

EUROPEAN PARLIAMENT

1999



2004

Session document

FINAL
A5-0106/2003

27 March 2003

REPORT

on 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))

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

Rapporteur: Christian Ulrik von Boetticher

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.

CONTENTS

	Page
PROCEDURAL PAGE.....	4
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	7

PROCEDURAL PAGE

By letter of 12 July 2002 the Council consulted Parliament, pursuant to Article 39(1) of the EU Treaty, on 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 (10307/2002 – 2002/0814(CNS)).

At the sitting of 13 January 2003 the President of Parliament announced that he had referred the initiative to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible (C5-0352/2002).

The committee appointed Gérard M.J. Deprez rapporteur at its meeting of 11 September 2002 and Christian Ulrik von Boetticher replaced him as from 11 November 2002.

By letter of 8 January 2003 the Council informed Parliament on the stage reached in the procedure, as set out in document 13254/5/02 REV 5 EUROPOL 76.

At the sitting of 13 January 2003 the President of Parliament announced that he had referred this document to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible (C5-0001/2003).

Pursuant to Rule 61(4) of the Rules of Procedure the committee decided to take document 13254/5/02 as the text to which it has tabled amendments.

It considered the initiative by the Kingdom of Denmark and draft report at its meetings of 11 September 2002 and 21 January, 20 March and 25 March 2003.

At the last meeting it rejected the draft legislative resolution by 30 votes to 1.

The following were present for the vote: Jorge Salvador Hernández Mollar (chairman), Johanna L.A. Boogerd-Quaak (vice-chairman), Giacomo Santini (vice-chairman), Christian Ulrik von Boetticher (rapporteur), Mary Elizabeth Banotti, Alima Boumediene-Thiery, Kathalijne Maria Buitenweg (for Pierre Jonckheer), Mogens N.J. Camre (for Niall Andrews), Marco Cappato (for Mario Borghezio), Charlotte Cederschiöld, Carmen Cerdeira Morterero, Ozan Ceyhun, Carlos Coelho, Thierry Cornillet, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Margot Keßler, Timothy Kirkhope, Eva Klant, Alain Krivine (for Fodé Sylla), Lucio Manisco (for Ole Krarup), Claude Moraes (for Michael Cashman), Marcelino Oreja Arburúa, Elena Ornella Paciotti, Martine Roure, Heide Rühle, Olle Schmidt (for Baroness Sarah Ludford), Ilka Schröder, Patsy Sørensen, The Earl of Stockton (for Hubert Pirker), Joke Swiebel, Anna Terrón i Cusí and Maurizio Turco.

The report was tabled on 27 March 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on 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))

(Consultation procedure)

The European Parliament,

- having regard to the initiative by the Kingdom of Denmark (10307/2002)¹ and the amended initiative (13254/2002),
 - having regard to Article 34(2)(d) of the EU Treaty,
 - having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C5-0352/2002 and C5-0001/2003),
 - having regard to Rules 106, 61(4) and 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0106/2003),
1. Rejects the initiative by the Kingdom of Denmark;
 2. Calls on the Council to withdraw its initiative and submit a new one;
 3. Instructs its President to forward its position to the Council and Commission, and the Government of the Kingdom of Denmark.

¹ OJ C 172 E, 18.7.2002, p. 23.

EXPLANATORY STATEMENT

By letter of 12 July 2002 the Council consulted the European Parliament on the initiative of 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. The initiative was submitted by the Council to the European Parliament pursuant to Article 39 of the Treaty on European Union. On 19 December 2002 the Council drew up an amended text which has been sent to the European Parliament for information by letter of 19 December 2002 13254/5/02 REV 5 Europol 76. The negotiations are continuing on the basis of that document.

The rapporteur acknowledges the significance of the Danish proposal as it seems to take a step in the right direction. He however wants to point out a lot of work still needs to be done. First of all, he would like to repeat (as in i.e. in the Deprez report)¹ the concern expressed by the European Parliament in its recommendation to the Council on the future development of Europol and its automatic incorporation into the institutional system of the European Union. In particular, he wants to express his concern at the instrument chosen, a protocol. The choice of such a cumbersome instrument is regrettable, given that the protocol will have to be ratified by the Member States. It is regrettable that a more flexible instrument of Article 34 of the Treaty on the European Union was not chosen, for example a decision (Article 34(2)(c)). This is particularly regrettable because Europol has a key role with respect to cooperation between Member States' authorities in the field of cross-border crime investigation. Europol therefore must become an effective tool in the fight against organised crime in the European Union.

Moreover European and national parliamentary and judicial scrutiny on the activities of Europol remain weak. Whereas Europol is gaining competencies it becomes more and more important to provide for an adequate scrutiny by, especially, the European Parliament.

The proposal which the Praesidium of the Convention on the Future of Europe has submitted provides for such scrutiny. The transfer of Europol to the first pillar would make for judicial scrutiny by the CJEC and parliamentary scrutiny on the basis of Parliament's budgetary powers. In addition, in future decisions on Europol's structure, working methods, scope for action and remit are to be taken by Parliament and the Council acting under the codecision procedure. Your rapporteur strongly urges the members of the Convention to support the arrangements regarding Europol proposed by the Praesidium.

It is therefore appropriate² to establish a formal mechanism for information exchange and co-ordination between national Parliaments and the European Parliament. To this end a joint committee, consisting of members of both Member States' and European Parliaments committees responsible for police matters could be established. The rapporteur therefore stresses that it is important to create in the Europol-Convention at least the possibility for the Presidency of the Council or its representative assisted by the Director of Europol to appear before the European Parliament or the Joint Committee. Providing a role to the national parliaments is also in line with the Declaration added to the Treaty of Nice on the future of the

¹ A-50173/2002

² As has also been put forward by the Commission in its Communication to the European Parliament and to the Council on Democratic control over Europol, COM (2002) 95 final

European Union. This Declaration lists the main topics for the future European Union to deal with. The role of national parliaments in the European architecture is regarded one of those topics.¹

The initiative by the Kingdom of Denmark has been overtaken by developments in the Convention. Your rapporteur urges the Council not to adopt amendments to the Europol Convention prior to the ratification of the European Constitution. In your rapporteur's view, the ratification of the amended Europol Convention would take so long that there would be no time to respond to the changed circumstances brought about by a European Constitution. Following the entry into force of that Constitution the Europol Convention should be incorporated into Community law and revised.

The rapporteur therefore wants to propose to reject the Danish Initiative, and instead to present a recommendation on the future of Europol.

¹ OJ C 80/86 of 10 March (Declaration on the future European Union)