

EUROPOL: establishing the European Police Office

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The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Agustin **DÍAZ DE MERA GARCÍA CONSUEGRA** (EPP-ED, ES,) amending, under the consultation procedure, the proposal for a Council decision establishing the European Police Office (EUROPOL).

The main amendments adopted by the committee are as follows:

EUROPOL's legal basis: new legal bases have been proposed to enable EUROPOL to become a European Union Agency. These are based on Article 185 of the Financial Regulation and on Point 47 of the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management.

Democratic scrutiny: EUROPOL shall be subject to democratic scrutiny by the Parliament. It is proposed to strengthen democratic scrutiny as regards the discharge of the budget, granting of financial and human resources, annual reports, etc. The Parliament should also be consulted on the appointment and the dismissal of EUROPOL's Director. The Chairman of the Management Board or the Director of Europol shall present Europol's priorities for the coming year before a joint committee comprising Members of the European Parliament and members of the national parliaments in order to guarantee a democratic debate with civil society and a better control over its activities.

Financing of EUROPOL: the financing of Europol is subject to an agreement by the budgetary authority as foreseen by the Interinstitutional Agreement.

Tasks and missions: Europol shall play a special role in the coordination of investigative actions into criminal activities committed using the Internet, in particular with respect to terrorism-related offences and the distribution of child pornography and other illegal material. It shall also have the possibility, in the field of these tasks, of leading a Joint Investigation Team under the same conditions as for the counterfeiting of the euro;

Access and processing of certain data: the committee has included the following specifications as regards this issue:

- data of people in respect of whom there are serious grounds under national law for believing that they will commit criminal offences for which Europol is competent can not be treated as convicted criminals. Specific safeguards should be provided for this category of people. Direct access by the national units to the information system in respect of these persons shall be restricted solely to the identity details. If needed for a specific enquiry, the full range of data shall be accessible to the units via the liaison officers;
- special categories of data concerning racial or ethnic origin, political opinions, religious or philosophical beliefs, party or trade union membership, sexual orientation or health shall not be processed, save when absolutely necessary and proportionate for the purpose of a specific case and subject to specific safeguards;
- in so far as Europol is entitled to gain computerised access to data from other information systems, either of a national or an international nature, Europol may retrieve personal data by such means if this is necessary for the performance of its tasks only on a case-by-case basis if and in so far as this

is necessary for and proportionate to the performance of its tasks and under strict conditions laid down by Europol after consultation of the European Data-Protection Supervisor and the Joint Supervisory Body.

Access to personal data shall be denied only if such refusal is necessary to: i) enable Europol to fulfil its activities properly; ii) guarantee that any national investigation which Europol is assisting will not be jeopardised; iii) protect the rights and freedoms of third parties.

Protection of data:

- the collection and exchange of data emanating from private parties (other than the Member States themselves), shall be lawfully collected and processed before being forwarded to Europol in accordance with national legislation. Access by Europol shall be allowed only on a case-by-case basis, for specified purposes and under judicial control in the Member States. Additional safeguards shall be laid down by Europol after consultation of the European Data-Protection Supervisor and the Joint Supervisory Body;
- Europol shall appoint an independent Data Protection Officer who should be responsible for ensuring, in an independent manner, lawfulness of data processing and compliance with the provisions of this Decision concerning the processing of personal data, including the processing of personal data on Europol staff which is protected by Regulation (EC) No 45/2001. In carrying out his tasks, the data-protection officer should cooperate with the data-protection officers appointed under Community law.

Storage of data: the committee believes that the period according to which the storage of data shall be reviewed is too long. The data should also be subject to a regular review. 2 years (and not 3 years), therefore, seems a more proportionate interval between data reviews.

Cooperation with third countries and other bodies: Europol's possibilities for co-operating with third countries and bodies should be rationalised in order to ensure consistency with the general policy of the Union in this respect, and to guarantee that third countries and bodies provide for an adequate level of protection of personal data, through new provisions on how such co-operation is to take place in the future to be adopted by the Council, after consulting the European Parliament.