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REPORT

on the initiative of the United Kingdom of Great Britain and Northern Ireland with a view to adopting a Council Decision amending Decision 2003/170/JHA on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States
(10706/2005 – C6-0255/2005 – 2005/0808 (CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Martine Roure

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 |
|---|-------------|
| DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION..... | 5 |
| EXPLANATORY STATEMENT..... | 14 |
| PROCEDURE..... | 17 |

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the initiative of the United Kingdom of Great Britain and Northern Ireland with a view to adopting a Council Decision amending Decision 2003/170/JHA on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States

(10706/2005 – C6-0255/2005 – 2005/0808 (CNS))

(Consultation procedure)

The European Parliament,

- having regard to the initiative of the United Kingdom of Great Britain and Northern Ireland (10706/2005),
 - having regard to Article 34(2)(c) of the EU Treaty,
 - having regard to Article 39(1) of the EU Treaty, pursuant to which it was consulted by the Council,
 - 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 (A6-0064/2006),
1. Approves the initiative of the United Kingdom of Great Britain and Northern Ireland as amended;
 2. Calls on the Council to amend the text of the initiative accordingly;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks to be consulted again if the Council intends to make substantial amendments to the initiative of the United Kingdom of Great Britain and Northern Ireland;
 5. Instructs its President to forward its position to the Council and Commission and to the Government of the United Kingdom of Great Britain and Northern Ireland.

Text proposed by the United Kingdom of
Great Britain and Northern Ireland

Amendments by Parliament

Amendment 1
RECITAL 1 A (new)

***(1a) As regards Iceland and Norway, this
Decision (with the exception of the first***

and second paragraphs of Article 1 thereof) constitutes a development of the Schengen acquis provisions within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis¹, which fall within the area referred to in Article 1(H) of Council Decision 1999/437/EC on certain arrangements for the application of that Agreement²,

¹ OJ L 176, 10.7.1999, p. 36.

² OJ L 176, 10.7.1999, p. 31.

Justification

The purpose of the first and second paragraphs of Article 1 of the initiative is to add provisions to the first and second paragraphs of Article 1 of Council Decision 2003/170/JHA, which concern Europol. Hence they do not relate to the Schengen acquis and do not develop it.

Just as recital 17 of Council Decision 2003/170/JHA stated exactly which article did not constitute a development of the Schengen acquis, this initiative should state it too, so that recital 17 of Council Decision 2003/170/JHA can be modified appropriately.

Amendment 2

ARTICLE 1, PARAGRAPH 1

Article 1, paragraph 1, subparagraph 1a (Decision 2003/170/JHA)

“In this Decision, “Europol liaison officer” means a Europol employee, posted abroad to one or more third countries or to international organisations to support and coordinate the cooperation with the authorities in those countries or organisations and Europol by facilitating the exchange of information between them.”;

“In this Decision, “Europol liaison officer” means a Europol employee, posted abroad to one or more third countries or to international organisations to support and coordinate the cooperation ***on the one hand*** with the authorities in those countries or organisations and Europol ***and, on the other, amongst the liaison officers posted by the Member States' law-enforcement agencies to the third country or international organisation to which he is posted,*** by facilitating the exchange of

information between them.”;

Justification

[The first paragraph of this Justification does not apply to the English version.]

Europol liaison officers should both play a role similar to that of the officers seconded by the Member States and act as coordinators of those officers’ work. This dual function will prevent pointless overlap in the officers’ activities and enable them to perform more efficiently and effectively, since they will - where possible - work as a team.

Amendment 3

ARTICLE 1, PARAGRAPH 2

Article 1, paragraph 2, subparagraph 1a (Decision 2003/170/JHA)

“This Decision is without prejudice to Europol liaison officers’ tasks within the framework of the Europol Convention, *its implementing arrangements*, and cooperation agreements concluded between Europol and the third country or international organisation concerned.”;

“This Decision is without prejudice to Europol liaison officers’ tasks within the framework of the Europol Convention, *the arrangements made for the implementation thereof*, and cooperation agreements concluded between Europol and the third country or international organisation concerned.”;

Justification

[The first paragraph of this Justification does not apply to the English version.]

