

Report of the Committee on Civil Liberties and Internal Affairs on Europol (26 November 1992)

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At the sitting of 13 February 1992 the President of the European Parliament announced that he had forwarded the motion for a resolution by Mr Janssen van Raay on the establishment of Europol (B3-1461/91), pursuant to Rule 63 of the Rules of Procedure, to the Committee on Civil Liberties and Internal Affairs.

At its meeting of 27 February 1992 the committee decided to draw up a report and appointed Mr Van Outrive rapporteur.

At its meeting of 13/14/15 July 1992 the committee decided to include in its report the following motion for a resolution which had been referred to it:

- B3-432/92; author: Mr Lafuente Lopez, on the setting up of a Community police force.

At its meetings of 21/22 April, 13/14/15 July, 28/29 September 1992, 3/4 November and 23/24 November 1992 the committee considered the draft report.

At the last meeting it adopted the resolution unanimously.

The following took part in the vote: Turner, chairman; Salisch, first vice-chairman; Beiroco, second vice-chairman; Tsimas, third vice-chairman; Van Outrive, rapporteur; Christopher Beazley, Crawley, De Gucht, Elliott (for Van den Brink, pursuant to Rule 111(2)), Froment-Meurice, Lafuente Lopez, Newman, Nordmann, Roth, Speroni (for Piermont (pursuant to Rule 111(2)) and Tazdait (for Taradash (pursuant to Rule 111(2))).

The report was tabled on 26 November 1992.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A. Motion for a resolution on the setting up of Europol

The European Parliament,

- having regard to the motions for resolutions

- by Mr Janssen van Raay and others, on the establishment of Europol (B3-1461/91),

- by Mr Lafuente Lopez, on setting up a Community police force (B3-432/92),

- having regard to its resolution of 23 November 1989 on the signing of the Supplementary Schengen Agreement¹,

- having regard to its resolution of 15 March 1990 on the free movement of persons in the internal market²,

- having regard to its resolution of 14 June 1990 on the Schengen Agreement, the Convention on the right of asylum and the status of refugees as defined by the ad hoc Group on Immigration³,

- having regard to its resolution of 13 September 1991 on the free movement of persons and security in the EC⁴,

- having regard to its resolution of 11 June 1992 on the murder of Giovanni Falcone and the need to combat

organized crime in the European Community⁵,

- having regard to the statement by the Presidency after the European Summit in Lisbon on 26 and 27 June 1992, particularly in respect of Europol,

- having regard to the Treaty on European Union of 1992, notably Title VI - provisions on cooperation in the fields of justice and home affairs - and in particular Article K.1 (9) concerning police cooperation as an intergovernmental matter,

- having regard to the declaration on police cooperation annexed to the Treaty on European Union,

- having regard to the report of the Committee on Civil Liberties and Internal Affairs (A3-382/92),

A. whereas the intergovernmental approach has disadvantages: a democratic deficit, disruption of relations between the Community Institutions and disruption of relations between citizens and national authorities and whereas it impedes proper parliamentary and judicial supervision,

B. whereas systematic provision for an Executive Committee with wide powers may give rise to constitutional problems in the Member States,

C. whereas there are precedents for the proposal of Community regulations (for instance a regulation for the creation of a European Drugs Monitoring Centre and a European Information Network on Drugs and Drug Addiction - REITOX) and the Treaty permits this on the basis of Article 235,

D. whereas the Community's existing political structure and the considerable disparity in legislation between Member States only permit the joint gathering, processing and exchange of information between officers with police powers and whereas the difference in systems for the protection of personal data in connection with police and judicial data is already causing serious difficulties,

E. whereas cooperation between police forces, customs authorities and other officers with police powers is necessary and must remain confined to them,

F. whereas the gathering, processing and communication of information relating to personal data must respect human rights and the privacy legislation of the Member States,

G. whereas, rather than remaining confined to the field of combating drugs, Europol's work should in future also include other aspects of organized crime,

