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RECOMMENDATION TO THE COUNCIL

on the future development of Europol
(2003/2070(INI))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Co-Rapporteurs: Christian Ulrik von Boetticher, Maurizio Turco

CONTENTS

	<u>Page</u>
PROCEDURAL PAGE	4
RECOMMENDATION OF THE EUROPEAN PARLIAMENT	5

PROCEDURAL PAGE

At the sitting of 13 February 2003 the President announced that the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had been authorised to draw up a recommendation, pursuant to Rule 107(1) of the Rules of Procedure, on the future development of Europol.

At its meeting of 7 April 2003 the committee considered the draft recommendation and adopted it by 26 votes to 1, with 0 abstentions.

The following took part in the vote: Jorge Salvador Hernández Mollar, chairman; Robert J.E. Evans, Johanna L.A. Boogerd-Quaak and Giacomo Santini, vice-chairmen; Maurizio Turco, co-rapporteur; Kathalijne Maria Buitenweg (for Alima Boumediene-Thiery), Carmen Cerdeira Morterero, Ozan Ceyhun, Carlos Coelho, Thierry Cornillet, Giuseppe Di Lello Finuoli, Adeline Hazan, Anna Karamanou (for Margot Keßler), Timothy Kirkhope, Eva Klamt, Ole Krarup, Jean Lambert (for Heide Rühle), Baroness Sarah Ludford, Manuel Medina Ortega (for Michael Cashman), Bill Newton Dunn, Arie M. Oostlander (for Christian Ulrik von Boetticher, co-rapporteur), Marcelino Oreja Arburúa, Hubert Pirker, Bernd Posselt, Martine Roure, Patsy Sørensen and Anna Terrón i Cusí.

The proposal for a recommendation was tabled on 7 April 2003.

RECOMMENDATION OF THE EUROPEAN PARLIAMENT TO THE COUNCIL

on the future development of Europol (2003/2070(INI))

The European Parliament,

- having regard to Rule 107 of its Rules of Procedure,
- having regard to Article 39, third subparagraph, of the EU Treaty,
- having regard to Articles 29 and 30 of the EU Treaty,
- having regard to the Council Act of 26 July 1995 drawing up 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 to the protocols annexed and the changes made thereto,
- having regard to:
 1. the initiative by the Kingdom of Denmark with a view to adopting a Council Act drawing up, on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention), a Protocol amending that Convention (13254/2002 – C5-0001/2003 – 2002/0814(CNS))²,
 2. the initiative by the Kingdom of Denmark with a view to adopting a Council Act amending the Council Act of 3 November 1998 adopting Rules on the confidentiality of Europol information (13875/2002 – C5-0553/2002 – 2002/0823(CNS))³,
 3. the initiative by the Kingdom of Denmark with a view to adopting a Council Act amending the Staff Regulations applicable to Europol employees (13873/2002 – C5-0555/2002 – 2002/0822(CNS))⁴ and
 4. the initiative by the Hellenic Republic with a view to the adoption of a Council Decision adjusting the basic salaries and allowances applicable to Europol staff (6314/2003 – C5-0066/2003 – 2003/0806(CNS))⁵,
- having regard to the Commission communication to the European Parliament and the Council - Democratic Control over Europol (COM(2002) 95),

¹ OJ C 316, 27.11.1995, p. 1.

² Not yet published in OJ.

³ OJ C 286, 22.11.2002, p. 19.

⁴ OJ C 286, 22.11.2002, p. 20.

⁵ OJ C 52, 6.3.2003, p. 17.