The proposed rewording is more appropriate.

Amendment 4

ARTICLE 1, PARAGRAPH 2 A (new)

Article 1, paragraph 1 (Decision 2003/170/JHA)

(2a) in Article 2, paragraph 1 shall be replaced by the following text:

“1. Each Member State shall ***duly*** ensure ***on the one hand*** that its liaison officers establish and maintain direct contacts with competent authorities in the host State or the international organisation with a view to facilitating and expediting the collection and exchange of information, ***and on the other that its liaison officers immediately and directly exchange the information***

collected with Europol.”

Justification

The direct exchange of information between seconded officers and the Europol central agency would appear to be essential and fundamental if a European spirit of cooperation amongst police forces and law-enforcement agencies is to emerge. The tasks of such officers should therefore include the requirement that they should exchange information immediately with Europol.

Amendment 5

ARTICLE 1, PARAGRAPH 2 B (new)
Article 2, paragraph 3 (Decision 2003/170/JHA)

(2b) in Article 2, paragraph 3 shall be replaced by the following text:

“3. Liaison officers shall carry out their tasks within the framework of their responsibilities and in compliance with the provisions, including those on the protection of personal data, laid down in their country’s laws, in the Europol Convention and in any agreements concluded with the host States or international organisations.”

Justification

Since the Europol Convention has not yet been incorporated into the domestic laws of all the Member States, it must be mentioned in the text.

Amendment 6

ARTICLE 1, PARAGRAPH 2 C (new)
Article 2, paragraph 3a (new) (Decision 2003/170/JHA)

(2c) the following paragraph shall be added to Article 2:

“3a. Where liaison officers are several in number and are posted by different Member States to the same third country or international organisation, they shall coordinate their activities and their tasks in such a way that any overlap in their work is reduced to a minimum. To this

end they shall organise themselves with a view to working as a team and they shall seek to develop links with liaison officers seconded to other countries with whom cooperation is necessary or would be useful in the task of collecting, adding to and linking information beyond the national, multinational or organisational framework within which they are posted.”

Justification

Owing to the cross-border nature of many criminal and terrorist organisations or associations, liaison officers posted to different countries must be able to cooperate and to share certain tasks in order to be able to carry out those tasks more efficiently and effectively.

Amendment 7

ARTICLE 1, PARAGRAPH 3

Article 4, paragraph 1, new sentence (Decision 2003/170/JHA)

“Such meetings may also be held at the initiative of any other Member State and especially of those Member States acting as a “lead nation” for the EU cooperation in a particular country or region.”;

“Such meetings may also be held at the initiative of ***Europol or*** any other Member State and especially of those Member States acting as a “lead nation” for the EU cooperation in a particular country or region.”;

Justification

As a central agency, Europol must have the same right as the Member States to organise such meetings.

Amendment 8

ARTICLE 1, PARAGRAPH 3 A (new)

Article 4, paragraph 2 (Decision 2003/170/JHA)

(3a) in Article 4, paragraph 2 shall be replaced by the following text:

“2. Member States shall ensure that ***their*** liaison officers posted to the same third country or international organisation provide one other with assistance in contacts with the authorities of the host State. ***The Member States shall seek mutual agreement on how the tasks to be***

performed are distributed amongst their liaison officers who are posted to the same third country or international organisation, whilst ensuring that the interests of all the EU countries are identified and duly taken into account. If such distribution of tasks has not been agreed amongst the Member States, Europol and its liaison officer posted to that third country or international organisation (in cases where there is such an officer) shall undertake to effect and implement such a distribution.”

