

EUROPEAN PARLIAMENT



s e s s i o n d o c u m e n t s

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A4-0305/98

REPORT

on the Annual Report of the Europol Drugs Unit for 1996 (C4-0682/97)

Committee on Civil Liberties and Internal Affairs

Rapporteur: Mr Martin Schulz

(Delegation of the power of decision - Rule 52 of the Rules of Procedure)

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PE 227.073/fin.

- Consultation procedure
simple majority
- **I Cooperation procedure (first reading)
simple majority
- **II Cooperation procedure (second reading)
simple majority 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 to give assent
but simple majority under Articles 8a, 105, 106, 130d and 228 EC

- ****I Codecision procedure (first reading)
simple majority
- ****II Codecision procedure (second reading)
simple majority to approve the common position
majority of Parliament's component Members to adopt a declaration of intended
rejection of the common position, and amend the common position or confirm its rejection
- ****III Codecision procedure (third reading)
simple majority to approve the joint text
majority of Parliament's component Members to reject the Council text

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By letter of 11 November 1997 the Coordinator of the Europol Drugs Unit forwarded to Parliament the Annual Report of the Europol Drugs Unit for 1996 (C4-0682/97).

At the sitting of 12 January 1998 the President of Parliament announced that he had referred the report to the Committee on Civil Liberties and Internal Affairs.

At the sitting of 20 February 1998, the President of Parliament announced that the Conference of Presidents had delegated the power of decision to the Committee on Civil Liberties and Internal Affairs, pursuant to Rule 52 of the Rules of Procedure.

At its meeting of 28 October 1997, the Committee on Civil Liberties and Internal Affairs had appointed Mr Schulz rapporteur.

At its meetings of 25 May, 29 June and 1 September 1998 the Committee on Civil Liberties and Internal Affairs considered the draft report.

At the last meeting it adopted the motion for a resolution by 14 votes to 10.

The following were present for the vote: d'Ancona, chairman; Reding, vice-chairman; Schulz, rapporteur; Andersson (for Crawley), Bontempi, Cederschiöld, Colombo Svevo, De Esteban Martin, Deprez, Elliott, Ford, Lambraki (for Marinho), Lindeperg, Mendes Bota, Mohamed Ali, Nassauer, Oostlander (for Pirker), Posselt, Pradier, Roth, Schmid G., Stewart-Clark, van Lancker (for Terron i Cusi) and Zimmermann.

The report was tabled on 4 September 1998.

A
MOTION FOR A RESOLUTION

Resolution on the Annual Report of the EUROPOL Drugs Unit for 1996 (C4-0682/97)

The European Parliament,

- having regard to Council Act of 26 July 1995 drawing up the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention)⁽¹⁾,
 - having regard Articles K.1, paragraph 9, K.3, paragraph 2 and K.6, second subparagraph, of the Treaty on European Union,
 - having regard to its previous resolutions of 22 January 1993⁽²⁾ on the setting up of Europol, 19 May 1995⁽³⁾ on the Europol Convention and 14 March 1996⁽⁴⁾ on Europol,
 - having regard to the joint actions of 10 March 1995⁽⁵⁾ and 16 December 1996⁽⁶⁾ concerning the Europol Drugs Unit,
 - having regard to the decisions adopted by the Council of Ministers of Justice and Home Affairs at its meetings of 19 March 1998 and 28-29 May 1998,
 - having regard to the Annual Report of the Europol Drugs Unit for 1996 (C4-0682/97),
 - having delegated the power of decision to the Committee on Civil Liberties and Internal Affairs, pursuant to Rule 52 of the Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties and Internal Affairs (A4-0305/98),
- A. whereas, in democratic states governed by the rule of law, the fundamental freedoms of citizens are increasingly threatened by crime, notably crime organized on an international scale,
- B. whereas at the same time the fundamental freedoms of citizens are under increasing attack from the erosion of legal guarantees and from the unfettered proliferation of data files containing information of a personal nature, whilst no binding laws have been put in place to protect privacy,