- having regard to its recommendation of 30 May 2002 on the future development of Europol and its automatic incorporation into the institutional system of the European Union¹,
 - having regard to the recommendation of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0116/2003),
- A. whereas in its recommendation of 30 May 2002 the European Parliament clearly stated its view that Europol must become an effective tool in the fight against organised crime in the European Union, and that it must be able to operate in a flexible manner so that it may make an effective contribution to the fight against the manifold forms of serious crime, and its request that the Council replace the Convention with a decision, given the existing major shortcomings:
- that Europol continues to operate within the ambit of simple intergovernmental cooperation, at a time Europol is being given an increasing number of tasks to be carried out on behalf of the Union and is being authorised to transfer personal data to third countries and bodies,
 - that, in the advent of enlargement, all decisions relating to Europol should no longer be taken by the Council acting unanimously,
 - that the European Parliament must be provided with the legal means and institutional framework to enable it in the future to exercise genuine democratic control,
 - and that the current procedure for amending the Convention or replacing it by a Council decision, which requires a Protocol that will have to be ratified by all the Member States, is excessively lengthy and cumbersome, and consequently entirely inappropriate,
- B. whereas it is appropriate for the Council to freeze the procedure regarding the Danish initiative with a view to adopting a Council Act drawing up a Protocol amending the Europol Convention,
- C. whereas the European Parliament welcomes and supports the conclusions of Working Group X, Freedom, Security and Justice, which state:

"This [the conversion of conventions already adopted by the Council under Article 34 TEU into regulations or directives] would, in particular, solve the pressing legal problems, which presently make any future development of the Europol legal framework so cumbersome. If the Council were able to convert the Europol Convention into a regulation, it could more easily adapt that text to changing circumstances and define therein appropriate decision-making procedures for the management of Europol. It should be stressed however that the content of the Europol Convention, and thus the basic character of Europol, would not necessarily be affected by such a conversion exercise."

¹ P5-TAPROV(2002)0269

and the Presidium proposal of 14 March 2003 for Article 22 on Europol which, in the comments, states:

"In accordance with those recommendations, the first paragraph aims only to enshrine Europol's general mission. However, Europol's structure, operating rules, specific areas of action and tasks will now be defined by the law (which will replace the existing Europol Convention) rather than by detailed provisions of the Treaty itself (see existing Article 30(2) TEU)" ,

- D. whereas the proposed initiatives could be welcomed as a step in the right direction, but unfortunately a lot of work still needs to be done; whereas most strikingly these initiatives do not address or do not significantly improve the fundamental shortcomings mentioned above and in any case need further improvement,

In relation to the initiative by the Kingdom of Denmark with a view to adopting a Council Act drawing up, on the basis of Article 43 (1) of the Convention on the Establishment of a European Police Office (Europol Convention), of a Protocol amending that Convention (10307/2002) and the amended initiative (13254/2002–C5-001/2003)

- only after consulting the European Parliament should the Council, on a proposal from the Management Board, lay down the priorities for Europol in respect of the combating and prevention of the forms of serious international crime within its mandate (which could, after the revision of the Treaties, be adopted by codecision),
- provision should be made for the Presidency of the Council or its representative to appear before any joint committee, which may be set up by the European Parliament in cooperation with national parliaments, with a view to discuss questions relating to Europol.

In relation to the initiative by the Kingdom of Denmark with a view to adopting a Council Act amending the Council Act of 3 November 1998 adopting Rules on the confidentiality of Europol information

- the rules on confidentiality of Europol information must be compatible with the rules to be adopted by Europol in conformity with Regulation 1049/2001 on public access to documents and should only come into force at the same time as rules to be adopted in conformity with Regulation 1049/2001,

- E. whereas it is appropriate to ensure a level of judicial control within Europol that is equivalent to the standards laid down under the First Pillar,

- F. whereas the opportunities for parliamentary control open to the European Parliament would be considerably increased if a part of Europol's budget were to be incorporated in the Community budget,

1. Addresses the same recommendations to the Council as made in its recommendation of 30 May 2002:

Recommendation 1: legal basis

- Calls on the Council to endorse draft Article 22 (Europol) as presented by the Presidium of the Convention¹ which makes Europol part of the First Pillar, including the proposal to convert the Europol Convention into a regulation to be adopted by qualified majority and by co-decision with the European Parliament;

