



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 20 December 2006

16831/06

EUROPOL 109

NOTE

from : General Secretariat
to : COREPER

No prev. doc. : 9670/2/06 REV 2 EUROPOL 49
14405/4/06 REV 4 EUROPOL 93 + ADD 1 REV 4

Subject : Council Conclusions on the future of Europol and Council recommendations
implementing selected short term options
JHA Council December 2006

Delegations find in Annex the Council Conclusions on the future of Europol and Council recommendations implementing selected short term options. Both texts were approved by the JHA Council at its meeting of 5 December 2006.

Council Conclusions on the future of Europol

Conclusion 1

The Council is pleased to note that the ratification of the three Protocols amending the Europol Convention has been completed by nearly all Member States. Provided that the remaining ratifications are notified by the end of the year, the Protocols will enter into force during the first quarter of 2007.

Conclusion 2

- The Council notes that the procedure for the adoption of the Management Board decisions needed for the implementation of the three Protocols amending the Europol Convention is well underway. The Council calls for the procedure to be finalised as soon as possible, allowing these instruments to enter into force either together with, or shortly after, the entry into force of the respective Protocols.
- The Council underlines the need to adopt the legal instruments based on Articles 6a and 10 of the amended Europol Convention as soon as possible after the entry into force of the 2003 Protocol amending the Europol Convention.
- As far as practical implementation of the Protocols is concerned, the Council recognises the progress made by Europol.

Conclusion 3

- The Council welcomes the progress made by Europol regarding the implementation of the relevant options that do not require amendment of the Europol Convention (contained in document 9184/1/06 EUROPOL 40 REV 1).
- The Council endorses the recommendations to implement the aforementioned options set out in the Addendum.

Conclusion 4

On the basis that it constitutes a clear improvement of the operational and administrative functioning of Europol, the Council agrees that the Europol Convention should be replaced by a Council Decision, subject to a full assessment of the implications of the following elements:

- i) financing of Europol from the general budget of the European Union, and
- ii) application of the EU Staff Regulations as well as the Protocol on Privileges and Immunities of the European Communities to Europol Staff guided by the principle of budget neutrality and taking into account the specific requirements resulting from Europol's mandate and tasks.

The Council takes note of the intention of the Commission to submit a proposal to it for a Council Decision replacing the Europol Convention, which will be based on the aforementioned principles.

The Europol Working Party and the Article 36 Committee are instructed to commence work on the basis of that proposal and, following the aforementioned full assessment, to report to the Council in April 2007 and by the latest in June 2007, in order to allow it to decide on the method of financing and the status of the staff of Europol.

The Council also instructs the Europol Working Party to address the options requiring an amendment of the Europol Convention (contained in document 9184/1/06 EUROPOL 40 REV 1) on the basis of the proposal of the Commission for Council Decision replacing the Europol Convention.

The Council aims to reach a political agreement on the essential elements of the draft Council Decision before the end of the German Presidency, the adoption of the text should take place in due time thereafter.

Conclusion 5

The Council decides that in case the Europol Convention is replaced by a Council Decision, there is no need for the Council to establish a Protocol to repeal the Europol Convention.

However, each Contracting Party to the Europol Convention could, if need be, declare that, given the intention to replace the Europol Convention by a Council Decision, and given the transposition period to be foreseen in that Council Decision, it will avail itself of that opportunity to complete any procedure as may be required under constitutional law to terminate the Europol Convention in its national legal order.

Such procedures shall not influence the entry into force and the implementation of the Council Decision.

Council Recommendations implementing selected short term options

- i) Regarding Option 13:** The potential exists for Europol to play a more active role in the fight against serious international crime originating from the Western Balkans. In this respect, the Europol organs are invited to explore the possibilities for Europol to increase its involvement in the Western Balkans.
- ii) Regarding Option 14:** The initiative to hold half yearly meetings between all Justice and Home Affairs agencies and the Presidencies of the Article 36 Committee and SCIFA with a view to enhancing cooperation and coordination among them in implementing the EU internal security architecture (document 9596/1/06 JAI 271 CATS 104 REV 1) is welcomed and the meetings need to be intensified. The conclusions of these meetings should be discussed by the Article 36 Committee.
- iii) Regarding Option 15:** The potential exists for Europol to play a stronger role in the fight against internet crime as foreseen in the OCTA. Subject to an appropriate business case, Europol should consider with the Member States what additional measures or action Europol could undertake to better understand the use of the internet for serious crime such as child pornography and, subject to ongoing discussions within the Council structure, terrorism related offences.

Europol's undertaking to set up an information portal in the framework of the German "Check the Web" project, in order to improve Member States' cooperation regarding the monitoring and analysis of the internet is welcomed.
- iv) Regarding Option 16:** In order for Europol to support cross-border controlled deliveries in a more efficient manner, Europol should assist Member States to improve practical cooperation (for instance by drawing up a catalogue of best practises).

- v) **Regarding Option 26:** Member States, Europol and other EU actors should take the requirement of technical interoperability into consideration when designing their ICT systems, in line with the Commission Communication of November 2005 on improved effectiveness, enhanced interoperability and synergies among European databases.

- vi) **Regarding Option 42:** Member States should ensure where practicable that their Europol Liaison Officers at Europol have online access to national databases.

- vii) **Regarding Option 44:** Member States should ensure that the interests of all competent authorities are represented in each Member State's National Unit, subject to a decision by the Member States with reference to the specific mandate of these authorities.

The Council requests the Europol Management Board to report on the implementation of the aforementioned recommendations by June 2007. Implementation of the remaining options should continue to be considered.
