

Future development of Europol

European Parliament recommendation to the Council on the future development of Europol and its automatic incorporation into the institutional system of the European Union

The European Parliament,

- having regard to Article 39(3) 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 the initiative of the Kingdom of Belgium and the Kingdom of Spain with a view to adopting a Council Act drawing up a Protocol amending the Convention on the establishment of a European Police Office (Europol Convention), the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the establishment of a European Police Office and the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol²,
 - having regard to the Commission communication to the European Parliament and the Council - Democratic Control over Europol (COM(2002) 95),
 - having regard to Rule 107 of its Rules of Procedure,
 - having regard to the proposal for a recommendation of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0173/2002),
- A. whereas Europol must become an effective tool in the fight against organised crime in the European Union, in particular by maintaining close cooperation with Eurojust, and whereas, in a constantly changing international environment, that implies that Europol 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,
- B. whereas the current procedure for amending the Convention, which requires ratification by all the Member States in accordance with their respective constitutional rules, is excessively lengthy and cumbersome and, consequently, entirely inappropriate,

¹ OJ C 316, 27.11.1995, p. 1.

² OJ C 42, 15.2.2002, p. 8.

- C. whereas, by proposing that, henceforth, amendments to the Europol Convention should be adopted by the Council, the initiative of the Kingdom of Belgium and the Kingdom of Spain seems to be taking a step in the right direction, but whereas it actually has three major shortcomings:
- (a) it restricts Europol, in law, within the ambit of simple intergovernmental cooperation, contrary to the express requests repeatedly submitted by the European Parliament and at a time when the Council is entrusting to Europol an increasing number of tasks to be carried out on behalf of the Union;
 - (b) after enlargement of the Union, it may well make the decision-making procedure excessively slow, or even result in an impasse, given that all decisions relating to Europol must be taken by the Council acting unanimously;
 - (c) it confirms the marginal role to be played by the European Parliament with regard to everything relating to Europol, while depriving it of the legal means and institutional framework which might enable it in the future to exercise genuine democratic control,
- D. whereas an alternative route does exist, one which would provide an appropriate response to the major shortcomings set out above: application of Article 34(2)(c) of the EU Treaty would enable the Council to replace the Convention with a decision,
- E. whereas replacement of the Convention with a Council decision pursuant to Article 34 of the EU Treaty would have the direct effect of integrating Europol into the third pillar and, consequently, into the Community legal order, with the following three considerable advantages:
- (a) improvement of Europol's operational capacities, since, pursuant to Article 34 of the EU Treaty, all implementing measures are to be adopted by the Council acting by a qualified majority (with no derogation possible), which would enable the Union to react more rapidly in an emergency;
 - (b) better parliamentary scrutiny, since, firstly, Parliament must be consulted before the Council adopts any implementing measures (Article 39 of the EU Treaty) and, secondly, Parliament may bring an action before the Court of Justice should its rights not be respected;
 - (c) automatic application of the rules governing the jurisdiction of the Court of Justice (Article 35 of the EU Treaty) to all the decisions adopted by the Council pursuant to Article 34 of the EU Treaty (and, therefore, to the Convention itself, in the event that it is replaced with a Council decision),
- F. whereas it is imperative and a matter of urgency to strengthen democratic control over Europol,
- G. whereas the extension of powers and responsibilities envisaged by the initiative of the Kingdom of Belgium and the Kingdom of Spain, through the introduction of joint investigation teams, reinforces the current imbalance between the executive and the

legislative bodies, and whereas, as a European body, Europol must be monitored by another European body – the European Parliament – and not by national parliaments,

H. 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 following recommendations to the Council:

Recommendation 1: legal basis

- Calls on the Council to replace:
 - the Convention on the establishment of a European Police Office (Europol Convention)
 - the Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the establishment of a European Police Office
 - and the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol

with a Council decision or decisions taken pursuant to Article 34(2)(c) of the Treaty on European Union, and in so doing to ensure due respect for the EU institutions' own competences and, accordingly, to take action pursuant to Articles 30 and 31 of the TEU to recast the Europol Convention provisions governing police and judicial cooperation in criminal matters, with particular regard to the basic elements of the criminal acts for which Europol is competent;

Recommendation 2: budget

- Calls on the Council, as part of that decision, 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, as part of that decision, to adopt the provisions required to:
 - regulate Europol participation in joint investigation teams,
 - enable Europol to ask the competent Member State authorities to conduct investigations in specific cases,
 - equip Europol with more effective means to combat money-laundering and to improve its capacity to assist the Member States in that respect (Council Act of 30 November 2000 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 Article 2 and the Annex to that Convention¹);

Recommendation 4: parliamentary control

- Calls on the Council, as part of that decision, 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 involved in the procedure for the appointment and dismissal of the Director of Europol, jointly with the Council,

Recommendation 5: data protection

¹ OJ C 358, 13.12.2000, p. 1.

- Calls on the Council to adopt, as part of the decision replacing the Convention, 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);

Recommendation 6: cooperation

- Calls on the Council, as part of that decision, 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.
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.

¹ OJ L 281, 23.11.1995, p. 31.