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**NOTE**

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to : Europol Working Party

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**Subject: Draft Convention on the establishment of Europol**  
– Annex to Article 2 relating to other serious forms of international crime which  
could come within Europol's field of competence

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In preparation for the meeting of the Europol Working Party on 20 February 1995, delegations will find attached a Presidency proposal for the Annex to Article 2 of the draft Convention.

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## PRESIDENCY NOTE

### CONCERNING APPROVAL OF THE TEXT OF THE ANNEX TO THE DRAFT EUROPOL CONVENTION

The other serious forms of crime listed in the Annex are at the same level of seriousness as the criminal offences listed in the body of Article 2.

Those criminal offences and the forms of crime listed in the Annex have a common point of reference in:

- Article K1(9) of Title VI of the TEU;
- the objective of Europol as set out in Article 2(1) of the draft Convention (Europol 112 REV 2) which associates the level of seriousness of crime with the existence of an organized criminal structure (trafficking or smuggling ring).

The concept of related criminal offence as defined in the Annex will enable Europol to deal with less serious criminal offences and offences other than those listed in the above texts if they have contributed to the perpetration or facilitation of or obtaining of impunity for one of the serious forms of international crime.

Thus, for example, both homicide and assault and battery or offences involving corruption can be dealt with by Europol if they have been committed in connection with one of the serious forms of crime listed in Article 2 or the Annex thereto.

In any case, it is not a question of setting out in the Annex a catalogue of criminal offences laid down by national law but rather of determining other serious forms of international crime on the basis of a generic definition.

If we take traffic in human beings as an example, both the offence of exploitation of prostitution and offences in connection with child pornography would have to be included in Europol's field of competence under this single heading.

The outcome of the proceedings currently under way in other bodies should make it possible to establish at a later stage if certain forms of crime, in particular racism and xenophobia and illicit trafficking in hormonal substances, could be included in the Annex.

As regards combating the terrorist activities defined in Article 2, the details given in the actual text of the Annex should make it possible to limit Europol's field of competence solely to activities of a criminal nature and to the relevant departments at national level.

# PRESIDENCY PROPOSAL

## ANNEX TO ARTICLE 2 RELATING TO OTHER SERIOUS FORMS OF INTERNATIONAL CRIME WHICH COULD COME WITHIN EUROPOL'S FIELD OF COMPETENCE

### Annex

List of other serious forms of international crime which Europol could deal with in addition to those already provided for in Article 2(2) in compliance with Europol's objectives as set out in Article 2(1).

#### **Against life, limb or personal freedom, [*in particular*]:**

- illicit trade in human organs and tissue
- kidnapping, illegal restraint and hostage-taking (-)

#### **Against property or public goods including fraud:**

- organized robbery
- swindling
- racketeering and extortion
- counterfeiting and product piracy
- forgery of administrative documents and trafficking therein
- forgery of money and means of payment
- computer crime

#### **Illegal trading:**

- illicit trafficking in arms, ammunition and explosives
- illicit trafficking in cultural goods
- illicit trafficking in endangered animal species
- environmental crime and crime against public health
- illicit trafficking in chemical and biological material toxic to public health (transport, dumping or storage).

In addition, in accordance with Article 2(2), the act of instructing Europol to deal with one of the forms of crime listed above implies that it is also competent to deal with the related money-laundering activities and the related criminal offences.

The following shall be regarded as related criminal offences:

- criminal offences committed in order to acquire the means to perpetrate acts within Europol's field of competence;
- criminal offences committed to facilitate or complete the execution of acts within Europol's field of competence;
- criminal offences committed to obtain impunity for acts within Europol's field of competence.

With regard to the forms of crime listed in Article 2(2) of the Convention, the Council considers that they should be defined as follows:

- unlawful drug trafficking means the criminal offences listed in Article 3(1)(a)(i),(ii),(iii) and (iv) and (c)(iv) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, signed at Vienna on 20 December 1988;
- crime connected with nuclear and radioactive substances means the criminal offences listed in Article 7(1) of the Convention on the Physical Protection of Nuclear Material, signed at Vienna and New York on 3 March 1980;
- illegal immigrant smuggling means activities intended deliberately to facilitate, for financial gain, the entry and residence on the territory of the Member States of the European Union, contrary to the rules and conditions applicable in the Member States with regard to the admission of aliens, of persons coming from third countries who are not entitled to enter that territory under any provision whatsoever of international law or Community law;
- traffic in human beings means the exploitation of prostitution; imposing living and working conditions contrary to human dignity; illegal trafficking in labour; corruption of minors, in particular the offence for an adult of organizing gatherings involving sexual exhibitions or sexual relations at which minors are present or in which they participate; encouraging parents to abandon their children for financial gain; experiments on human beings without the consent of the persons concerned;
- motor vehicle crime means the theft or misappropriation of motor vehicles, lorries, semi-trailers, the loads of lorries or semi-trailers, buses, motorcycles, caravans and agricultural vehicles and the receiving and concealing of such objects by persons who are well aware or who might reasonably suspect that they have been stolen or misappropriated;
- illegal money-laundering activities means the criminal offences listed in Article 6 of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, signed at Strasbourg on 8 November 1990;
- terrorist activities: Europol will deal with terrorist activities as defined in Article 2(2) while confining itself exclusively to the criminal policing aspect of such activities and the ensuing competence of national departments.