Justification

Where several Member States post liaison officers to the same country or to the same organisation, there is often a pointless overlap in the work which those officers do. Team work must therefore be organised in the countries concerned in order to ensure that liaison officers operate more efficiently.

Amendment 9

ARTICLE 1, PARAGRAPH 3 B (new)
Article 4, paragraph 3 (Decision 2003/170/JHA)

(3b) in Article 4, paragraph 3 shall be replaced by the following text:

“3. Member States shall bilaterally or multilaterally instruct liaison officers who are posted to a third country or an international organisation by a Member State to look after the particular interests of one or more other Member States and shall act more globally, taking into account the EU interest.”

Justification

Since the Member States are part of the same Union, it is in the interests of them all that each should keep a close eye on the interests and the security of the others. Furthermore, since our particular interests do not fundamentally diverge as regards security and police cooperation, such a task will not overburden the officers.

Amendment 10
ARTICLE 1, PARAGRAPH 3 C (new)
Article 5, paragraph 1 (Decision 2003/170/JHA)

(3c) in Article 5, paragraph 1 shall be replaced by the following text:

“1. Member States shall ensure that their liaison officers in third countries and international organisations shall, in accordance with national law, the Europol Convention and relevant international instruments and subject to compliance with applicable provisions governing the protection of personal data, provide their respective national authorities and Europol with information relating to serious criminal threats to other Member States not represented by their own liaison officers in the third country or international organisation concerned. National authorities shall assess, in accordance with national law and the Europol Convention and according to the seriousness of the threat, whether the Member States concerned should be informed.”

Justification

Since the Europol Convention has not yet been incorporated into the domestic law of all the Member States, it must be mentioned in the text.

Amendment 11
ARTICLE 1, PARAGRAPH 3 D (new)
Article 5, paragraph 2 (Decision 2003/170/JHA)

(3d) in Article 5, paragraph 2 is replaced by the following text:

“2. Member States’ liaison officers in third countries or international organisations shall, in accordance with national law, the Europol Convention and relevant international instruments and subject to compliance with applicable

provisions governing the protection of personal data, provide information relating to serious criminal threats to other Member States directly to the liaison officers of the Member State in question and Europol, if that Member State is represented in the third country or international organisation concerned.”

Justification

Firstly, since the Europol Convention has not yet been incorporated into the domestic laws of all the Member States, it must be mentioned in the text.

Secondly, in the interests of mutual support amongst the Member States where one of them is the target of a threat, that State should be able to be notified of the fact as quickly as possible, even though it has no liaison officer in the country from which the possible threat comes.

Amendment 12

ARTICLE 1, PARAGRAPH 3 E (new)
Article 5, paragraph 4 (Decision 2003/170/JHA)

(3e) in Article 5, paragraph 4 shall be replaced by the following text:

“4. Member States shall deal with any request as described in paragraph 3 in accordance with their respective national law, the Europol Convention and relevant international instruments, and shall state as speedily as possible whether such a request may be met.”

Justification

Since the Europol Convention has not yet been incorporated into all Member States' domestic law, it must be mentioned in the text.

Amendment 13

ARTICLE 1, PARAGRAPH 4
Article 8, paragraph 3 (Decision 2003/170/JHA)

“3. In accordance with ***national law and*** the Europol Convention, Member States ***may make*** a request to Europol ***to use***

“3. In accordance with ***(deletion)*** the Europol Convention, Member States ***shall ensure that, where possible and necessary,***

Europol liaison officers seconded to third countries or international organisations, **with a view to the exchange of** relevant information. Requests shall be addressed to Europol via the Member States' national units in accordance with the Europol Convention.”

a request **is made** to Europol **with a view to securing access to its** liaison officers seconded to third countries or international organisations, **so that full use can be made of Europol channels for the purpose of** exchanging relevant information. Requests shall be addressed to Europol via the Member States' national units in accordance with the Europol Convention. “

Justification

The revised wording seems more appropriate. On the one hand, referring to national law in this paragraph serves no purpose. Furthermore, this wording is a much better reflection of the spirit of Decision 2003/170/JHA of 27 February 2003, which is entitled 'Common use of liaison officers posted abroad by the law-enforcement agencies of the Member States'.

