



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 22 January 2007

5560/07

EUROPOL 10

OUTCOME OF PROCEEDINGS

of : Europol Working Party
on : 18 and 19 January 2007
subject : Summary of discussions

1. Adoption of the agenda

The agenda as set out in document CM 4399/06 of 22 December 2006 was adopted.

2. Presidency programme for the Europol Working Party

The Presidency announced the meetings foreseen during the German Presidency:

18/19 January 2007

14 February 2007 (special session regarding funding and staff matters, including
immunities and privileges)

20/21 February 2007

13/14 March 2007

03/04 April 2007

15 May 2007

06 June 2007

The Presidency will focus on the following priorities:

Converting the Europol Convention into a Council Decision; main focus of work:

- a) operational tasks (enhancing Europol's operational capabilities)
- b) other tasks and responsibilities
- c) funding
- d) staff matters (including immunities and privileges)
- e) organizational matters.

He underlined that questions related to financing and staff regulations will be addressed in a special meeting on 14 February 2007, in view of allowing the Council to discuss these issues at its April meeting. The substantive questions will be submitted to the Council in June 2007.

3. Entry into force of the three Protocols amending the Europol Convention

The General Secretariat provided the following information:

- a) Further to the deposit of all instruments of ratification and pursuant to Article 2(3) thereof, the Protocol drawn up on the basis of Article 43(1) signed in Brussels on 30 November 2000 ¹, will enter into force on 29 March 2007.
- b) Further to the deposit of all instruments of ratification and pursuant to Article 3(3) thereof, the Protocol amending the Convention on the establishment of a European Police Office signed in Brussels on 28 November 2002 ², will enter into force on 29 March 2007.
- c) Further to the deposit of all instruments of ratification and pursuant to Article 2(3) thereof, the Protocol drawn up on the basis of Article 43(1) signed in Brussels on 27 November 2003 ³, will enter into force on 18 April 2007.

¹ OJ C 358, 13.12.2000, p. 2.

² OJ C 312, 16.12.2002, p. 2.

³ OJ C 2, 6.1.2004, p. 3.

4. Information regarding the implementation of the Protocols amending the Europol Convention

The General Secretariat noted that the two instruments to be adopted at Council level (a decision amending the rules regarding analytical work files and a decision implementing Article 6a of the Europol Convention as amended by the 2003 Protocol) have been introduced and will be discussed by the Article 36 Committee at its meeting of 25/26 January 2007. Depending on the delivery of the opinion of the European Parliament, the texts will be submitted to the Council for adoption in the course of June 2007.

The Europol representative added that the Europol Management Board has recently frozen the following instruments:

- a) rules regarding participation of Europol officials in joint investigation teams;
- b) rules covering the participation of third parties in analytical work files;
- c) rules regulating the control on the retrieval of documents, as well as,
- d) rules on the access to Europol documents.

These documents will now be adopted and enter into force the day the respective protocol enters into force.

5. Presentation by the Commission of its proposal for a Council Decision replacing the Europol Convention (document 5055/07 EUROPOL 2 + ADD 1 + ADD 2)

The Commission presented its proposal, highlighting that it does not intend to create a new organisation, but to transform an existing body. Important elements of the proposal are: the enlarged mandate, the new financial provisions, the rules on assistance to Member States, the new tools for data processing, the provisions regarding the relations with third parties.

The Presidency underlined the need operational improvements as well as the importance of the principle of availability.

Delegations stressed the need to improve the functioning of Europol while maintaining the existing organisation, that is to say not to completely overhaul already working structures.

Obviously many provisions require a detailed debate, but generally speaking delegations welcomed the proposal, which will improve the functioning of Europol.

Questions were raised about inter alia the mandate, the financing and staff rules, the transition process. The Commission representative underlined that the method of transition was inspired the CEPOL precedent. Further information regarding the impact of EU financing and the EU staff regulations will be provided in February.

6. Discussion of Chapter I (Articles 1 to 9) and possibly Chapter II (Articles 10 to 16)

Article 1

Questions were raised regarding the creation of a new Europol, instead of continuing the existing organisation, the consequences of transforming Europol into an agency, the reference to the seat as well as the removal of the reference to the national units.