⁽¹⁾ OJ C 316, 27.11.1995, p. 1
⁽²⁾ OJ C 042, 15.2.1993, p. 250
⁽³⁾ OJ C 151, 19.6.1995, p. 376
⁽⁴⁾ OJ C 096, 1.4.1996, p. 288
⁽⁵⁾ OJ L 62, 20.3.1995, pp. 1-3
⁽⁶⁾ OJ L 342, 31.12.1996, p. 4

- C. whereas organized crime operating at European level can be combatted effectively by the European police forces acting jointly;
- D. whereas the future activities of Europol and the current activities of the Europol Drugs Unit concern the principal aspects of the Union's activities referred to in Article K.6, second subparagraph, of the Treaty on European Union and Article K.11 of the Treaty of Amsterdam,
- E. persuaded that, in future, proper powers of investigation and the status of an operational body must be conferred on Europol within a clearly defined framework,
- F. whereas, by ministerial agreement, the Europol Drugs Unit, as a forerunner to the European Police Office, has been operating since 3 January 1994,
- G. whereas the terms of reference of the Europol Drugs Unit have already been extended twice,
- H. whereas the entry into force of the Europol Convention and of the Treaty of Amsterdam are approaching,
1. Considers that the report of the Europol Drugs Unit for 1996 does not in itself amount to a document that can be put to the European Parliament for democratic scrutiny or even provide it with proper information;
 2. Reiterates the requests formulated in its resolution of 14 March 1996⁽¹⁾ on Europol, notably those relating to the powers to be granted to the European Court of Justice to issue preliminary rulings on the protection of personal data, the protection of privacy and parliamentary scrutiny;
 3. Urges the Council therefore to draft forthwith a protocol to the Europol Convention wherein the power of the European Court of Justice to issue preliminary rulings is recognised explicitly and effectual powers of scrutiny for the European Parliament and national parliaments are established;
 4. Believes that in granting its employees immunity of the kind not enjoyed by any member of a police force in the Member States, the protocol on the privileges and immunities for Europol employees makes legal monitoring of the European Police Office extremely difficult, all the more so since the power to waive immunity for Europol employees rests solely with the director of Europol;
 5. Calls on the Council to adopt the necessary measures enabling Europol to begin exercising its powers with regard to the fight against terrorism from 1 January 1999;
 6. Calls on the Member States to suspend, at least in the short and medium term, the plans to extend Europol's mandate and to give priority to the tasks which may be considered essential, such as exchanges of information and expertise, support for investigations and analysis and training in the areas of:

⁽¹⁾ OJ C 96, 1.4.1996, p. 288.

- illicit drug trafficking and illicit production of drugs (in connection also with the crime caused by these activities);
 - clandestine immigration;
 - illicit vehicle trafficking;
 - money laundering;
 - the fight against terrorism;
7. Invites the Member States and the bodies of the Europol Drugs Unit to emphasize, in their preparations for the entry into force of the Europol Convention, the new professionalism now demanded of the officers of all the forces responsible for enforcing the law and combatting crime; calls, in this context, for adequate training measures to be conducted in the Member States, improved knowledge of the EDU and its objectives to be promoted and new instruments and equipment matching the level to which crime has developed to be made available to the police forces in the Member States; calls for criminological analysis to be refined;
 8. Calls on the Member States, in a spirit of absolute loyalty, to abandon their attitudes of resistance to the transfer to Europol of operational tasks of police coordination, given that this transfer would be made in total compliance with the principle of subsidiarity and that the translation of the proposals put forward by Europol would be the responsibility of the national authorities;
 9. Calls on the Member States and the bodies of the Europol Drugs Unit today, and Europol tomorrow, to pursue the goal of providing the European Parliament with full and detailed information; in this context, the principle of regular meetings between the governing body of Europol and the competent bodies of the European Parliament should be accepted;
 10. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

B

EXPLANATORY STATEMENT

I. Introduction

By letter of 20 October 1997, the Coordinator of the Europol Drugs Unit (EDU) forwarded copies of the EDU's Annual Report for 1996 directly to the chairwoman of Parliament's Committee on Civil Liberties and Internal Affairs, for her information.