H. whereas at the same time measures should also be taken to protect the rights of persons who may be concerned,

I. whereas, particularly in the field of combating drugs, all manner of overlapping initiatives exist and efforts must be made towards greater simplicity and efficiency by means of a Community approach,

J. whereas there are numerous intergovernmental consultation and cooperation bodies which have been set up by governments or international organizations and which deal with international police cooperation, among other matters, such as Interpol, GAFI (G15), CEPC and the Pompidou Group in the framework of the Council of Europe, the Coordinators' Group, TREVI, UCLAF, MAG, MAG '92, DAF, ECCD and the Ad Hoc Group on Immigration within the framework of the EC or the 12 Member States, the Benelux or Schengen countries, the police working group etc,

K. whereas the numerous international agreements, arrangements for international cooperation and bodies responsible in the field of international judicial and police cooperation can serve to create a human rights and democratic deficit, and whereas the citizens concerned are sometimes not fully informed of their rights and obligations in this area,

L. whereas political and judicial monitoring of the gathering and exchange of information is very important,

M. whereas interest groups, including those representing police officers, have a right to clear and accurate information and to some measure of input, and whereas at present there is too little consultation between police officers, members of parliament and organizations representing members of the judiciary,

N. whereas police officers must also be protected and in respect of exchanges of information need to be kept closely informed as to which activities are permitted and which are not,

1. Takes the view that the setting up of Europol, the introduction of the EDU (European Drug Unit) and rules on protection of personal data in connection with the gathering and exchange of information must be regulated solely by Community legislation;

2. Calls on the Commission to submit a proposal for a regulation on the setting up of Europol, based on Article 235 of the EEC Treaty;

3. Calls for the first stage of the setting up of Europol to be made conditional on the entry into force of the regulation creating it; calls for the European Parliament and national parliaments to be intensively involved in deciding the objectives, powers and instruments of Europol and of the European Information System (EIS);

4. Calls, in connection with the setting up of Europol and the EIS, for protection of privacy and of procedural safeguards to be guaranteed; to this end, calls for any such initiative to be conditional on the introduction of legal provisions on the protection of privacy in all Member States;

5. In this context, Europol should have responsibility involving:

(a) advice and support for national police forces, customs services and other organizations with officials who have police responsibilities;

(b) temporary transfer of staff to these organizations;

(c) provision of information to any Community institution for supervisory purposes;

6. Recognizes that, given the existing legal situation, during the initial stage Europol will be able only to collect, analyse and exchange relevant data and produce situation reports based on them; believes, however, that within the framework of convention law a basis needs to be created which will make it possible to transfer operational duties to Europol subject to parliamentary and legal control; during the transitional stage, calls upon the Member States in special cases to set up ad hoc committees comprising officials from other EC States as well as national officials, if this appears necessary in order to fight organized crime more efficiently;

7. Takes the view that both 'information' and the procedure to be applied must be defined precisely in order to prevent the uncontrolled transfer of data;

8. Considers that Europol's remit should not only include combating drug trafficking but the whole field of organized crime, including economic crime and crime against property and that in the future, in addition to combating drugs, it should primarily concentrate on organized international financial and fiscal crime and combating crimes against the EC, such as subsidies fraud, an area in which Europol should have exclusive responsibility;

9. Takes the view that there is a need for international cooperation with financial and banking institutions;

10. Takes the view that within Europol there should be cooperation only between police forces, customs authorities and other services comprising officers with police powers;

