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DRAFT REPORT

on the initiative by the Republic of Austria for adoption of a Council decision
adjusting the basic salaries and allowances applicable to Europol staff
(5417/2006 – C6-0072/2006 – 2006/0803(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Claude Moraes

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the initiative by the Republic of Austria for adoption of a Council decision adjusting the basic salaries and allowances applicable to Europol staff (5417/2006 – C6-0072/2006 – 2006/0803(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the initiative by the Republic of Austria (5417/2006)¹,
 - having regard to Article 44 of the Council Act of 3 December 1998 laying down the staff regulations applicable to Europol employees (hereinafter referred to as the "staff regulations"),
 - having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0072/2006),
 - having regard to the Commission Communication to the European Parliament and the Council - Democratic Control over Europol (COM(2002)0095),
 - having regard to its recommendation to the Council of 30 May 2002 on the future development of Europol and its automatic incorporation into the institutional system of the European Union²,
 - having regard to its recommendation to the Council of 10 April 2003 on the future development of Europol³,
 - having regard to its resolution of 7 July 2005 on the initiative by the Grand Duchy of Luxembourg with a view to adopting a Council decision adjusting the basic salaries and allowances applicable to Europol staff⁴,
 - having regard to Rules 93 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0000/2006)
- A. whereas Parliament has not been consulted on, or informed of, any of the operational and organisational measures concerning Europol, or Europol's current activities and future programmes in response to the needs of the EU and the Member States; whereas this lack of information makes it impossible for Parliament to assess the relevance and adequacy of the proposed decision;
1. Rejects the initiative by the Republic of Austria;

¹ Not yet published in OJ.

² OJ C 187 E, 7.8.2003, p. 144.

³ OJ C 64 E, 12.3.2004, p.588.

⁴ *Texts Adopted*, P6_TA(2005)0290.

2. Calls on the Republic of Austria to withdraw its initiative;
3. Instructs its President to forward its position to the Council and Commission, and the government of the Republic of Austria.

EXPLANATORY STATEMENT

The European Parliament has been consulted on the initiative presented by the Republic of Austria adjusting the basic salaries and allowances applicable to Europol staff for the period between 1 July 2005 and 1 July 2006.

This draft Decision on the basis of the Austrian initiative aims at adjusting the basic salaries and allowances of the Europol staff in light of a review carried out by the Management Board. The Board took account of the changes in the cost of living in the Netherlands, as well as of the changes in salaries in the public service in the Member States. That review justifies an increase of 1,6% of remuneration for the period between 01.07.2005 and the 01.07.2006.

The European Parliament understands perfectly the need for the organisation at stake to amend and update the salaries of its staff according to the changes related to the increase in the cost of living and it does not have anything to say against it.

However, the European Parliament believes that its consultation on a document with financial implications such as the present one is quite provocative in character. It is of common knowledge that Europol is an intergovernmental institution funded by each Member State of the European Union. The European Parliament does not have any saying on the Europol budget and therefore it does not have any role in administrative decisions related to this organisation. It seems therefore a mere formality to be consulted on a document which has financial impact while no consultation is foreseen as far as the adoption of the Europol budget is concerned.

Your rapporteur points out, as follows, what are some of the most important issues that have to be addressed before any consultation on financial matters could be provided by the European Parliament.

1. The European parliament's scrutiny on Europol

It is crucial to point out that the consultation of the European Parliament on the activities of Europol, an intergovernmental body, is necessary only if it helps to increase the transparency and accountability of this body.

At the moment there is neither the supervision of the European Parliament nor a judicial review by the European Court of Justice on the work of the Europol¹.

Despite that Art. 39 of the TUE lays down an obligation for the Council to consult the Parliament before the adoption of legally binding measures, such as framework decisions, decisions and conventions, this tool is not enough to ensure democratic control. Furthermore, "the European Parliament participates in certain decisions as regards the development of Europol, e.g. any amendment to the Convention but not about the prioritizing of Europol's activities"².

¹ Fight against terrorism and organised crime; police cooperation in Europe: the role of Europol, contribution of Mr. Jens Henrik Højbjerg, Europol Deputy Director to the joint parliamentary meeting of 18 October 2005, p. 1

² Fight against terrorism and organised crime; police cooperation in Europe: the role of Europol, Brussels 27 September 2005.

At various occasions¹ the European Parliament stated that existing parliamentary control arrangements were too cumbersome and, as a result of the intergovernmental nature of decision-making procedures in the police cooperation area, ineffective.

In particular, as regards parliamentary control, the Parliament has already asked the Council to strengthen the European Parliament's democratic power of control over Europol². These requests have not yet been satisfied.

1.1 It should be remembered that the EU Constitution, despite its destiny, was clearly aimed at improving the situation as shown in article III-276³. If in place, the Constitution would have then made it possible for the Parliament, in co-decision with the Council, to 'determine Europol's structure, operation, field of action and tasks' as well as 'lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

The insertion of this article into the draft Constitution clearly shows the general consensus of Member States in increasing the transparency of Europol and the role of the European Parliament in scrutinising its activities.

2. The Europol as an EU Agency

Europol's transformation into an EU agency would be envisaged so that the main staff structure will be made up of permanent staff instead of the current composition that mainly consists of officers seconded from Member States. This change would avoid the high turnover

¹CNS/2005/0803 Europol: adjusting the basic salaries and allowances applicable to staff as from July 2004.

Initiative Luxembourg, rapporteur: Claude Moraes

CNS/2004/0817 Euro: designating Europol as the Central Office for combating counterfeiting. Initiative Germany, Spain, France, Italy, United Kingdom, Northern Ireland, rapporteur : Diaz de Mera García Consuegra Agustín

CNS/2004/0806 Europol: adjusting the basic salaries and allowances as from July 2002. Initiative Ireland, rapporteur: Turco Maurizio

CNS/2002/0822 Europol: staff regulations, amendments. Initiative Denmark, rapporteur: Turco Maurizio

CNS/2002/0814 European Police Office, Europol: protocol to the Convention, money laundering. Initiative Denmark, rapporteur: von Boetticher Christian Ulrik.

² See Recommendation 4: Parliamentary control in EP Recommendation to the Council on the future of Europol, 10 April 2003, P5_TA (2003)0186

³ Article III-276 reads:

'1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

2. European laws shall determine Europol's structure, operation, field of action and tasks. These tasks may include:

(a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;

(b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.

European laws shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.'

that makes it difficult to maintain a consistent approach in the development of Europol's activities. In the case that this transformation takes place, Europol activities would be entirely financed directly from the EU budget and it would be much easier for the European Parliament to scrutinise its activities. The idea of setting up a joint body together with national parliaments in order to supervise Europol activities is very much welcomed by your rapporteur. The reform of Europol would also entail the replacement of the Europol convention together with its three not yet implemented protocols by a decision of the Council of ministers. Your rapporteur clearly supports the restructuring of Europol and its transformation into an EU agency as this will allow MEPs to scrutinise its activities. Only then will this consultation on salaries and allowances of Europol staff be considered to be consistent and of some value.

Conclusions

The European Parliament clearly believes in the necessity to support the development of Europol as an effective tool to fight against organised crime in the European Union. Therefore the Parliament expresses its strong desire to transform it into a fully fledged EU Agency. Your rapporteur believes that an opinion by the European Parliament concerning the financial matters to Europol staff would be considered relevant only when this transformation takes place.

It is for this reason, and in keeping with the Parliament's established practice, that your rapporteur proposes the rejection of the initiative on which the Parliament is being consulted here.