As the Unit began its activities in 1994, 1996 was its third year of operation. However, as far as your rapporteur is aware, the annual report for 1995, unlike the report for 1994, was not forwarded to the European Parliament.

The document was nonetheless easily obtained from the EDU secretariat, together a draft annual report for last year, 1997, so that the rapporteur could form a more complete picture.

On 20 February 1998, the President of Parliament announced in plenary that the procedure provided for under Rule 52 of the Rules of Procedure (delegation of the power of decision to committees) was applicable.

II. The Annual Report of the EDU for 1996 is inadequate

The document in question comprises 20 pages, of which only 12 contain text and tables and the rest consist of photographs.

This document was in fact the first to appear in print as the 1994 and 1995 reports were produced in typewritten form only. The Annual Report for 1996 is very slim and looks more like the illustrated brochure of a new institution and its headquarters than a proper report of its activities to a body of political scrutiny. However, this is merely a comment on its lack of real purpose and not a criticism.

In the light of these considerations, your rapporteur initially wondered whether it would not be preferable for Parliament to postpone drafting a report until the Europol Convention entered into force, which is expected in the coming months, and the first report of activities was forwarded, in accordance with Article 34 of the Convention.

However, it was decided that it would be more useful to use the time constructively and take the opportunity provided by this report to underline Parliament's views on the question of Europol once more, should this be necessary, and to state its demands.

As observed above, the 1996 report does not contain sufficient information, this was probably unavoidable, given the unclear situation in which the Drugs Unit team is having to operate: until the process of ratifying the Convention has been concluded and it enters into force, the legal base remains weak.

III. Overview of the Drugs Unit's activities

Under the ministerial agreement of June 1993 which constitutes the founding act of the Drugs Unit (the forerunner to Europol) the Unit acts solely as a non-operational unit for the exchange of information and the furtherance of investigations.

Its mandate was extended, under two joint actions in 1995 and 1996, from drug-related crime to the following sectors:

- illicit drug trafficking;
- illicit trafficking in radioactive and nuclear substances;
- crimes involving clandestine immigration networks;
- illicit vehicle trafficking;
- traffic in human beings;
- the criminal organizations involved and associated money-laundering activities.

The figures recorded in the 1996 Report, which can also be evaluated in the light of the 1994 and 1995 reports, show that the exchange of information, via the Europol Liaison Officers (ELOs), who have access to their national information systems, is the principal activity of the Drugs Unit: 585 requests were received in 1994 (first year of activity), 1474 (+152%) in 1995 and 2053 (+ 39%) in 1996.

For 1997, the report records 2608 requests forwarded by the Member States, an increase of ±27%.

The liaison officers, who must be regarded as representatives of their respective national authorities, numbered 23 in 1994, 32 in 1995, 37 in 1996 and 42 in 1997.

Nearly three-quarters of the cases in which the Member States had recourse to the Europol Drugs Unit in 1996 and 1995 were connected with drugs, 12-13% with money laundering, less than 10% with illegal immigration networks and trafficking in stolen cars and very few with trafficking in radioactive and nuclear substances.

The figures for 1997 show a decline in the number of cases related to drugs (61%) and to money-laundering (9%), a more than two-fold increase in the number linked to illegal immigration (19%), no change in the number of requests related to trafficking in stolen cars, a very slight increase in the number of cases linked to illegal trafficking in radioactive or nuclear substances and 81 new cases concerning trafficking in human beings.

* * *

Throughout its activities since it began operating (on 3 January 1994), the Drugs Unit has had to contend with different policies on the part of the Member States, different approaches, different national situations in relation to crime and varying levels of awareness and publicity of the Unit.

One of its most sensitive tasks, criminological analysis, has therefore continued to expand, alongside the study, expertise and training initiatives offered by the Unit, or organized at the request of the Member States (conferences, meetings and the preparation of manuals on specific techniques).