Article 2

Article 2 was generally accepted, the Commission will reflect whether to include a reference to the international legal personality of Europol as foreseen in chapter IV.

Article 3

Delegations stressed the need to limit the competence of Europol to serious forms of international crime. Some delegations underlined that Europol should focus on combating organised crime.

Article 3 should therefore be aligned with the text as contained in Article 4(1).

Article 4

Questions were raised about the exhaustive nature of the list of crimes contained in the Annex to the draft Decision as well as the procedure for the prioritisation mechanism contained in paragraph 4.

Article 5(1)

The amendments introduced to the text were questioned by several delegations (notably subparagraphs a, b and f).

Article 5(2)

Delegations expressed doubts whether it is appropriate for Europol to coordinate investigations.

Article 5(3)

Delegations suggested the deletion of paragraph 3.

Article 5(4)

In subparagraph (c) the word "yearly" will be replaced by "regular". It will equally be considered to move this subparagraph to paragraph 1.

Article 5(5)

The Presidency suggested to add to the wording clarifying the role of the Management Board in deciding the actions to be undertaken by Europol. Equally the relation with CEPOL will be clarified by deleting the words " where appropriate" in subparagraph (a).

Article 5(6)

The paragraph will be brought in line with the 2005 Council Decision designating Europol as central office.

Article 6

Several Member States proposed the deletion of the last sentence of paragraph 1 and paragraph 2. The Presidency suggested a rewording of paragraph 2, clarifying who is in charge of the team, as well as the alignment of the text with Article 5(1).

Article 7

The relation with Eurojust will again be reflected in Article 7 instead of in Article 22(4). Also the competence of the national units will be aligned with the text as contained in the Europol Convention (as amended by the second (2002) protocol).

Article 8

It was suggested to delete the second sentence of paragraph 1, however this suggestion was contested by several delegations.

In paragraph 2 the obligation to inform the national units of direct contacts will be reintroduced and the text will be further aligned with the wording as contained in the Europol Convention (as amended by the third (2003) protocol).

Paragraph 5 will be brought in line with the text contained in the Europol Convention (reintroduction of essential security interest).

The wording of paragraph 7 will be further scrutinised.

More in general the role of the national units in the new Europol legal framework will be the subject of further scrutiny.

Article 9

The Presidency supported the wording of paragraph 1. He however also underlined the need to align the text of Article 9 with existing provisions of the Europol Convention.

The Presidency will reflect further on the wording of subparagraph (d) of paragraph 2.

The last part of paragraph 2 will be deleted.

Article 10

The Presidency will closely scrutinise the wording of paragraphs 3 and 4, in particular the relation between the decision to be taken by the Council and the decision the Management Board should take. At the next meeting of the Working Party an in-depth debate will take place regarding Article 10.

The Presidency will circulate in February a revised text proposal for Articles 1 - 9, reflecting the debate in the Working Party. Delegations will have 10 days to react to the proposal.

A same procedure will be followed after each of the meetings of the Working Party.

The Presidency underlined that this procedure will not constitute a final debate, only a preliminary reflection of the results of the debate in the Working Party.

7. Financing and status of the staff of Europol:
- further procedure regarding the preparation of the report to the Council

The Presidency highlighted that questions related to the financing and the staff regulations will be addressed during the special meeting of 14 February 2007.

In preparation of this meeting:

- a) Member States were asked to submit specific questions they would like to be addressed to the Presidency by 31 January 2007 at the latest.
- b) The Commission was requested to provide further information regarding the consequences of EU financing, the application of the EU staff regulations as well as the protocol on privileges and immunities. This information should be available until 7 February 2007.
- c) The Legal Service was requested to produce an opinion regarding the protocol on privileges and immunities, notably the provisions applicable to Europol as organisation and the specific position of Europol officials, if possible before the meeting on 14 February 2007.

The Council Working Party on staff regulations will equally address these questions at its meeting of 15 February 2007.

As regards the transitional provisions, the Presidency will consult competent experts before submitting an overall compromise proposal.

8. Any other business

The Presidency announced that at the next meeting of the Article 36 Committee (25 / 26 January 2007) a short report of the meeting will be presented.

No further items were raised under any other business.

NB: To reduce costs, only documents produced in the week preceding the meeting will be available in the meeting room.