11. Takes the view that there is too little consultation - including at international level - between those responsible for the police, bodies representing the police, members of parliament and organizations representing members of the judiciary and calls on the Commission to have research carried out on international police cooperation and to make proposals;
12. Believes that Europol should not establish any link or cooperation with Interpol and consequently Europol should in no circumstances be based in Lyon;
13. Believes that a decision on the seat should be taken on the basis of considerations of logistics and efficiency and only if effective political and legal control can be guaranteed:
14. Is of the opinion that, in addition to the protection of privacy, arrangements must be made to protect the rights of the persons concerned; there must be at least the right to information, to access and to legal aid, and rules governing the legal consequences of unlawful or improper action by the authorities are required; such protection must be afforded not only to citizens of the Member States, but to all those legally resident in the Community;
15. Calls on the Member States formally to incorporate respect for the European Convention on Human Rights and Fundamental Freedoms into the text of their regulations and to adopt legislation on the protection of privacy, especially with regard to police and judicial data;
16. Calls for the setting up of a fully independent investigatory authority - unconnected with national police forces or security agencies - to examine complaints made by individuals or organizations against the activities of Europol; such an investigatory authority should have the powers to enforce its findings;
17. Asks that the numerous international police cooperation initiatives be rationalized as a matter of urgency and takes the view that a Community approach may be helpful; proposes in addition that a working party be set up for each of the areas of responsibility referred to in Article K.1, paragraphs 1-9, of the Treaty on European Union, ensuring that one central working party is responsible for international police cooperation;
18. Takes the view that the necessary Community budget funds should be allocated as a matter of urgency;
19. Takes the view that association agreements and applications for accession to the Community are not a sufficient basis for exchanging data or for police cooperation and is concerned about police cooperation with States that commit gross violations of human rights;
20. Takes the view that public debates should be held about Europol, in which members of parliament, organizations representing members of the judiciary, the police and customs officers and other specific interest groups should be involved;
21. Calls upon political office-holders who are involved in preparations for Europol to inform the European Parliament and national parliaments accurately and fully about the setting up of Europol and calls for public access to all general documents and guidelines for gathering, processing and exchanging personal data;
22. Takes the view that provision must be made for parliamentary control, including monitoring by the European Parliament, of the operation of Europol;
23. Calls on the Commission and Council to appoint a Community data protection officer in cooperation with the European Parliament;
24. Calls upon the Council to give the Commission greater responsibility for participation in the preparation and implementation of Europol and calls for an EC Commissioner to be given special responsibility for Europol;

25. Calls on the Member States to grant the Court of Justice of the European Communities jurisdiction to give preliminary rulings, pursuant to Article 177 of the EEC Treaty;
26. Believes that responsible and appropriate officers of Europol and other police forces cooperating in Europol should be encouraged to exchange views with the appropriate committee of the European Parliament on practical aspects of police cooperation, to enable the European Parliament to arrive at well-informed opinions on the issues facing Europol, and that the committees of the European Parliament, in accordance with a long standing practice, have a right to hear and question such officials;
27. Instructs its President to forward this resolution and the report of the Committee on Civil Liberties and Internal Affairs to the Commission, the Council, the ministers of the Member States belonging to the TREVI Group and the prime ministers and parliaments of the Member States.

B. Explanatory Statement

1. Recent developments

The TREVI ministers met in Lisbon in the week of 11 June 1992. At that meeting the question of the future seat was debated at considerable length, without any agreement being reached. Finally, a proposal was drawn up for setting up a permanent project team to draft a plan for a European drugs intelligence unit as the first phase of Europol. The team currently (30 July 1992) consists of the UK (3 members), France (3 members + staff), Spain (1 member), Italy (1 member), the Netherlands (2 members), Ireland (1 member) and Denmark (1 member). However, its composition has not yet been finalized. Its terms of reference comprise: technical coordination, data processing and communication, intelligence, and material and personnel affairs. The team reports to the ad hoc working party, which informs TREVI '92 and also the TREVI ministers. The team, directed by a German official, has been operating since 1 September in the building in Strasbourg where the Schengen Information System is based. This does not necessarily mean that Strasbourg will be the seat.

The proposal was adopted by the Lisbon European Council on 26/27 June 1992⁶. The report of 19 June 1992 from the Coordinators' Group to the European Council does not mention Europol.

