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EUROPOL 47

N O T E

from : Presidency

~~to :K.4 Committee~~

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Subject: Draft Convention on the establishment of Europol
- Progress report

I. At its meeting on 19 May 1994, Steering Group II examined the report submitted to it by the Presidency concerning the progress made by the Europol Group on the draft Convention on the establishment of Europol (see 6760/94 EUROPOL 43).

This Group met on 20 and 21 January, 17 and 18 February, 29 and 30 March and 25 to 28 April 1994. The last meeting under the Greek Presidency is due to be held from 1 to 3 June 1994.

This report outlines the progress made by Steering Group II in Athens on 19 May 1994.

II. The discussions of the Europol Group (see 6201/1/94 EUROPOL 30 REV 1, 6685/1/94 EUROPOL 38 REV 1 and 6725/1/94 EUROPOL 42 REV 1) revealed that the major issues could be grouped together as follows:

- Articles 1 to 5 of the draft Convention with particular reference to the objectives (Article 2), tasks (Article 3) and the role of the national units (Article 4) (see 6202/1/94 EUROPOL 30 REV 1);

- the system architecture and the guiding principles for data protection (see 6685/94 EUROPOL 38).

  The discussions centred on the system architecture, information requirements, national and new data, ownership of data and responsibilities, courts where persons could assert their rights and seek legal remedies.

  The Group simply examined the general principles. It has not yet discussed the text of Articles 6 to 14 which refer to these issues;

- Articles 15 to 22, which relate in particular to Europol's legal status, Europol's liability, the Management Board, the staff regulations, the budget and amendment of the Convention (see 6725/1/94 EUROPOL 42 REV 1).

III. The discussions enabled considerable and even decisive progress to be made towards solving certain major problems, which will make it easier to achieve the aim of concluding the discussions by the end of October 1994.

The results of the discussions on the groups of questions covered in section II may be summarized as follows:

A. Articles 1 to 5

Ten delegations recorded their agreement on the text of Article 2 concerning Europol's objectives, on the understanding that the Annex on forms of international crime should be finalized.

The Spanish delegation urged that a specific reference to the fight against terrorism be made in the text of Article 2(1).

At its meeting on 29 and 30 November 1993, it will be recalled that the JHA Council said it was in favour of the principle of including the fight against terrorism amongst the objectives of Europol but that the details of such inclusion had still to be determined.

Agreement in principle was reached on Article 4 concerning the role of national units, except with regard to exclusive access to the Europol system by those units. The German delegation wanted units situated in the "Länder" to have direct access to the central system to obtain standardized information.

B. System architecture and guiding principles for the rules on data protection (see 6685/94 EUROPOL 38, page 2)

1. Steering Group II reached the following conclusion on the architecture of the Europol system;

"*Europol will handle two separate types of information:*

- standardized information;

- non-standardized information;

The standardized information part will contain summary data. The Member States and Europol will input their data directly into the system and be able to consult it directly (on-line communication).

The analytical non-standardized information part will contain detailed descriptions of certain cases, in particular persons and groups of persons involved in them. These data will serve as a basis for analytical work.

The results of the analytical work will also be input into the system. Questions of access to and authorization to consult the system (directly or indirectly) are still to be settled."

2. The French and German delegations submitted charts for the Europol system structure (6346/94 EUROPOL 32 and 6687/94 EUROPOL 40).

A note giving details of the systems suggested by the German and French delegations was submitted by the EDU/Europol team.

Steering Group II instructed the Europol Group to give priority in its discussions to preparing the architecture of an information system.

3. Regarding information needs, it was agreed that discussions should be based on a note submitted by the United Kingdom delegation in April 1992.

4. A preliminary exchange of views took place on the ownership of data, on liabilities on the courts where persons could assert their rights and seek legal remedies. The possibility of the Court of Justice having a role to play was raised.

C. Articles 15 to 22

Regarding Article 16 concerning the Management Board, a solution was put forward for the Commission to take part which will serve as a basis for the Group's discussions.

Several delegations were against the adoption of a three-year programme, which would be detrimental to the flexibility of Europol.

IV. Institutional and horizontal questions were raised on several occasions during the discussions, with particular reference to:

A. the voting rules on

- the inclusion of forms of international crime (Article 2(2))
- decision-making by the Management Board (Article 16(1))
- Staff Regulations (Article 18(1))

B. decision-making by the Board or any other body on, for example:

- adoption of the rules of procedure (Article 16(4))
- the general report on activities (Article 16(7))

C. involvement of other institutions of the Union, such as

- the Court of Auditors (Article 19a)
- the Court of Justice (see 6685/94 EUROPOL 38).

V. Finally, the Presidency noted that the discussions had made considerable progress particularly with regard to the first and third group of questions raised in section II.

Work will have to be concentrated in the weeks to come on the system's architecture and on the rules to be adopted with regard to data protection. It was felt that the human factor should play an important role when it came to the handling of non-standardized data.

The rules drawn up on these issues will have implications for relations with third countries, an area which has not yet been examined in detail.