Basic information

2002/0814(CNS) CNS - Consultation procedure	Procedure completed
European Police Office, Europol: protocol to the Convention, money laundering. Initiative Denmark **Subject** 7.30.05.01 Europol, CEPOL 7.30.30 Action to combat crime 7.30.30.08 Capital outflow, money laundering	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	VON BOETTICHER Christian Ulrik (PPE-DE)	11/11/2002

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2477	2002-12-19
Justice and Home Affairs (JHA)	2548	2003-11-27

European Commission

Commission DG	Commissioner
Justice and Consumers	

Key events

Date	Event	Reference	Summary
02/07/2002	Initial legislative proposal published	10307/2002	Summary
02/09/2002	Committee referral announced in Parliament		
19/12/2002	Debate in Council		
19/12/2002	Legislative proposal published	13254/5/2002	Summary
25/03/2003	Vote in committee		Summary
25/03/2003	Committee report tabled for plenary, 1st reading/single reading	A5-0106/2003	
08/04/2003	Debate in Parliament		
09/04/2003	Decision by Parliament	T5-0166/2003	Summary
27/11/2003	Act adopted by Council after consultation of Parliament		
27/11/2003	End of procedure in Parliament		

06/01/2004	Final act published in Official Journal		

Technical information	
Procedure reference	2002/0814(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legal basis	Treaty on European Union (after Amsterdam) M 039-p1
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/16598

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0106/2003	25/03/2003	
Text adopted by Parliament, 1st reading/single reading		T5-0166/2003 OJ C 064 12.03.2004, p. 0279-0346 E	09/04/2003	Summary

Council of the EU

Document type	Reference	Date	Summary
Initial legislative proposal	10307/2002 OJ C 172 18.07.2002, p. 0015	02/07/2002	Summary
Legislative proposal	13254/5/2002	19/12/2002	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Justice and Home Affairs act 2004/0106(01)
OJ C 002 06.01.2004, p. 0001-0012 Summary

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

2002/0814(CNS) - 27/11/2003 - Final act

PURPOSE : to adopt the Protocol amending the Europol convention. LEGISLATIVE ACT : Council Act drawing up, on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention), a Protocol amending that Convention. CONTENT : pursuant to Article 30(2) of the Treaty on European Union, within a period of five years after the entry into force of the Treaty of Amsterdam on 1 May 1999, the Council is to promote cooperation in a number of different areas, inter alia, through Europol. The Tampere European Council in October 1999 stated that Europol has a key role with respect to cooperation between Member States' authorities in the field of cross-border crime investigation in supporting Union-wide crime prevention, analyses and investigation. The European Council called on the Council to provide Europol with the necessary support. It has been decided to adopt the attached Protocol amending the Convention on the Establishment of a European Police Office (Europol Convention), signed by the representatives of the governments of the Member States. It should be added that the Council agrees that the instruction of Europol to deal with "fraud" as one of the forms of crime referred to in the Annex to the Europol Convention confers, as far as tax fraud and customs fraud 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 the levying of taxes and customs duties. The objective of Europol shall be, within the framework of police cooperation between the Member States pursuant to the Treaty on European Union, to improve, by means of the measures referred to in this Convention, 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 and two 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 Convention the following forms of crime shall be considered as serious international crime: crimes committed or likely to be committed in the course of terrorist activities against life, limb, 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 or specific manifestations thereof. On a proposal from the Management Board, the Council shall unanimously lay down the priorities for Europol in respect 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 thereof shall cover related criminal offences. It shall, however, not cover offences predicate to illegal money-laundering activities with regard to which forms of crime Europol has no competence. The following shall be regarded as related and shall be taken into account: - criminal offences committed in order to procure the means for perpetrating acts within Europol's sphere of competence, - criminal offences committed in order to facilitate or carry out acts within Europol's sphere of competence, - criminal offences committed to ensure the impunity of acts within Europol's sphere of competence. The Protocol stipulates that Europol may, in addition, in accordance with the staffing and budgetary resources at its disposal and within the limits set by the Management Board, assist Member States through advice and research in particular in the following areas: - training of members of their competent authorities; - organisation and equipment of those authorities through facilitating the provision of technical support between the Member States; - crime prevention methods; - technical and forensic police methods and investigative procedures. Moreover, the Protocol also states that the national unit shall be the only liaison body between Europol and the competent national authorities. However, Member States may allow direct contacts between designated competent authorities and Europol subject to conditions determined by the Member State in question, including prior involvement of the national unit. The national unit shall at the same time receive from Europol any information exchanged in the course of direct contacts between Europol and designated competent authorities. Relationships between the national unit and the competent authorities shall be governed by national law, and, in particular, the relevant national constitutional requirements. As regards information processing by Europol, in support of the execution of its tasks, Europol may also process data for the purpose of determining whether such data are relevant for its tasks, and can be included in the computerised system of collected information. The Contracting Parties meeting within the Council, acting with a two-thirds majority, shall determine conditions related to the processing of such data, in particular with respect to the access and usage of the data, as well as time limits for the storage and deletion of the data that may not exceed 6 months. The Management Board shall prepare the decision of the Contracting Parties and consult the joint supervisory body. National units, liaison officers and the Director, Deputy Directors or duly empowered Europol officials shall have the right to input data directly into the information system and retrieve them therefrom. In addition to the national units and persons, competent authorities designated to this effect by the Member States may also query the Europol information system. However, the result of the query will only indicate whether the requested data is available in the Europol information system. Further information may then be obtained via the Europol national unit. Information concerning the designated competent authorities, including subsequent modifications, shall be transmitted to the General Secretariat of the Council. On the issue of order opening a data file, this Protocol states that for every computerised data file containing personal data operated by Europol for the purpose of performing its tasks, Europol shall specify in an order opening the file: the file name; the purpose of the file; the groups of persons on whom dataare stored; the nature of the data to be stored; the type of personal data used to open the file; the supply or input of the data to be stored; the conditions under which the personal data stored in the file may be communicated, to which recipients and under what procedure; the time limits for examining the data and the duration of storage and the method of establishing the audit log. 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 shall decide on what date any such amendment or closure will have effect. The data file may not be retained for a period of more than 3 years. Before the 3-year period has expired, however, Europol shall review the need for the continuation of the file. When it is strictly necessary for the purpose of the file, the Director of Europol may order the continuation of the file for a new period of 3 years. Concerning 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 access to Europol documents for any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, taking account of the principles and limits stated in the regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents adopted on the basis of Article 255 of the Treaty establishing the European Community. ENTRY INTO FORCE : the Protocol has to be ratified by all of the Member States before it can enter into force.

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

2002/0814(CNS) - 09/04/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Christian von BOTTICHER (EPP-ED, Germany) and rejected the Danish initiative on the Europol Convention.

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.

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

2002/0814(CNS) - 02/07/2002 - Initial legislative proposal

PURPOSE : to present a Protocol amending the Europol Convention. CONTENT : the proposal, an initiative of the Kingdom of Denmark, aims to adopt 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), a Protocol amending that Convention. In this context, it is proposed to : - give the necessary support and means to function effectively as the focal point

of European police cooperation; - make changes to the Europol Convention so as to strengthen Europol's operational support function with respect to the national police authorities; - provide the necessary support so that Europol can carry out its task on Union-wide crime prevention, analyses and investigation.