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**NOTE**

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from : Presidency

to : Europol Working Party

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Subject: **Draft Convention establishing Europol**  
– **Architecture of the system and access to data**

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In preparation for the meeting of the Europol Working Party on 20 February 1995, delegations will find attached a Presidency note on the architecture of the system and access to data.

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## **Note from the Presidency to the Europol Working Party on the architecture of the system and access to data**

Steering Group II considered the Presidency's compromise proposal on security and confidentiality in accessing and processing data at its meeting on 1 and 2 February 1995.

At the informal meeting of Justice and Home Affairs Ministers in Paris on 26 January 1995 differences narrowed on the basis of that compromise, which sets out procedures under which Member States, through their liaison officers, may have access to analysis data and use such data for operational purposes.

All delegations in Steering Group II agreed that the compromise proposal provided a suitable basis for further work and contained major points conducive to agreement on the architecture of the system, while some delegations came out explicitly in favour of this solution.

Steering Group II asked the Europol Working Party to press ahead with its discussions on the basis of the Presidency compromise, to work out a solution for the architecture of the system and to draft the corresponding Articles for incorporation into the text of the draft Europol Convention in Europol 112 Rev 2.

The discussions in the Europol Working Party have resulted in substantive agreement in principle on the main aspects of the architecture of the system and access by Member States to analysis work.

### **I. ARCHITECTURE OF THE EUROPOL SYSTEM**

Europol's computerized system will have three components:

- a general information system
- files opened for analysis purposes
- an index.

#### **A. General information system**

This would comprise a database for information which is not critically sensitive. Two configuration designs for this database have been suggested:

The first, proposed by the German delegation and reflected in Article 7 of the Draft Europol Convention in Europol 112 Rev 2, would comprise a base of standardized data, restricted as to content both as regards the classes of persons concerned and their details.

The second approach, advocated by the French delegation, would, in addition to the standardized data, allow the input of a greater range of data, which would not follow a standard pattern.

Overall agreement on this issue has to be reached.

B. Files opened for analysis purposes

These work files, which will be temporarily opened for strategic or operational analysis purposes, will contain particularly sensitive data. In order to ensure the security and confidentiality of these data, their processing and use must be precisely defined (see Section II - Access to data and Presidency compromise).

C. Index

Discussions on the index and its function showed that all delegations wish to reach agreement.

This was reflected in the proposed definition submitted by the United Kingdom delegation, which could be incorporated into Article 10a of the draft Convention as follows:

- (1) An index system shall be created by Europol on the data stored on the files referred to in Article 10(1).
- (2) In addition to Europol, liaison officers shall be entitled to consult the index system. The index system shall be such that it is clear to the liaison officer consulting it, from the data being consulted, that the files referred to in Articles 10(1) and 5a(2) contain data concerning the seconding Member State.

Access by liaison officers shall be defined in such a way that it is possible to determine whether or not an item of information is stored, but that it is not possible to establish connections or further conclusions regarding the content of the files.

- (3) The Management Board shall unanimously decide on further details concerning the design of the index system.

## II. ACCESS TO THE EUROPOL SYSTEM

Access to the three separate parts of the Europol system is defined as follows:

### A. General information system

National units will input data from the Member States, and Europol will input data obtained from third States and organizations; the system will be directly accessible for consultation by:

- national units
- liaison officers
- Europol officials.

### B. Analysis files

Broadly speaking, Europol will carry out two main types of analysis:

#### (a) Strategic analysis

This will cover major crime and will not, as a rule, use personal data.

It will rely on information from the fifteen Member States and also incorporate data obtained by Europol from third States and organizations.

Thus, the Member States, via their liaison officers, and Europol officials will automatically be fully associated in these analyses, the findings of which will serve to guide the Union Member States' strategy for combating major criminal organizations and thereby enhance the consistency and efficiency of the relevant national departments.

#### (b) Operational analysis

This type of analysis focusing on specific investigations covered by Europol's objectives and remit will involve the smaller number of Member States concerned by the investigations. The main purpose of operational analysis is to enable decisions to be reached and measures to be taken on the ground by the relevant departments in the Member States concerned.

Analysis files will contain the most sensitive data, the security and confidentiality of which must be ensured while safeguarding the rights of the Member States within Europol.

The compromise proposed by the Presidency endeavours to strike this balance.

The compromise, which draws the necessary distinction between the need to know these data and the need to use them, is as follows:

1. The most sensitive information would not be introduced into the data base accessible to national units and liaison officers in general but would be sent directly, whether or not by agreement, to the analysis groups via the liaison officer or officers concerned.

This would also apply to information of the same sensitivity communicated by or requested under agreement from third countries or bodies.

2. Such data would merely be mentioned in the index, e.g. under a patronymic, but in any case would not be explicitly referred to, so that connections could not be established unless the liaison officer consulting the index himself had further information.

The index would not be directly accessible to national units, nor would data processed by an analysis group.

3. Only analysts would work on these data, in close collaboration with the national liaison officers providing the information and with liaison officers whose involvement the analysis group had requested, because their country was also concerned.
4. However if a liaison officer who, until then, had not been associated in the analysis discovered by consulting the index that he needed to know, he would claim that need to know and would then be fully associated with the analysis in progress.
5. The liaison officer would claim the need to know by means of a letter setting out his reasons and endorsed by the supervisory body in his Member State. Each Member State would nominate and authorize a limited number of liaison officers for this purpose; Europol's Management Board would receive the list of such officers.
6. The Member State communicating data to Europol is the sole judge of the degree of sensitivity of the data and changes in it. Any dissemination or use of analysis data is subject to the collegiate decision of the parties in the analysis. A Member State entering an analysis in progress could of course not disseminate or use data without the prior agreement of the Member States initially concerned.

Similarly the consent of the parties in the analysis would be required before any analysis data which had become less sensitive was entered into the central data base.

The following points should be added to this compromise by way of clarification:

- an analysis group comprises all the analysts, liaison officers and Europol officials concerned by the analysis; these are the parties in the analysis;
- "use of data" means any dissemination and/or any operational exploitation of all or part of the information obtained by an analysis;
- with regard to Member States' association in an analysis in progress, a flexible arbitration procedure could be established in exceptional cases where a particularly tricky problem was likely to arise.

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The text of the Convention should lay down the broad principles governing the system and access to data.

It will be for technical experts and users in more detailed studies to define all the technical aspects and the procedures for accessing information within the framework of those principles.

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