

Brussels,
C(2009)1310

- 6 MARS 2009

Dear Lord Roper,

Thank you for your letter of 12 November 2008, in which you point to several questions relating to the future Decision establishing Europol.

The text of the proposal for a Council Decision on Europol is the result of a 15 month long debate within the Council fora. As was expected, the final draft differs, in many ways, from the Commission's initial proposal.

Nevertheless, given that the political agreement reached on 18 April 2008 is the result of a delicate compromise, it is not the Commission's intention to draft a new amending proposal. The current text still needs to be formally adopted and subsequently implemented.

Turning to the individual issues that you raise in Chapter V of the Committee's report, I would point out that as regards the designation of the Chairman (paragraphs 134 to 137), the current text is not in line with the Commission's initial proposal, according to which the Management Board "shall be chaired by the representative of the Member State holding the Presidency of the Council of the European Union". In the course of the discussions, the Member States' representatives opted for the election of the Chairman, to be chosen from within the Troika.

Concerning the dates of their respective appointments, the new Director of Europol is expected to be appointed for 4 years in the first quarter of 2009, whereas the Chairman will be elected only in 2010.

On the relationship between the Management Board and the Director (paragraphs 147 to 151), the text of the proposal is intended to ensure that the Director is in charge of the Agency's daily business whereas the Management Board is entrusted with the organisation's global strategy. As for the independence of the Management Board's secretariat, Article 3 of the draft Act of the Management Board laying down its rules of procedure states that "The secretariat shall be accountable solely to the Management Board".

Lord Roper
Chairman of the European Union Select Committee
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On the budgetary and accountability issues (paragraphs 152 to 175), the Commission has always been and remains in favour of Community financing for the very reason that this allows for the European Parliament to exercise its powers as budgetary authority thereby introducing democratic control over the operation of the organisation.

As regards the Data Protection Framework Decision (paragraph 237), once again, this act is the result of a compromise. This Framework Decision has just been adopted by the Council on 27 November. This act has the merit of setting minimum standards within the so-called Third Pillar. I would like to underline, however, that Europol's data protection regime is, and will remain, much stricter than the general principles set out in the above-mentioned Framework Decision, in particular due to the role of its Joint Supervisory Body as well as of the Data Protection Office created by Article 28 of the proposal for a Council Decision.

Concerning Security and Data Protection at Europol (paragraphs 213 to 217), the Director is, de jure, responsible for the security at Europol, even if in practice he delegates this task to one of the Deputy Directors. On the differentiation between data protection and data security, the proposal for a Council Decision clearly distinguishes between the two aspects in its Chapter V (there are two different articles).

More generally, on the issue of security, one of the prime objectives of the new Council security rules is to clarify the framework governing the protection of classified information within EC and EU Agencies and similar entities. With the forthcoming Council Decision establishing Europol as a Union body, Europol will therefore be obliged to apply the Council's security regulations for protecting classified information (cfr article 46). Finally, I would also recall that the regular security inspections conducted by the Council have, up to now, always been satisfactory.

As for the Council Decision of 2005 (671/JHA) on the exchange of information and cooperation concerning terrorist offences, the Commission does not intend to introduce a proposal to amend it in the light of the fact that, as the Committee rightly points out, nothing prevents a Member State from sending information to Europol, even if the involvement of another Member State in the terrorist act is not apparent.

Yours sincerely,



Margot WALLSTRÖM

Vice-President of the European Commission