2. The political construction?

We know that Article K.1 (9) of Title VI - provisions on cooperation in the fields of justice and home affairs - of the Treaty on European Union provides for the setting up of Europol; we also know that the Declaration on police cooperation annexed to the Draft Treaty proposes intergovernmental cooperation. However, this may not be a good solution at all. Although the transformation of police cooperation agreed at intergovernmental level into an area of Community competence (Article 100c) is explicitly prohibited, the Council could nonetheless use Article 235 of the Treaty to make arrangements concerning Europol within the Community framework. On 22 October 1990⁷ the Council, on behalf of the EEC, adopted a decision ratifying the 1988 UN Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The Council Regulation of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances⁸ and the Directive on prevention of use of the financial system for the purpose of money laundering, approved in May 1991, are also Community Instruments⁹. Lastly there is the Regulation on the establishment of a European Drugs Monitoring Centre and a European Information Network on Drugs and Drug Addiction (REITOX)¹⁰, on which the Council has yet to take a decision.

All this shows that there is scope for Community decision-making.

Disadvantages of intergovernmental decision-making:

A. Let us first proceed upon the assumption that the Maastricht Treaty is not yet in place. Experience shows that it is very difficult, both for the European Parliament and for the national parliaments - and certainly for

interest groups as well - to find out when discussions are taking place, what is being discussed, what progress has been made, etc. It is virtually impossible for matters to be publicly debated in advance. Members of parliament are dependent on the good will of national ministers and of the Council for information. Moreover, the legal and political status of documents is never clear: are they public, secret or confidential, and who decides this? Their confidential nature is certainly exaggerated - but it is enough to create ample opportunities for governments and pressure groups to manipulate the national and European political debate. Members of parliament are sometimes faced with a serious dilemma: either they must refuse to accept information which they will not be at liberty to pass on, or else they must accept it on condition that they raise no objections to it. Public debate is thus rendered impossible.

Furthermore, relations between the Community institutions are constantly disrupted: the Council - an intergovernmental body - effectively operates in cooperation with the Commission¹¹. Parliament and the Court are excluded and have no influence over decision-making or implementation.

B. Groenendijk has rightly observed that this intergovernmental procedure damages the relationship between the individual citizen and the national authorities. Even if the jurisdiction of the national courts is not restricted, national courts will nonetheless be reluctant to intervene in decisions which have been taken concerning the legal position of citizens pursuant to international agreements and by international bodies (such as the Executive Committee provided for by the Convention implementing the Schengen Agreement or the Dublin Convention). It is possible that domestic remedies may be rendered ineffective - without any remedy being provided for at European level: what, then, of the protection of human rights? A Council of Ministers or a body consisting of officials cannot administer justice as referred to in Article 32 of the European Convention on Human Rights - and it is even less likely that the countries concerned will be able to reach a unanimous decision and trust one another.

The intergovernmental agreements systematically provide for an Executive Committee. However, it is striking that these committees always have three powers: legislative, as they adopt 'rules', 'measures' and 'provisions' and amend or supplement the conventions; executive, as they decide on the suspension of application by a country, extended application etc; and judicial, as they monitor application, interpret, settle conflicts and so on. All this is contrary to the democratic (and constitutional?) separation of powers and human rights as such committees are not part of the judiciary and there is no provision for publishing their decisions. Such minimal scope as the national parliaments have to monitor committee decisions is no more than cosmetic.

The ratification procedures in the Member States are in practice no more than a formality of the democratic process.

Of course, it may well be the case that intergovernmental decisions on matters which are not particularly popular with the electorate suit some national politicians, providing them with a welcome excuse when faced with national interest groups: they can blame Brussels for taking the decision.

C. If the Maastricht Treaty enters into force, the situation will be very similar to that which has been described above, with the possible difference that the confusion may be somewhat greater still.

