

10950/98

LIMITE

EUROPOL 96

NOTE

from: Austrian Presidency

to: ~~K.4 Committee~~

No. prev. doc.: 10004/1/98 EUROPOL 69 REV 1

Subject: **Preparation for the entry into force of the Europol Convention – progress report**

Introduction

1. The Convention based on Article K.3 of the Treaty on European Union on the establishment of a European Police Office (Europol Convention) will enter into force on 1 October 1998. The Protocol drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities, of the Convention on the establishment of a European Police Office enters into force 90 days after notice of ratification by the last ratifying Member State ⁽¹⁾.
2. It is one of the central priorities of the Austrian Presidency that Europol should take up its activities as soon as possible in accordance with Article 45(4) of the Europol Convention. The purpose of this document is to set out the progress of the preparations and the further steps which have to be taken by the K.4 Committee, the PRC and the Council in order to implement the Convention.

⁽¹⁾ To date 14 Member States have given notice of ratification (situation as at 1 September 1998).

Legal requirements for the taking up of Europol's activities

3. Pursuant to Article 45(4) of the Europol Convention, Europol may not take up its activities until the nine acts mentioned in that provision have entered into force. Thanks to the progress achieved under earlier Presidencies, it has already been possible to reach agreement in the Council on the texts of most of these acts.
4. The drafts of the rules on the rights and obligations of liaison officers in relation to Europol ⁽²⁾, the rules applicable to analysis files ⁽³⁾, the Europol Staff Regulations ⁽⁴⁾, the confidentiality regulations ⁽⁵⁾ and the Financial Regulation ⁽⁶⁾ are undergoing editing by the legal/linguistic experts. The formal adoption procedures are to be implemented by the Europol Management Board on 1 October 1998.
5. The national ratification procedures for the Protocol on the privileges and immunities of Europol, the members of its organs and the deputy directors and employees of Europol have so far been completed in seven Member States ⁽⁷⁾ and the corresponding instruments of ratification deposited with the Council.
6. The draft of the identical agreements to be concluded between the Kingdom of the Netherlands and the other Member States on the privileges and immunities of liaison officers and members of their families pursuant to Article 41(2) of the Europol Convention was sent by the Kingdom of the Netherlands to the Member States early in the summer of 1998. Several Member States have already given their agreement to the draft. In some Member States the agreement requires parliamentary approval.

⁽²⁾ 5459/96 EUROPOL 17

⁽³⁾ 6100/4/97 EUROPOL 10 REV 4

⁽⁴⁾ 6034/2/97 EUROPOL 8 REV 2

⁽⁵⁾ 5694/2/98 EUROPOL 17 REV 2

⁽⁶⁾ 5460/96 EUROPOL 18

⁽⁷⁾ Situation as at 31.8.1998.

7. The final draft of the Headquarters Agreement between the host State and Europol ⁽⁸⁾ was submitted by the Netherlands delegation at the meeting of the Europol Working Party on 30 and 31 July 1998. Some Member States entered scrutiny reservations on the most recent amendments to the draft. The Agreement should be concluded between Europol and the Kingdom of the Netherlands after unanimous approval by the Europol Management Board on 1 October 1998.
8. The draft rules of procedure of the Joint Supervisory Body of Europol pursuant to Article 24(7) of the Europol Convention were prepared at the meeting of future members of the Joint Supervisory Body and are available to the K.4 Committee ⁽⁹⁾.
9. The rules of procedure of the Management Board ⁽¹⁰⁾ are not actually mentioned in Article 45(4) of the Europol Convention, but in practice are also an essential requirement for the taking up of Europol's activities. This draft is also undergoing legal and linguistic editing and should be formally adopted by the Management Board on 1 October 1998.

Setting up of the institutions

10. At the request of the Presidency, the Member States have communicated the names of their representatives on the Management Board and in the Joint Supervisory Body. The inaugural meeting of the Management Board will take place on 1 October 1998 to coincide with the entry into force of the Europol Convention. The inaugural meeting of the Joint Supervisory Body will take place in October 1998.