Recommendation 2: budget

- Calls on the Council to amend the arrangements for the funding of Europol by replacing part of the contributions of Member States with funding from the EU budget, while respecting the prerogatives of the budgetary authorities;

Recommendation 3: tasks

- Calls on the Council to adopt the provisions required to:
 - enable Europol to ask the competent Member State authorities to conduct investigations in specific cases;

Recommendation 4: parliamentary control

- Calls on the Council to strengthen the European Parliament's democratic power of control over Europol and, to that end, to adopt:
 - a provision amending Article 34 of the Europol Convention and laying down that one single annual activity report shall be forwarded to the Council and to the European Parliament,
 - a provision amending Article 34 of the Europol Convention and conferring on the European Parliament the formal right to hold an exchange of views with the Council Presidency on the annual activity report,
 - a provision amending Article 34 of the Europol Convention and conferring on the European Parliament the formal right to invite the Director of Europol to appear before the competent committee,
 - a provision amending Article 24(6) of the Europol Convention and requiring the joint supervisory authority responsible for data protection to draw up an annual activity report, to forward it to the European Parliament and to give an account thereof before the competent committee;
 - a provision amending Article 28 of the Europol Convention and altering the composition of the Europol Management Board to include two representatives of the Commission and two of the European Parliament, in addition to one representative of each Member State,
 - a provision amending Article 29 of the Europol Convention and laying down that the European Parliament shall be equally involved in the procedure for the appointment and dismissal of the Director of Europol, jointly with the Council;

Recommendation 5: data protection

¹ CONV 614/03 of 14 March 2003 on the Area of Freedom, Security and Justice.

- Calls on the Council to adopt a provision which guarantees that the data protection provided and the supervision of compliance with these standards are equivalent to those guaranteed under the first pillar (European Parliament and Council Directive 95/46/EC¹);
- Calls on the Council, to make sure, as was already stated in its resolution of 13 November 2001 on a Council decision extending Europol's mandate to deal with the serious forms of international crime listed in the Annex to the Europol Convention², that Europol, in close cooperation with the Member States, shall collect, on a continuous, decentralised basis, data on trends in international crime in the territories of the Member States, which data shall be incorporated in the annual reports referred to in Article 28 (10), first subparagraph, point (1) of the Europol Convention;
- Repeats its message that the general reports on Europol's activities referred to in Article 28 (10), first subparagraph, point (1) of the Europol Convention shall expressly refer to those priorities and shall reflect the state of their implementation and expected developments during the following year; the reports shall be forwarded to the European Parliament with a view to the annual debate referred to in Article 39 of the Treaty on European Union and shall afterwards be published together with the opinions of the European Parliament and any observations and appraisals of individual Member States;

Recommendation 6: cooperation

- Calls on the Council to take the measures required to ensure close cooperation between Europol, Eurojust and OLAF in order to strengthen the operational efficiency of those bodies in the fight against organised crime and terrorism;

Recommendation 7: transparency

- Calls on Europol to adopt as soon as possible rules on access to documents in conformity with Regulation 1049/2001 after consulting the European Parliament and to ensure that any rules on confidentiality of Europol information are compatible with the rules to be adopted by Europol in conformity with Regulation 1049/2001 on public access to documents;
- In the meantime, calls on Europol to apply the principles of Regulation 1049/2001;
- Calls on the Council to adopt the provisions required to:
 - draw up a list of the "competent authorities" in the sense of Article 2 paragraph 4 of the Europol Convention (i.e. all public bodies existing in the Member States which are responsible under national law for preventing and combating criminal offences); the list shall include the competences of these authorities, be made public and regularly updated;

¹ OJ L 281, 23.11.1995, p. 31.

² OJ C 140, 13. June 2002, p. 25.

2. Instructs its President to forward this recommendation to the Council, and, for information, to the Commission and to the governments and parliaments of the Member States and of the ten acceding States.