First of all it needs to be stressed once more that under the terms of the Maastricht Treaty police cooperation cannot become a responsibility of the Union, and the Commission has no right of initiative: that is reserved for the Member States, while the Commission is nonetheless associated with all the relevant work. The European Parliament must also be kept informed, it may ask questions and make recommendations, and its views must be 'duly taken into consideration'. The Council takes decisions unanimously, but by a two-thirds majority in the case of decisions on the implementation of agreements. The Court of Justice MAY be granted jurisdiction. A Coordinating Committee consisting of senior officials is to be given much the same powers as the aforementioned Executive Committees. The Commission must surrender its powers of supervision to the new committee.

It should be clear by now that our preference is for a Community approach in the form of a Regulation or

Directive, and thus not for any of the three instruments provided for in Article K.3 (2) of the Maastricht Treaty: adopting joint positions or promoting cooperation, adopting action or measures, or drawing up conventions. The last of these is relatively unambiguous, but the same cannot be said for the other two: is action purely administrative or does it consist of political programmes? Is it public and binding? Does it require parliamentary ratification or not? Are joint positions anything more than mere exhortations? Action and measures are generally based on purely administrative agreements, which never reach the legislative and judicial branches of government (e.g. the setting up of information networks, exchanges of police officers).

Community legislation is undoubtedly advisable: public debate will then be possible; both the national parliaments and the European Parliament will be able to participate in decision-making before the decision is effectively taken and international judicial supervision will apply.

3. The participants in Europol

A. It seems desirable, first of all to set up a clearing house with the 12 Member States. At a later stage the EFTA countries could participate, but they could already be given observer status during the initial stage. After their accession to the Union or to the Community, they would participate fully. Associated countries could likewise observe, and specific agreements could be concluded.

B. The Member States will have to be asked to set up national clearing houses and to instruct their various police forces and customs services to cooperate to this end. The countries must also indicate clearly which officers they regard as police officers, and they must reach agreement on this.

It would be desirable for all the police services which participate to be demilitarized, something which the Council of Europe has long been calling for¹². In our view, political intelligence services would not be eligible, as the clearing house should only assist in judicial work.

4. The seat

This is hardly a matter for Parliament, but Brussels and Lyon seem to be out of the question. In my view, Lyon would be inappropriate because it is necessary to preserve a clear distinction between Europol and Interpol. There is no real reason why Strasbourg should not be chosen.

5. Terms of reference

5.1 A clearing house

A. Collecting, systematizing, processing and exchanging information are the only possible tasks, in view of the existing framework of political union and that provided for by the Maastricht Treaty, and the limited political structures and powers for which it makes provision. It is justifiable to draw an analogy with REITOX, the European Drugs Monitoring Centre and European Information Network on Drugs and Drug Addiction¹³.

B. What is information?

It will be important to define what is meant by 'information', who may provide it and who may receive it. Does it relate to things, people or actions? May information be exchanged with third countries?

To us it seems clear that the information in question must have been collected legally, and that its objectivity and truthfulness must be subject to review by a judicial authority. The information is not the property of police forces. Its source, or at least the nature of its source, must be disclosed.

It would not be acceptable for the exchange of information concerning individuals to be based on a ministerial agreement, which would make it a purely technical and administrative matter.

Discussion of the Schengen Information System has already made it clear that 'soft' information, not based on hard judicial data, can be very subjective and may be open to highly specific national interpretation. What is more, it is not always clear what information it is legal to communicate and/or receive in the various countries under privacy legislation. In some countries the law is undoubtedly vague about this.

It is also becoming increasingly apparent that it is not possible to do without information from the private sector (in order to investigate laundering of proceeds from drugs trafficking, for example, it is necessary to obtain information from financial institutions). A grey area is developing in policing, with systematic cooperation between public and private information and investigation services. Ought this not likewise to be regulated?

It may be worth looking into what experience already exists.

