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REPORT

on the initiative of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg and of the Kingdom of the Netherlands with a view to adopting the Council Act amending the Staff Regulations applicable to Europol employees
(9566/2002 – C5-0293/2002 – 2002/0811(CNS))

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

Rapporteur: Gérard M.J. Deprez

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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PROCEDURAL PAGE

By letter of 24 June 2002 the Council consulted Parliament, pursuant to Article 39(1) of the EU Treaty, on the initiative of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg and of the Kingdom of the Netherlands with a view to adopting the Council Act amending the Staff Regulations applicable to Europol employees (9566/2002 – 2002/0811(CNS)).

At the sitting of 1 July 2002 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 (C5-0293/2002).

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Gérard M.J. Deprez rapporteur at its meeting of 11 September 2002.

It considered the initiative of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg and of the Kingdom of the Netherlands and the draft report at its meetings of 11 September 2002 and 8 October 2002.

At the latter meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Jorge Salvador Hernández Mollar, chairman; Lousewies van der Laan, vice-chairman; Gérard M.J. Deprez, rapporteur; Niall Andrews, Mary Elizabeth Banotti, Christian Ulrik von Boetticher, Mario Borghezio, Giuseppe Brienza, Marco Cappato (for Frank Vanhecke), Michael Cashman, Charlotte Cederschiöld, Ozan Ceyhun, Carlos Coelho, Giuseppe Di Lello Finuoli, Marie-Thérèse Hermange (for Thierry Cornillet), Pierre Jonckheer, Alain Krivine (for Ole Krarup), Baroness Sarah Ludford, Lucio Manisco (for Fodé Sylla), Hartmut Nassauer, Bill Newton Dunn, Elena Ornella Paciotti, Paolo Pastorelli (for Eva Klamt), Martine Roure, Heide Rühle, Ilka Schröder, Ole Sørensen (for Francesco Rutelli), Sérgio Sousa Pinto, Joke Swiebel, Anna Terrón i Cusí and Maurizio Turco.

The report was tabled on 9 October 2002.

LEGISLATIVE PROPOSAL

Initiative of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg and of the Kingdom of the Netherlands with a view to adopting the Council Act amending the Staff Regulations applicable to Europol employees (9566/2002 – C5-0293/2002 – 2002/0811(CNS))

The initiative is rejected.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the initiative of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg and of the Kingdom of the Netherlands with a view to adopting the Council Act amending the Staff Regulations applicable to Europol employees (9566/2002 – C5-0293/2002 – 2002/0811(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the initiative of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg and of the Kingdom of the Netherlands (9566/2002¹),
 - having regard to Article 34(2)(c) of the EU Treaty,
 - having been consulted by the Council pursuant to Article 39(1) of the EU Treaty (C5-0293/2002),
 - having regard to Rules 106 and 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0345/2002),
1. Rejects the initiative of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg and of the Kingdom of the Netherlands;
 2. Calls on the Kingdom of Belgium, the Grand-Duchy of Luxembourg and the Kingdom of the Netherlands to withdraw their initiative, and calls on the Commission and/or the Presidency to submit a fresh initiative which is in keeping with the enacting terms proposed by the recommendation adopted by the European Parliament on 30 May 2002 on the future development of Europol and its automatic incorporation into the institutional system of the European Union;
 3. Instructs its President to forward its position to the Council and Commission, and the governments of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg and of the Kingdom of the Netherlands.

¹ OJ C 161, 5.7.2002, p. 16-22.

EXPLANATORY STATEMENT

I. Substance of the initiative

The purpose of the initiative of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg and of the Kingdom of the Netherlands with a view to adopting the Council Act amending the Staff Regulations applicable to Europol employees is to implement Article 30 of the Europol Convention, as specifically regards the Director and Deputy Directors of Europol.

Article 30(3), which relates to staff, of the Europol Convention stipulates that 'Detailed arrangements shall be laid down in staff regulations which the Council shall, after obtaining the opinion of the Management Board, adopt unanimously in accordance with the procedure laid down in Title VI of the Treaty on European Union.'

The Europol Staff Regulations were established by the Council Act of 3 December 1998 (OJ C 26, 30.1.1999). As the Treaty of Amsterdam had not yet come into force when that act was adopted, Parliament was not consulted.

The Europol Staff Regulations, though they are very precise and clear with regard to staff recruited by Europol (conditions of engagement, working conditions, remuneration, disciplinary measures, etc.), contain virtually no 'specific' provisions on the Director and Deputy Directors.

In terms of substance, then, the initiative on which we have been consulted is both timely and appropriate. It is made up of five chapters, each seeking to regulate a specific aspect of the status of the Director and Deputy Directors which has not to date been governed by the 'general' Europol Staff Regulations: Chapter 1 contains the organisational arrangements for selection procedures, Chapter 2 lays down the detailed arrangements and conditions for terminating service, Chapter 3 lays down the disciplinary proceedings, Chapter 4 regulates appeals and Chapter 5, lastly, contains a number of specific provisions concerning the Director.

Detailed consideration of all the provisions, in particular by comparing them with the Staff Regulations of officials and other servants of the European Communities, reveals no major problem.

This initiative is therefore not problematic in terms of either appropriateness or substance.

II. The grounds for rejection

Your rapporteur would like very briefly, but very clearly, to set out why he is proposing that Parliament make the political point of rejecting the initiative submitted to us.

1. The Council's offhandedness

The Council's offhandedness towards Parliament, as regards procedure, is the first reason. It is standard practice for any legislative proposal to be accompanied by an explanatory memorandum, from the proposer, which, at the very least, sets out the reasons for the proposal, the general structure of the enacting terms, the objectives pursued and the pertinence

of the options chosen. That elementary rule is obviously not part of the Council's culture. This initiative - like a host of others, for that matter - seems to have been forwarded to Parliament simply for form's sake without the Council bothering to justify and explain it.

2. Bogus consultation

In all likelihood, given what we already know, the Council will not take a blind bit of notice of any amendments by Parliament. That is virtually standard practice in the case of initiatives originating in either the Council or Member States on which Parliament simply needs to be consulted. Sometimes, even, no sooner does the procedure for consulting Parliament get under way than agreements are reached within the Council (in particular as 'A' items). It is in no way in the interests of Parliament, as a democratic institution representing Europe's citizens, to go along with what is basically a mug's game.

3. Rejection – making a political point

Parliament recently adopted, by a very large majority, a recommendation calling on the Council to replace the Convention on the establishment of a European Police Office (Europol Convention) by a Council decision based on Article 34(2)(c) of the Treaty on European Union.

As a result of such a decision:

- Europol would be taken out of the ordinary intergovernmental cooperation framework and incorporated into the Community system;
- all implementing measures would be adopted by the Council acting by a qualified majority;
- Parliament's rights would be guaranteed, with the possibility of bringing actions before the Court of Justice;
- Europol could be funded, at least in part, from the EU budget, the very fact of which would strengthen democratic oversight over its activities.

To date, no action is known to have been taken by the Council on Parliament's recommendation.

In your rapporteur's view, it is not in the interests of Parliament, which has been no more than a legislative pygmy in such matters to date, to behave like a political pygmy too.

In view of all these factors, your rapporteur proposes that, regardless of substance, the Europol initiative submitted to us be rejected by Parliament.