EUROPEAN UNION
THE COUNCIL

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N O T E

from: Presidency

~~to :"Europol" Working Party~~

Subject: **Draft Rules of Procedure of the Management Board**

DRAFT RULES OF PROCEDURE

OF THE

MANAGEMENT BOARD

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OF THE

MANAGEMENT BOARD

Provided for in Article 28 of the Convention
on the establishment of a European Police Office (EUROPOL)

The Management Board,

HAVING REGARD to the Treaty on European Union, and in particular Article K.1(9) and Article K.4 thereof,

HAVING REGARD to Article 28(7) of the Convention on the establishment of a European Police Office, which provides that the Management Board shall unanimously adopt its rules of procedure,

HAVING REGARD to the agreement of the K.4 Committee on the creation of a Management Board,

HAVING REGARD to the Rules of Procedure of the Council of the European Union,

TAKING INTO ACCOUNT the discussions of the Management Board,

UNANIMOUSLY ADOPTS:

THE RULES OF PROCEDURE OF THE MANAGEMENT BOARD OF EUROPOL, ESTABLISHED BY THE CONVENTION ADOPTED ON ...

ARTICLE 1

COMPOSITION OF THE MANAGEMENT BOARD

1. The Management Board shall be composed by one representative from each Member State. Each full member of the Management Board (hereinafter "member") shall have one vote.

2. Each member may be substituted by an alternate member. If the member is absent, the alternate member may exercise the voting right of the former.

3. Members and alternate members may be accompanied or advised at Management Board meetings by a maximum of three experts.

4. Full and alternate members of the Management Board should be senior officials in the civil service of their Member State.

   Their appointment shall be made by a document from the Permanent Representation of the State in question to the European Union, addressed to the Europol Directorate.

5. The attendance of experts from the Member States at a Management Board meeting shall be announced in writing to the Management Board before the meeting.

ARTICLE 2
SECRETARIAT OF THE MANAGEMENT BOARD

1. The Board shall be assisted by a General Secretariat, directed by a Secretary. The presidency shall appoint the Secretary for the number of months the presidency lasts and shall be responsible for the administration and organization thereof.

2. Under the authority of the President, the Secretary shall take all measures necessary to guarantee the efficient operation of the Secretariat. It shall have its seat in the Member State currently holding the presidency.

3. The Secretary shall submit to the Management Board a draft estimate of the Board's expenditure in sufficient time to guarantee that the deadlines fixed by the financial provisions are met.

4. Each outgoing presidency shall handover to its successor the official books and documentation in its power, for which it is responsible in order to permit continuity in the work of the Secretariat. The reception of the documents shall be recorded in a legal document officially enacted to this end.

Alternative Draft to Article 2

ARTICLE 2
SECRETARIAT OF THE MANAGEMENT BOARD

1. The Management Board shall be assisted by a General Secretariat directed by a General Secretary. The Europol Presidency shall be responsible for the administration and organization of the General Secretariat.

2. Under the authority of the President of the Management Board, the Secretary shall take all measures necessary to guarantee the efficient operation of the Secretariat. It shall have its seat in the Central Headquarters of Europol in the Dutch city of The Hague.

3. The Secretary shall submit to the Management Board a draft estimate of the Board's expenditure in sufficient time to guarantee that the deadlines fixed by the financial provisions are met.

4. Each new presidency shall superintend the documentation in the General Secretariat, the reception of documents being recorded in a document officially enacted to this end.

ARTICLE 3

CHAIRMAN OF THE MANAGEMENT BOARD

1. The Chairmanship of the Management Board shall be held by the representative of the Member State holding the presidency of the Council.

2. The Chairman shall direct all the activities of the Management Board and of the Secretariat. He/she shall be totally empowered to preside over the deliberations of the Management Board and shall guarantee its proper functioning.

3. The Chairman shall draw up the provisional agenda for meetings. He/she shall open, suspend and adjourn meetings. He/she shall ensure that the Rules of Procedure are respected, maintain order, grant permission to speak, declare the closure of debates, submit matters to voting and announce the results thereof, and shall send the relevant communications to those to whom they are addressed.

4. In case of absence or impediment the Chairman shall be replaced by the alternate member of the Member State holding the presidency.

ARTICLE 4

STANDING COMMITTEE

1. The Standing Committee shall be made up of the Chairman of the Management Board and the members from the outgoing and future presidency States (Troika).