- What can be learnt from the E.D.I.U. (European Drug Information Unit) prepared by TREVI 3, which is to become the EDU?
- What can be learnt from experience of the existing networks dealing with terrorism and hooliganism, and from the Franco-Basque network?¹⁴
- There are undoubtedly useful national models, such as the BKA in Germany and the CRI in the Netherlands.
- What of bilateral agreements on regional cooperation?
- It might also be possible to draw some lessons from the case law of the Strasbourg Court concerning complaints by citizens about the misuse of information by the police.

C. As already stated, national and regional clearing houses must be set up on a uniform model. It will have to be clearly indicated whether or not they are linked to databases such as SCENT, DAF, REITOX and EIS.

5.2 The liaison officers

There is no objection to the plan to exchange police liaison officers and also to receive officers from the EFTA countries and associated countries - but this should not extend to any other countries. However, it has been found that exchanges of experience are best linked to information about the fields concerned. Training can also be tied in with this. Given the problems of supervision, officers should not be granted diplomatic status.

5.3 No investigative powers

It does not seem possible to grant investigative powers of any kind, even intergovernmentally. There are various reasons for this.

1. An appropriate federal or confederative political structure would be required: a politically responsible government with direct authority over citizens in the territory; and which is not dependent on constituent states. This would entail clearly defined and demarcated powers and an authority to monitor them. At present the function of government is too obscurely divided between the Council and Commission and the division of powers between the Community and the Member States is unclear. In a word, there is a lack of independent sovereignty¹⁵. Thus there is also no federal or confederative criminal law, power of criminal procedure or administration of criminal justice (Eurojustice).
2. But even if it is assumed that national law can always be applied in the place(s) where an offence has been committed, a great deal of variety remains in the definitions of categories of offences, legal and judicial procedures, provisions on the use of coercive measures, procedures for dealing with offenders, judicial supervision structures and, no less importantly, methods of collecting information.
3. To all this one must immediately add the differing views and perceptions which exist in the various

Member States and the associated rivalries.

4. The last and very important reason is ignorance about international police work. People are still constantly extrapolating from their own internal police arrangements. There are no feasibility studies.

5.4 The fields of work

Even many police officers are surprised that the Europol initiative is centred on drugs; given that so many initiatives already exist in this field, it would not appear to reflect operational requirements.

International organized crime might be a better field, concentrating on more depersonalized sectors: trafficking in waste, organs and persons, environmental damage, and perhaps also theft of valuables, computer fraud, document fraud (bank cards) and fraud in connection with subsidies.

But the best task to give Europol would be to tackle international organized financial and fiscal crime, as this is part of the hard core of international organized crime. The socio-economic and political context may be important in setting priorities.

6. Staff

A. It would be difficult to set up a special force or assemble a mixed group consisting of officers from all Member States. As already suggested, a specific group of police officers in each Member State will have to operate the national clearing house.

B. As became clear during the setting up of the Schengen Information System (SIS), the language(s) of communication is/are a major problem, and above all an expensive one¹⁶.

7. Protection of privacy

Compliance with the European Convention on Human Rights and with all the human rights provisions recognized by the Court in Luxembourg must ensure that privacy is respected in gathering, processing and communicating information¹⁷. Every country must have a system for protecting personal data which takes European directives into account; it must also have an autonomous body which can carry out the necessary checks upon request and/or when a complaint is made and can then provide information and order that improvements be made: after all, the data concerned is police data¹⁸. This matter must be regulated by legislation rather than mere interministerial agreement.

8. Safeguarding legal rights

In conjunction with protection of privacy, provision must also be made for safeguarding legal rights. A person who believes he has suffered damage must be able to defend himself, and must have access to all the relevant information; he must also be able to monitor further collection and communication of information about him. In each Member State there should also be regulations concerning the legal consequences of unlawful or improper action by the police and judicial authorities.

