugs and Psychotropic Substances and in the provisions amending or replacing that Convention.

**PRESIDENCY PROPOSAL
DRAFT EUROPOL CONVENTION
(EUROPOL 112 REV 2)**

ARTICLE 3

TASKS

(1) In the framework of its objectives pursuant to Article 2 Europol shall have the following principal tasks:

1. to facilitate exchange of information between the Member States,
2. to collect, collate and analyse information and intelligence,
3. to notify the competent authorities of the Member States without delay via the national units referred to in Article 4 of information concerning them and of connections between criminal offences detected,
4. to support national investigations by forwarding all relevant information to the national units,
5. to maintain computerized collections of information containing data in accordance with Articles 7, 10 and 10a.

(2) In order to improve the effectiveness of the competent authorities in the Member States through the national units in the framework of the objectives pursuant to Article 2, Europol shall furthermore have the following additional tasks:

1. to develop expertise in the investigative procedures of the competent authorities in the Member States and to provide advice on investigations,
2. to provide strategic intelligence to assist and promote efficient and effective use of national operational resources,
3. to prepare general situation reports.

(3) In addition, Europol may, in the context of its objectives under Article 2 in accordance with its staffing and budgetary possibilities **and within the limits laid down by the Management Board**, assist Member States through advice and research in the following areas:

1. training of members of their competent authorities;
2. organization and equipment of those authorities,
3. crime prevention methods,
4. technical and forensic police methods and investigative procedures.

**PRESIDENCY PROPOSAL
DRAFT EUROPOL CONVENTION
(EUROPOL 112 REV 2)**

ARTICLE 4

NATIONAL UNITS

- (1) Each Member State shall establish or designate a national unit to carry out the tasks listed in this article.
- (2) The national unit shall be the only liaison body between Europol and the competent authorities in the Member States. Relationships between the national unit and the competent authorities shall be governed by national law.
- (3) The Member State shall take the necessary measures to ensure that the national units fulfil their tasks and, in particular, to secure access by national units to relevant national data.
- (4) It shall be the task of the national unit
 1. to supply Europol of its own initiative with information and intelligence which are necessary for it to carry out its tasks;
 2. to respond to Europol's requests for information, intelligence and advice and keep its information and intelligence up-to-date;
 3. to keep information and intelligence up to date;
 4. to evaluate information and intelligence in accordance with national law for the competent authorities and transmit this material to them;
 5. to issue requests for advice, information, intelligence and analysis to Europol;
 6. to supply Europol with information for storage in the computerized collections;
 7. to see to the accuracy of every exchange of information between Europol and itself.

(5) A national unit shall not be obliged in an individual case to supply the information and intelligence provided for in paragraph 4, points 1, 2 and 6 and in Articles 6 and 10 if this would mean:

1. harming essential national security interests, or
2. jeopardizing the success of investigations under way or the safety of individuals.

This provision shall not affect the exercise of the responsibilities incumbent upon the Member States under Article K.2(2) of the Treaty on European Union.

(6) The costs incurred by the national units for communications with Europol shall be national costs and, apart from the costs of connection, shall not be charged to Europol.

PRESIDENCY PROPOSAL
DRAFT EUROPOL CONVENTION
(EUROPOL 5 REV 1 4269/1/95)

ARTICLE 5

LIAISON OFFICERS

- (1) Each national unit shall second at least one liaison officer to Europol. The number of liaison officers which the Member States may send to Europol shall be laid down by unanimous decision of the Management Board; the decision may be altered at any time by unanimous decision of the Management Board. Except as otherwise stipulated in special provisions of this Convention, liaison officers shall be subject to the national law of the seconding State.
- (2) The liaison officers shall be instructed by their national units to represent the interests of the latter within Europol in accordance with the national law of the seconding State and in compliance with the provisions governing the administration of Europol.
- (3) Without prejudice to Article 4(4) and (5), the liaison officers shall, within the framework of the objectives laid down in Article 2, assist the exchange of information between the national units which have seconded them and Europol, in particular by:
 1. providing Europol with information from the seconding national unit,
 2. forwarding information from Europol to the seconding national unit, and
 3. cooperating with the officials of Europol by providing information and advice in the analysis of the information concerning the seconding Member State.
- (4) The liaison officers shall also assist the exchange of information from national units and the coordination of the resulting measures, in accordance with their national law and within the framework of the objectives laid down in Article 2.

- (5)* To the extent necessary for the performance of the tasks under paragraph 3 above, the liaison officers shall have the right to direct access to:
1. the information system in accordance with Article 8,
 2. the other data files in accordance with Article 10(2), and
 3. the index system in accordance with Article 10a.
- (6) Article 23 shall apply mutatis mutandis to the activity of the liaison officers.
- (7) Without prejudice to the other provisions of this Convention details of the rights and obligations of liaison officers in relation to Europol shall be determined unanimously by the Management Board. Any persistent difficulty shall be submitted to the Council in accordance with the procedure laid down in Title VI of the Treaty on European Union.
- (8) The liaison officers shall enjoy the privileges and immunities necessary for the accomplishment of their tasks in accordance with the provisions of Article 38(2).
- (9) Europol shall provide Member States free of charge with the necessary premises in the Europol building for the activity of their liaison officers. All other costs which arise in connection with seconding liaison officers shall be borne by the seconding Member State; this shall also apply to the costs of equipment of liaison officers, to the extent that the Management Board does not unanimously recommend otherwise on a case-by-case basis when drawing up the budget of Europol.

* Subject to the definitive architectural choice made.