2. The Standing Committee shall meet following a notice in writing from the Chairman of the Management Board, including the provisional agenda of the meeting, at least ten days in advance, to guarantee the continuity of the tasks assigned to the Management Board.

3. The meetings shall be attended by the General Secretary who shall produce an official record thereof, to be presented to the Management Board at its following meeting for its information and discussion where appropriate.

4. The Standing Committee shall prepare the ordinary meetings of the Management Board and execute all those functions expressly delegated to it by the Management Board.

ARTICLE 5

FUNCTIONS OF THE MANAGEMENT BOARD

1. The Management Board:

   (1) Shall take part in the extension of Europol's objectives.

   (2) Shall prepare the implementing rules governing data files.

   (3) Shall take part in the adoption of rules governing Europol's relations with third States and third bodies within the meaning of Article 10(4) of the Europol Convention.

   (4) May deliver opinions on the comments and reports of the joint supervisory body.

   (5) Shall examine problems which the joint supervisory body brings to its attention.

   (6) Shall decide on the details of the procedure for checking the legal character of retrievals in the information system.

   (7) Shall take part in the appointment and dismissal of the Director and Deputy Directors.

(8) Shall oversee the proper performance of the Director's duties. To this end it shall, if appropriate, discuss and approve the ordinary report of the Director regarding his/her management, to be presented at each ordinary meeting. Likewise, it shall discuss and approve, if appropriate, the extraordinary report of the Director regarding his/her management, where the Management Board so agrees.

(9) Shall take part in the adoption of the staff regulations.

(10) Shall take part in the preparation of agreements on confidentiality and the adoption of provisions on the protection of confidentiality.

(11) Shall take part in the drawing up of the budget, including the establishment plan, the auditing and the discharge to be given to the Director.

(12) Shall take part in the adoption of the financial regulation.

(13) Shall take part in any amendment of the Convention.

(14) Shall be responsible for any other tasks assigned to it by the Council, particularly in provisions for the implementation of the Convention.

The execution of the functions indicated in sections 1, 2, 3, 7, 9, 10, 11, 12 and 13 shall be carried out by the issue of a previous decision created by the Management Board and carried unanimously.

2. The Management Board shall unanimously:

(1) Establish the rights and obligations of the liaison officers with Europol.

(2) Determine the number of liaison officers the Member States may send to Europol.

(3) Define the method for organizing the index system.

(4) Adopt the five year financial plan.

(5) Appoint the financial auditor and supervise him/her in the execution of his/her functions.

(6) Approve the signing of the agreement on the seat of the Management Board.

(7) Unanimously adopt the authorization rules for Europol agents.

(8) Approve the Europol Director's ordinary and extraordinary reports on the accounts.

2. The Management Board shall by a two-thirds majority:

(1) approve provisions for the creation of files.

(2) decide upon the disputes between a Member State and Europol or between Member States regarding compensation for liability arising out of illegal or incorrect treatment.

ARTICLE 6

OPERATION OF THE MANAGEMENT BOARD

1. The Management Board shall hold an ordinary meeting during each presidency, convened by its Chairman.

2. When exceptional events occur, due to properly justified circumstances, the Management Board may decide by a majority of two thirds to hold extraordinary meetings.

3. The Management Board may call persons specifically qualified in the matters to be examined to speak on a particular agenda item.

4. The Management Board may delegate to the Standing Committee those functions not requiring the holding of an ordinary or extraordinary meeting and for which it is necessary for a vote to be taken to adopt the corresponding decision.

ARTICLE 7

AGENDA

1. The Chairman shall draw up the provisional agenda for each meeting. The agenda shall be sent to the other members and the Commission at least fourteen days before the beginning of the meeting.

2. The provisional agenda shall contain the items in respect of which a request for inclusion on the agenda together with any documents relating thereto, has been received by the General Secretariat of the Management Board from a member of the Management Board or from the Commission at least sixteen days before the start of that meeting.

3. The agenda shall be adopted by the Board at the beginning of each meeting. The inclusion in the agenda of an item other than those appearing on the provisional agenda shall require unanimity in the Board and the item must have been proposed by at least one member or more. Items entered in this way may be put to the vote.