9. Community law

The REITOX Regulation is based on Article 235 of the Treaty, which also seems the best legal basis for a regulation or directive on Europol. It may be recalled that the EEC's accession to the 1988 Vienna UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, was based on Article 113 (international trade policy)¹⁹. The Council Regulation of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances was likewise based on Article 113²⁰. However, the proposal for a Council Directive on the manufacture and the placing on the market of certain substances used in the illicit manufacture of

narcotic drugs and psychotropic substances was based on Article 100a (harmonization)²¹. The Directive on prevention of use of the financial system for the purpose of money laundering, which was adopted in May 1991 and will enter into force on 1 January 1993, was based on Article 57(2), 3rd sentence (freedom to provide services)²².

It is striking that all matters relating to drugs have been dealt with in a Community framework. I do not believe that a different legal basis could be used for Europol, with the possible exception of Article 100a (harmonization). It is striking, of course, that if Article 113 is applied there is no role for the European Parliament, especially if there are no budgetary implications - however politically important the matter may be!

10. Differences between Europol and other initiatives

Nearly all other police cooperation initiatives are based purely on administrative agreements between executive bodies and thus do not even require parliamentary ratification, except for the Benelux Treaty and now the Convention implementing the Schengen Agreement. The Ad Hoc Group on Immigration has also completed work on two agreements which will require ratification, but they relate only very indirectly to police cooperation. All other initiatives have at most led to a few practical agreements - and it is not even clear what²³.

On 26 February 1992 the Belgian Government proposed replacing the excessive number of working parties, whose terms of reference overlap and which in some cases have little effect, with a limited number of ad hoc groups in accordance with the powers laid down in Article K.1 of the Maastricht Treaty. In the case of police cooperation, the proposal provided for cooperation in: operations at the external borders (internal crime); forensic and technical police divisions; maintenance of law and order; judicial affairs; and Europol. All of these must be dealt with pursuant to Title VI (3rd pillar)²⁴.

It seems desirable to maintain a strict distinction between Europol and Interpol.

11. The decision-making procedure

This is governed by the Treaty, the Single European Act or the Maastricht Treaty, including budgetary decisions.

12. Supervision

Supervision by the Court of Justice of the European Communities will be assured if Europol is dealt with within the framework of the Community pursuant to Article 235. It may be necessary to set up a special section within the Court for the purpose.

The European Parliament would exercise supervision by means of the opinion it is to deliver; subsequently it can use its right to information and its right of inquiry. The national parliaments can also question ministers and call them to account. This political control is certainly not perfect, in view of the democratic deficit within the Community. But joint parliamentary initiatives (bringing together national parliaments and the European Parliament) and interinstitutional consultation (Council, Commission and Parliament) are possible ways of improving the situation.

It is also desirable to give one of the European Commissioners specific responsibility.

If the matter is the subject of public debate, all interest groups and pressure groups will be able to join in the discussion and participate in the decision-making process. The general public should also be fully informed.

European police trade unions have proposed that a joint European police committee be set up to consider European police cooperation, including Europol.

Annex**Motion for a resolution (B3-1461/91) tabled pursuant to Rule 63 of the Rules of Procedure by Mr JANSSEN van RAAIJ, Mrs van den BRINK, Mr BONTEMPI and Lord INGLEWOOD on the establishment of EUROPOL**

The European Parliament,

- A. having regard to the conclusions of the European Council meeting in Luxembourg on 28 and 29 June 1991 expressing the wish that a European police organization, EUROPOL, might be established,
- B. noting the proposals of the Commission on the protection of personal data,
- C. having regard to the need for the democratic legitimacy of European institutions,
- D. whereas INTERPOL has not been subject to any form of control, which is incompatible with the protection of citizens' rights, and whereas the need for such control has been highlighted by the recently created European Division of this organization,
- E. aware that the removal of border controls may result in an increase in various types of crime and that an efficient, coordinated, democratic, accountable and transparent European police organization will be required,
 1. Calls on its appropriate committee to investigate existing international police structures in which Community Member States participate;
 2. Calls for the drafting of an opinion on the establishment of EUROPOL which takes special account of the need to respect democratic principles and citizens' rights.