The principal obstacle denounced by the Unit's governing bodies is the ban on the centralized storage of personal data, at least until the convention enters into force. They are obliged to use the data bases provided by the Member States, which can cause incompatibility problems, and they are constantly faced with differences in analytical approach.

Staffing and infrastructure have been a constant concern during the most recent period: 135 posts were filled at the end of 1997, compared to 116 at the end of 1996 and 90 at the end of 1995, including the liaison officers. Infrastructures, notably for telecommunications and security, have been painstakingly perfected.

Studies to prepare for the future Europol Computer system (TECS) are underway, to ensure that a temporary system, at least, is up and running when the Europol Convention enters into force.

88.4% of the appropriations in the 1996 budget were spent (although these figures only appear in the 1997 report), i.e. a sum of approximately ECU 4.5m, one-fifth of which covered TECS expenditure. The budget allocated for the current year is some ECU 6.7m, a 20% increase over the previous year.

In 1996, informal contacts were made between the EDU and Interpol, the United Nations, the Schengen authorities, the Lisbon Drugs Observatory, the IGC and UCLAF, to name but a few.

IV. Current trends

Preparations for the entry into force of the Europol Convention play an important role both in the EDU's day-to-day activities and at the level of human resource administration.

However, much greater strategic importance is attached, as the Unit's Coordinator states in the conclusion to his 1997 report, to the establishment of links with the instruments and bodies of the third pillar, particularly after the entry into force of the Treaty of Amsterdam with, for example, the incorporation of Schengen into the legal framework of the Union, future relations between the EIS and the SIS, etc.

The JHA Council of 19 March 1998 called on those Member States which had still not ratified the Convention (Belgium, Greece and Luxembourg) to complete their domestic procedures.

At the same meeting, the Council, on a proposal from Spain, reached agreement on the possibility of extending Europol's mandate to the fight against terrorism earlier than scheduled (i.e. within two years from the entry into force of the Convention) and reiterated that Europol could only conclude agreements with third countries and other institutions outside the European Union after the Convention had entered into force.

V. Recommendations for the future

There is no need, in this report, to return to Parliament's main concerns with regard to Europol, which have been aired repeatedly (democratic deficit and inadequacy of Article 34 of the Convention, shortcomings in the arrangements for the protection of personal data with the setting up of a European police force without proper guarantees for citizens).

Your rapporteur wishes to concentrate here on making several pragmatic demands which should guide those who will soon be called upon to implement the Europol Convention, given the more than legitimate demands of citizens in the area of security:

(1) It is not advisable, at least in the short and medium-term, to consider extending the terms of reference of Europol or, if this were nonetheless considered, to include areas which fall within the political arena rather than the arena of police activity in combatting crime. Europol should therefore, with the support of the national governments, concentrate on essentials and specifics. Your rapporteur refers to:

- drug-related crime;
- clandestine immigration networks;
- illegal vehicle trafficking;
- money laundering per se and in relation to the above activities.

Areas such as illicit trafficking in radioactive and nuclear substances or violence against and abuse of children would seem instead to fall within the scope of the political relations between Member States and legislative policy and would clearly have to be dealt with by harmonizing legislation. Europol could not be given effective responsibility in these areas; that would be illusory.

(2) The Member States and Europol need, so to speak, a new type of policeman (a notion which would incorporate customs officials and financial police) with the knowledge and the instruments required to counter transnational crime as well as powers of their own. A vast fund of knowledge and skills is now essential in, for example, tackling money laundering (banking and insurance sectors, information technology and other high-tech areas).

(3) We can no longer accept the resistance shown at national level to the transfer of police coordination powers to the European Union under the pretext of national jurisdiction and with claims that national police forces are better informed about the nature of the crime present in their own countries. The process of evaluating the different realities and strategies must abandon stereotypes (for example the typical data thought to apply to a 'mafia' type organization) and become far more analytical. The strategies of Europol and of the national police forces must be made compatible.

(4) The European Parliament must be kept fully informed in future not only in proper reports but also, for example, by means of regular appearances by members of Europol's governing bodies.