ARTICLE 8

DELIBERATIONS OF THE MANAGEMENT BOARD

1. 13 members or alternate members of the Management Board shall constitute a quorum. In the absence of a quorum the Chairman shall terminate the meeting and convene another as soon as possible.

2. The Chairman shall conduct the meeting, giving priority to those wishing to raise a question of procedure or a preliminary matter.

3. The deliberations of the Management Board shall not be public, unless decided otherwise by the Board, and provided they are not contrary to the judicial security or interests of Europol.

4. The Commission of the European Communities shall be invited to attend meetings of the Management Board without a right to vote. However, the Management Board may agree that its deliberations take place without the presence of the Commission representative.

5. The Europol Director shall attend Management Board meetings without a right to vote.

6. The deliberations of the Management Board shall be protected by professional secrecy, unless the Management Board decides otherwise.

7. Exception as otherwise decided unanimously by the Management Board on grounds of urgency, the Board shall take decisions only on the basis of documents and drafts drawn up in the languages specified in the rules in force governing languages in the Europol Convention.

8. The Board may authorize the presentation of a copy or an abstract of its minutes before the Courts.

ARTICLE 9

VOTING IN MANAGEMENT BOARD MEETINGS

1. The Board shall proceed to a vote on the initiative of its Chairman, who will also start a voting procedure at the request of any of the members, provided a majority of Management Board members so agrees.

2. A vote may be delegated only to the alternate member representing the relevant State.

3. Decisions of the Management Board on an urgent matter may be adopted by a written vote, where the Board itself unanimously decides to use that procedure. In special circumstances, the Chairman may also propose the use of that procedure; in such a case, written votes may be used where all Board members agree to that procedure.

4. The members of the Management Board shall vote in the alphabetical order laid down for holding the Chair of the Board, beginning with the member who, according to that order, follows the member currently holding the Chairmanship.

ARTICLE 10

ADOPTION OF DECISIONS

1. Decisions of the Management Board shall, for adoption, require unanimous agreement or that of a majority of two thirds, as the case may be.

2. Motions to exclude any matter from the decision of the Management Board or to propose examination of a matter shall be subject to a vote before the substance of the matter is dealt with.

3. Motions including several matters should be divided into individual parts when so required.

4. When several motions appear to be contained in the same question, the motion of greatest scope shall be voted on first. In the case of amendments, the amendment which most departs from the basic text shall be voted on first. In the case of an amendment to an amendment, this shall be voted on starting with that of greater scope. The final vote shall be cast on the version of the text resulting from the previous votes.

ARTICLE 11

MINUTES OF THE MEETINGS

1. Official minutes of each meeting shall be drawn up and, when approved, shall be signed by the current Chairman at the time of such approval and by the Secretary-General.

The minutes shall as a general rule indicate in respect of each item on the agenda:

– the documents submitted to the Management Board,

– the decisions taken or the conclusions reached by the Board,

– the statements made by the Board and those whose entry has been requested by a member.

2. The draft minutes shall be drawn up by the General Secretariat within one month and communicated to the members within two weeks of the conclusion of the meeting, and shall be submitted to the Board for approval at the following ordinary meeting.

3. In the text of the decisions adopted by the Management Board there shall appear the signature of the current Chairman at the time of their adoption together with that of the Secretary-General, who may be replaced by a previously authorized deputy Secretary.

ARTICLE 12

ANNUAL REPORT

Each year the Management Board shall unanimously adopt:

– an annual report on the activities of Europol during the last year;

– a report on the forthcoming activities of Europol, taking into account the operational requirements of the Member States and any changes in the Europol budget and staff.

These reports shall be presented to the Board in accordance with the procedure under Title VI Treaty on European Union.

ARTICLE 13

CORRESPONDENCE

Correspondence addressed to the Management Board shall be directed to the Chairman via the seat of the General Secretariat.

ARTICLE 14

MEMBERS' EXPENSES

Europol shall bear the travel and accommodation expenses of members and experts attending Management Board and relating meetings, according to the scales established for grade A1 to A3 officials in the Staff Regulations applicable to officials of the European Communities.

ARTICLE 15

ENTRY INTO FORCE OF THE RULES OF PROCEDURE

These rules shall enter into force on the day following their approval by the Management Board.

ARTICLE 16

REVISION OF THE RULES OF PROCEDURE

The Management Board shall unanimously decide on any modifications to these rules.

Amendments adopted shall enter into force as from the day following their approval.