Amendment 14

ARTICLE 1, PARAGRAPH 4

Article 8, paragraph 4 (Decision 2003/170/JHA)

“4. Europol shall ensure that its liaison officers seconded to third countries and international organisations provide it with information relating to serious threats to Member States of criminal offences for which Europol is competent under the Europol Convention. Such information shall be communicated to the competent authorities of the Member States concerned **via** the national units in accordance with the Europol Convention.”

“4. Europol shall ensure that its liaison officers seconded to third countries and international organisations provide it with information relating to serious threats to **the** Member States of criminal offences for which Europol is competent under the Europol Convention. Such information shall be communicated to the competent authorities of the Member States concerned **through the intermediary of** the national units in accordance with the Europol Convention.”

Justification

The above wording makes the role conferred on Europol more binding as regards the forwarding of information in cases where the Member States are the target of serious threats.

EXPLANATORY STATEMENT

Council decision 2003/170/JHA

The main purpose of the Council Decision on the common use of liaison officers posted abroad by the Member States' law-enforcement agencies (10507/02-C5-0357/2002 - 2002/0815(CNS)) was to implement the relevant agreements which were already provided for in the joint action of 14 October 1996 (96/602/JAI).

That Council decision (which had been prompted by an initiative from Denmark) served to remedy the legal weakness of the 1996 joint action, since the latter was not legally binding on the Member States and the Court of Justice is not competent to issue judgments on the implementation or interpretation of such actions.

Although the decision incorporated much of the content of the earlier joint action, it nonetheless imposed specific obligations on the Member States as regards Community cooperation.

The decision had, however, been reached on the basis of the lowest common denominator, owing to the reluctance expressed by the Member States as regards wide-ranging cooperation in this area.

Parliament's legislative opinion concerning Decision 2003/170/JHA

Parliament approved the Danish initiative by means of a set of amendments adopted by the committee responsible.

Through its amendments, Parliament called essentially for the decision to apply to Europol liaison officers and to be more legally binding. This is what the decision currently under consideration does and is. Parliament took the view that liaison officers responsible for protecting the interests of their Member State of origin and posted to a third country or an international organisation should also protect the interests of the Member States which have no local staff.

The amendments adopted were an attempt to achieve three clear objectives:

- *firstly*, a Community approach to the tasks assigned to liaison officers was greatly desired.
- *secondly*, the idea of cooperation amongst the Member States within the area of freedom, security and justice by means of clearly enhanced cooperation amongst liaison officers from different Member States and from Europol when they were in the same third country was strongly supported.
- *thirdly*, Parliament hoped that the instruments relating to the responsibilities of liaison officers and to data protection at EU level would be made binding, in order to ensure that a set of national rules and rules governing Europol would not complicate the means of judicial verification.

The aims pursued by means of the new Council decision amending Decision 2003/170/JHA

Assessment of the way in which Decision 2003/170/JHA had been implemented made it clear that certain provisions thereof would have to be amended.

The purpose of the amendments is to make binding the current practice whereby the Member States use Europol liaison officers for the purpose of forwarding information. Hence such officers would also be posted to one or more third countries or one or more international organisations for the purpose of supporting and coordinating cooperation between the authorities of that/those third country/countries and Europol and facilitating the exchange of information.

Those same officers would also have the task of forwarding information concerning criminal threats possibly aimed at one or more Member States and of being used for the purpose of exchanging information at the request of a Member State.

The decision therefore serves to apply the earlier decision to liaison officers seconded by Europol and - more generally - to make the role currently played by those officers legally binding.

The rapporteur's views

Your rapporteur is aware of the problems caused by the lack of coordination and cooperation amongst liaison officers posted by different Member States' law-enforcement agencies to one and the same country or organisation.

