

EUROPEAN UNION
THE COUNCIL

Brussels, 25 September 1998 (OR.en)

10887/98

LIMITE

EUROPOL 92

DRAFT

COUNCIL ACT

of

laying down rules concerning the receipt of
information by Europol from third parties

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention) ⁽¹⁾, and in particular Article 10.4 thereof,

After consulting the Management Board,

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

Whereas it is for the Council, acting unanimously, to lay down rules, in addition to the provisions in the Convention concerning the receipt of information by Europol from third States or third bodies, to be observed by Europol in this respect,

HAS ADOPTED THE FOLLOWING RULES:

Article 1

Definitions

For the purpose of these rules:

- (a) "third States" means States not being Member States of the European Union, as referred to in Article 10(4)(4) of the Europol Convention;
- (b) "third bodies" means the bodies referred to in Article 10(4) (1) to (3) and (5) to (7) of the Europol Convention;
- (c) "European Union-related bodies" means the bodies referred to in Article 10(4) (1) to (3) of the Europol Convention;
- (d) "non-European Union-related bodies" means the bodies referred to in Article 10(4) (5) to (7) of the Europol Convention;

- (e) "agreement" means an agreement concluded for the purpose of attaining the objectives referred to in Article 2 of the Europol Convention;
- (f) "information" means personal and non-personal data;
- (g) "personal data" means any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;
- (h) "processing of personal data" means any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

Article 2 Agreements

1. Europol may conclude agreements with third States and third bodies on the receipt of information by Europol.
2. The Council shall determine the third States or non-European Union-related bodies with which agreements are to be negotiated. Such decisions shall be taken unanimously.

3. The Management Board may determine the European Union-related bodies with which agreements are to be negotiated.
4. The Director of Europol shall, after consulting the Management Board and with the unanimous authorisation of the Council, enter into negotiations on agreements with third States or non-European Union-related bodies. Agreements may be concluded only after unanimous approval by the Council, after having obtained via the Management Board the opinion of the Joint Supervisory Body as far as it concerns the receipt of personal data.
5. The Director of Europol shall, after authorisation by the Management Board, enter into negotiations on agreements with European Union-related bodies. Agreements may be concluded only after approval by the Management Board, after having obtained the opinion of the Joint Supervisory Body as far as it concerns the receipt of personal data.

Article 3

Assessment of the source and of the information

1. To enable itself to determine the reliability of the information and its source, Europol shall ask the third State or third body to assess as far as possible the information and its source in accordance with the criteria laid down in Article 11 of the rules applicable to Europol analysis files.
2. If this assessment is not provided, Europol shall attempt as far as possible to assess the reliability of the source or the information on the basis of information already in its possession in accordance with the criteria laid down in Article 11 of the rules applicable to Europol analysis files.

3. In an agreement, Europol and a third State or third body may agree in general terms on the assessment of specified types of information and specified sources in accordance with the criteria laid down in Article 11 of the rules applicable to Europol analysis files.

Article 4

Correction and deletion of information

1. Agreements shall stipulate that the third State or third body shall inform Europol when it corrects or deletes the information transmitted to Europol.
2. When a third State or third body informs Europol that it has corrected or deleted the information transmitted to Europol, Europol shall correct or delete the information accordingly. Europol shall not delete information if it has further need to process that information for the purpose of the analysis file or, where the information is stored in another Europol data file, Europol has further interest in it, based on intelligence that is more extensive than that possessed by the transmitting third State or third body. Europol shall inform the third State or third body concerned of the continued storage of such information.
3. If Europol has reason to believe that information supplied is inaccurate or no longer up-to-date, it shall inform the third State or third body which supplied the information and request the third State or third body to inform it of its position. Where information is corrected or deleted by Europol in conformity with Article 20(1) and Article 22 of the Europol Convention, Europol shall inform the supplying third State or third body of the correction or deletion.

4. Without prejudice to Article 20 of the Europol Convention, information which has clearly been obtained by a third State in obvious violation of human rights shall not be stored in the Europol information system or analysis files.

5. Agreements shall stipulate that the third State or third body shall inform Europol as far as possible when that third State or third body has reason to believe that the information supplied is inaccurate or no longer up-to-date.

Article 5

Entry into force

These rules shall enter into force [...].

Done at Brussels,

For the Council
The President