European Police Office, Europol: protocol to the Convention, money laundering. Initiative Denmark

2002/0814(CNS) - 19/12/2002 - Legislative proposal

PURPOSE : to present the Initiative of the Kingdom of Denmark with a view toadopting a Council Act drawing up, on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol convention), of a Protocol amending that Convention. CONTENT : the proposed Protocol, which Member States would need to adopt according to their respective constitutional requirements, lists a number of changes which the Danish Presidency considers need to be made in order both to increase the support given to Europol, and to strengthen the support which Europol can give to Member States' law enforcement agencies. The main changes reflect the proposal that Europol should now focus upon serious international crime, rather than, as previously, referring to specific crimes such as terrorism and unlawful drug trafficking. The document also addresses an earlier initiative by the Commission on the democratic accountability of Europol, by providing for the greater involvement of the European Parliament in all aspects of the management of Europol and in the amendment of the Europol Convention. The amendments made to the Europol convention refer to the following: - Objective (Article 2): in accordance with the proposed provisions of the Protocol, the objective of Europol should be the effectiveness and cooperation of the competent authorities in the Member States in preventing and combating serious international crime where there are factual indications or reasonable grounds for believing that an organised criminal structure is involved in 2 or more Member States are affected in such a way as to require a common approach by the Member States owing to the scale, significance and consequences of the offences concerned. For the purpose of this Europol Convention the following forms of crime should be considered as serious international crimes : crimes committed or likely to be committed in the course of terrorist activities against life, limb and personal freedom or property, unlawful drug trafficking, illegal money-laundering activities, trafficking in nuclear and radioactive substances, illegal immigrant smuggling, trade in human beings, motor vehicle crime and the forms of crime listed in the Annex to the Convention or specific manifestations thereof. On a proposal from the Management Board, the Council shall unanimously lay down the priorities for Europol in respecrt of the combating and prevention of the forms of serious international crime within its mandate. Europol's competence as regards a form of crime or specific manifestations shall cover related criminal offences. It shall, however, not cover offences predicate to illegal money-laundering activities; - Principles and cooperation procedures (Article 4): the National Unit shall be the only body between Europol and the competent national authorities. However, Member States may allow direct contacts between designated competent authorities and Europol; - Information processing by Europol (Article 6a): new conditions are provided in relation to information processing by Europol and in particular with respect to the access and usage of the data, as well as the limits for the storage and deletion of the data that may not exceed 6 months. The Contracting Parties meetingwith the Council, acting within a two-third majority shall determine these conditions to the processing of such data; - Personal data (Article 10): it is provided to extend the scope of the data to which Europol has access to view, in the context of its nature and its objectives. It may store, modify and utilise in other files data on criminal offences for which Europol is competent. Insofar as Europol is entitled under EU or international instrument to gain computerised access to data from other information systems, Europol may retrieve personal data by such means if this is necessary for the performance of its tasks. The applicable provisions of such EU or international legal instruments shall govern the use of this data by Europol; - Creation of files (Article 12): for every computerised data files containing personal data operated by Europol for the purpose of performing its tasks, Europol shall specify in an order opening the file. The Management Board and the joint supervisory body shall immediately be advised by the Director of Europol of the order opening the file and shall receive the dossier. The joint supervisory body may address any comments it deems necessary to the Management Board. The Director of Europol may

request the joint supervisory body to do this within a certain period of time. At any time, the Management Board may instruct the Director of Europol to amend an opening order or close the file. The Management Board decides on what date an such amendment or closure will have effect; - Storage of personal data (Article 21): storage of personal data relating to individuals may not exceed a total of 5 years. Each time limit shall begin to run afresh on the date on which an event leading to the storage of data relating to that individual occurs. The need for continued storage shall be revised every year and the review documented; - Democratic control of Europol's activities (Article 24(6), 28(10), 32a, 34 and 35(4)): the definitive text of the provides for the Parliament to exercise its democratic right over Europol's activities. The Parliament shall be informed of all the important measures taken. The Presidency of the Council or its representative may appear before the European Parliament with a view to discuss general questions relating to Europol. The five year-financing plan shall be sent to the Council and shall then be forwarded to the European Parliament for information. As regards the right of access to Europol documents, on the basis of a proposal by the Director of Europol, the Management Board acting by a majority of two-thirds of its members shall adopt rules for the access to Europol documents for any citizen of the Union. It should be noted that this version of the initiative does not provide for the deletion of Article 33(2) of the Convention. Th text was subject to parliamentary scrutiny reservations by Denmark, the Netherlands and the United Kingdom. Lastly, the Council will, when adopting the Council Act, equally adopt a declaration stating that the Council agrees that the instruction of Europol to deal with "fraud" as one of the forms of crime referred to the in the Annex to the Europol Convention confers, as far as tax and customs tax is concerned, competences to Europol only in the field of improvement of the effectiveness and cooperation of the competent authorities of the Member States responsible for the functioning of the criminal law enforcement system and not their authorities responsible for ensuring thelevying of taxes and customs duties.