Following the 17-18 October 2005 meeting between the Member States' parliaments on the subject of the future of the EU's area of freedom and security, your rapporteur wished to see Europol liaison officers play an enhanced role.

That is why the report comprises two types of amendment: one series relating to the original text of Decision 2003/170/JHA and one series relating to the Council's current initiative. Certain amendments to the original decision had to be altered, otherwise the amendments relating to the initiative proposed by the Council would have clashed with other articles contained in Decision 2003/170/JHA.

Europol liaison officers will therefore be responsible both for the same tasks as those carried out by the liaison officers seconded by the Member States and for coordinating the work of the latter in cases where there are several of them within one and the same country or organisation. The purpose of this measure is to increase the spirit of mutual support and cooperation amongst the Member States' police forces and also to enable them to carry out their tasks more efficiently (for example, by ensuring that one and the same task is not carried out twice on behalf of two different Member States).

The rapporteur has also ensured that information collected by the Member States' seconded liaison officers will be directly and automatically forwarded firstly to Europol and secondly to the other Member States in cases where a threat may be directed at one of those States which

has no officer posted to the country from which the threat originates.

Lastly, having noted that the Europol Convention has still not been incorporated into all the Member States' domestic laws, the rapporteur has included a parallel and complementary reference to that Convention wherever the old text contains a reference to national law. Amongst other things, this will ensure that the Europol Convention is duly taken into consideration in tasks of this nature by the Member States which have not yet taken the necessary action to incorporate the Convention into their domestic law.

PROCÉDURE

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|---|--|
| Title | Initiative of the United Kingdom of Great Britain and Northern Ireland with a view to adopting a Council Decision amending Decision 2003/170/JHA on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States |
| References | 10706/2005 – C6-0255/2005 – 2005/0808(CNS) |
| Date of consulting Parliament | 31.8.2005 |
| Committee responsible Date announced in plenary | LIBE 6.9.2005 |
| Committee(s) asked for opinion(s) Date announced in plenary | |
| Not delivering opinion(s) Date of decision | |
| Enhanced cooperation Date announced in plenary | |
| Rapporteur(s) Date appointed | Martine Roure 13.10.2005 |
| Previous rapporteur(s) | |
| Simplified procedure – date of decision | |
| Parliament to consult European Economic and Social Committee – date decided in plenary | |
| Parliament to consult Committee of the Regions – date decided in plenary | |
| Discussed in committee | 12.12.2005 16.1.2006 |
| Date adopted | 13.3.2006 |
| Result of final vote | +: 40 –: 0 0: 0 |
| Members present for the final vote | Alexander Nuno Alvaro, Roberta Angelilli, Alfredo Antoniozzi, Edit Bauer, Johannes Blokland, Mihael Brejc, Michael Cashman; Jean-Marie Cavada; Charlotte Cederschiöld, Fausto Correia, Agustín Díaz de Mera García Consuegra, Rosa Díez González, Kinga Gál, Patrick Gaubert, Elly de Groen-Kouwenhoven, Lilli Gruber, Adeline Hazan, Ewa Klamt, Henrik Lax, Sarah Ludford, Edith Mastenbroek, Jaime Mayor Oreja, Hartmut Nassauer, Martine Roure, Inger Segelström, Antonio Tajani, Ioannis Varvitsiotis, Stefano Zappalà; Tatjana Ždanoka. |
| Substitute(s) present for the final vote | Frederika Brepoels, Panayiotis Demetriou, Jeanine Hennis-Plasschaert, Sophia in 't Veld, Antonio Masip Hidalgo, Bill Newton Dunn, Hubert Pirker, Herbert Reul, Marie-Line Reynaud, Bogusław Sonik, Johannes Voggenhuber, Rainer Wieland |
| Substitute(s) under Rule 178(2) present for the final vote | |
| Date tabled | 17.3.2006 |
| Comments (available in one language only) | ... |