⁽⁸⁾ 5150/1/98 EUROPOL 5 REV 1

⁽⁹⁾ 10851/1/98 EUROPOL 85 REV 1XY

⁽¹⁰⁾ 11637/95 EUROPOL 110

11. Since, in order to enable Europol to take up its activities, in particular because of the need to conclude the Headquarters Agreement, the Director of Europol will have to assume his role, the coordinator and deputy coordinators of the Europol Drugs Unit should be authorised to exercise the functions of the Europol Director insofar as necessary to prepare for the taking up of Europol's activities. For that reason a draft Decision ⁽¹¹⁾ is to be submitted to the Justice and Home Affairs Council meeting on 24 September 1998, if possible as an "A" item.
12. The President of the Court of Auditors of the European Communities has received a letter from the Presidency ⁽¹²⁾ requesting that he prepare to appoint the members of the Audit Committee referred to in Article 36(2) of the Europol Convention.
13. The other necessary appointments (Director, Deputy Directors, Financial Controller, members of the Budget Committee) will have to be made by the Management Board or the Member States.

Further points

14. The Europol draft budget for 1999 ⁽¹³⁾ is being submitted as an "A" item to the Justice and Home Affairs Council meeting on 24 September 1998.
15. The work on setting up the Europol computer system (TECS) is currently moving towards the procurement phase. In any event, when Europol takes up its activities an interim system will be available for analysis and index purposes. A progress report ⁽¹⁴⁾ is being submitted to the Justice and Home Affairs Council as an "A" item.

⁽¹¹⁾ 10569/1/98 EUROPOL 77 REV 1

⁽¹²⁾ 10299/1/98 EUROPOL 74 REV 1

⁽¹³⁾ 7369/1/98 EUROPOL 45 REV 1

⁽¹⁴⁾ 10724/98 EUROPOL 83.

The strategic management of the TECS project is being transferred to the Management Board of Europol. A report to that effect ⁽¹⁵⁾ is being submitted to the Justice and Home Affairs Council for approval as an "A" item.

16. The draft rules concerning the receipt of information by Europol from third Parties ⁽¹⁶⁾, the draft rules concerning the transmission of personal data by Europol to third States and third bodies ⁽¹⁷⁾, the draft rules concerning the external relations between Europol and third States and bodies not linked to the European Union ⁽¹⁸⁾ and the draft rules concerning the external relations of Europol with bodies linked to the European Union ⁽¹⁹⁾ have also undergone editing by the legal/linguistic experts. The formal adoption procedures should be begun without delay.

Conclusions

17. In order to ensure that the necessary adoption procedures for the acts in question are completed promptly, the Council is requested to proceed as follows:

The Council should call on the Member States to invite their representatives on the Europol Management Board to cooperate in the prompt implementation of the formal adoption procedures for those acts for which drafts have already been prepared within the Council and which the Council has "frozen". Further examination of the substance of these texts should be avoided.

Where such acts have to be adopted by the Council, the drafts should, after discussion in the Management Board, be submitted to the Council at Permanent Representatives Committee level and then placed before the Council as soon as possible for adoption as "A" items.

Those acts which are adopted by the Council should then be published in the "L" series of the Official Journal of the European Communities.

⁽¹⁵⁾ 10602/98 EUROPOL 78

⁽¹⁶⁾ 6660/98 EUROPOL 38.

⁽¹⁷⁾ 8032/8/8/97 EUROPOL 27 REV 8.

⁽¹⁸⁾ 8034/6/97 EUROPOL 29 REV 6.

⁽¹⁹⁾ 8031/5/97 EUROPOL 26 REV 5.

The following binding acts, which are adopted by the Management Board, should be published in the "L" series of the Official Journal of the European Communities:

Rules relating to the rights and duties of liaison officers in relation to Europol

Rules of Procedure of the Management Board

Rules concerning the external relations of Europol with bodies linked to the European Union.