

JHA
4B-3

10901/94

RESTREINT

EUROPOL 122

NOTE

from : French delegation

to : Permanent Representatives Committee (Part 2)

Nos prev. docs: 9583/94 EUROPOL 101
10825/1/94 EUROPOL 121 REV 1

Subject: Draft Convention on the establishment of EUROPOL
- Main points which are still the subject of disagreement in the Working Party

This note sets out the French position on the main points which are still the subject of disagreement in the Working Party.

X France remains very attached to the principle of operational cooperation between police services in an intergovernmental context as provided for under the Third Pillar.

I. ARCHITECTURE OF THE SYSTEM (see 9583/94 EUROPOL 101)

The central database, the work files and the index have quite distinct functions but are all interconnected and together constitute a system in which all data are sensitive.

X Liaison officers, who play an essential role by collaborating with EUROPOL analysts and facilitating exchanges of information between Member States, must have access to all data, including analysis data, once consultation of the index has shown that they have need of such information.

To reinforce the guarantees of confidentiality already provided by the professional qualifications and ethical code of liaison officers, France has made a clear distinction between, on the one hand, the right of access to data and, on the other, the use of data, which must be subject to the agreement of all the parties concerned.

II. EXERCISE OF THE RIGHT OF ACCESS TO INFORMATION

The French delegation has always differentiated between:

- national data emanating from Member States, which remain their responsibility; in this case the right of access may only be exercised in accordance with national legislation;
- data supplied by third parties or derived from analysis work ("EUROPOL data"), which must be subject to a regime of indirect access arrangements. This is the lowest common denominator between the various legislations.

As France sees it, the applicant should contact the EUROPOL joint supervisory body which will provide information about all data stored at EUROPOL, taking account, as regards national data, of national arrangements governing right of access. The applicant can of course always contact the competent bodies in the various Member States for information on their own data.

Any damage caused by unauthorized or incorrect processing of data on the part of EUROPOL cannot lead to litigation against EUROPOL: only a Member State can be the subject of a compensation claim initiated by an injured party.

III. OTHER QUESTIONS

A reminder of positions which the French delegation has already stated:

- full*
- A. Informing the European Parliament: simple application of Article K.6.
- full*
- B. Auditing of EUROPOL's accounts: court consisting of auditors from the Member States.

- not Res*
- C. Settlement of disputes between Member States or between Member States and EUROPOL: these are essentially political questions and can only be dealt with by the Management Board and the political bodies in Title VI.
 - D. EUROPOL's non-contractual liability: jurisdiction of national courts.
 - E. Disputes between EUROPOL and its agents: these provisions should be included in the staff regulations.
 - F. Summons to a EUROPOL agent to appear before a national court: there can be no question of trying to prevent a summons to testify before a national court. However, the content of the testimony must be looked at very carefully in order to safeguard EUROPOL's vital interests.
-