Annex**Motion for a resolution (B3-432/92) tabled pursuant to Rule 63 of the Rules of Procedure by Mr LAFUENTE LOPEZ on setting up a Community police force**

The European Parliament,

- A. whereas the implementation of the Community legal provisions set out in the Treaty on European Union will lead to the integration of the Community policing area,
- B. whereas freedom of movement and establishment throughout the Community implies the need to adopt suitable provisions for the safety and legal protection of citizens, both as between themselves and vis-à-vis society,
- C. whereas close cooperation between police forces for the purpose of checking the movements of Community citizens should subsequently be replaced by a permanent structure enabling national police forces to act jointly throughout the Community,
- D. whereas such a joint security structure should be backed up by a joint body representing the police forces of the Member States,
 1. Calls for the Community to set up a Community police force;
 2. Calls for this force to consist of police officers from the Member States on an equal basis;
 3. Calls for this forces to be empowered to deal with matters liable to create conflicts in the exercise of freedom of movement due to illegal actions by citizens of the European Union, on a Community-wide basis.

- 1 - OJ No. C 323, 27.12.1989, p. 98
- 2 - OJ No. C 96, 17.4.1990, p. 274
- 3 - OJ No. C 175, 16.7.1990, p. 170
- 4 - OJ No. C 267, 14.10.1991, p. 197
- 5 - OJ No. C 176, 13.7.1992, p. 120
- 6 - Conclusions of the Presidency, 27 June 1992, p. 14.
- 7 - OJ No. L 326, 24.11.1990, p. 56.
- 8 - OJ No. L 357, 20.12.1990, p. 1.
- 9 - COM(91) 0182, Hoon Report A3-0273/90 and A3-0082/91, 6 November 1990 and 3 April 1991.
- 10 - Commission of the European Communities, Proposal for a Council Regulation (EEC) on the establishment of a European Drugs Monitoring Centre and a European Information Network on Drugs and Drug Addiction (REITOX) COM(91) 0463 final - Brussels 27 January 1992, p. 28.
- 11 - The Commission claims to be a mere observer, but informed sources describe it as an active participant.
- 12 - In accordance with the Declaration on the Police of the Parliamentary Assembly of the Council of Europe and Council of Europe Resolution 690.
- 13 - Op. cit. in footnote 4 on p. 9 above: pp. 2-8. The European Parliament approved it on 13 May 1992. The Council has yet to take a decision.
- 14 - Virtually all intergovernmental initiatives concerning international police cooperation provide for a database to be set up. I once counted 23 of them!
- 15 - R. Fernhout, De Verenigde Staten van Europa zijn begonnen ... maar voor wie? [The United States of Europe have begun ... but for whom?], W.E.J. Tjeenk Willink, Zwolle, p. 2, pp. 7-8.
- 16 - All the more so now that the French parliament has decided that French should be the only compulsory official language in French territory.
- 17 - Committee on Civil Liberties and Internal Affairs, Working document on the draft annual report on respect for human rights in the European Community, Rapporteur: De Gucht, PE 201.523, 29 June 1992, pp. 2-4.
- 18 - Council of Europe, Parliamentary Assembly, Rapport sur la coopération policière et la protection des données à caractère personnel dans le secteur de la police [Report on police cooperation and protection of personal data in the police sector], Rapporteur: Stoffelen, Doc. 6557, 30 January 1992.
- 19 - OJ No. L 326, 24.11.1990, p. 56. However, the heads of government still cannot make up their minds about accession to the European Convention on Human Rights!
- 20 - 2 OJ No. L 357, 20.12.1990, p. 1.
- 21 - OJ No. C 21, 29.1.1991, p. 17; Scott-Hopkins report A3 0357/91. The General Affairs Council adopted the common position on 22 July 1992. The text has now been referred to the European Parliament for its second reading.
- 22 - COM(91) 0182 - Hoon report A3-0273/90 and A3-0082/91, 6 November 1990 and 3 April 1991.
- 23 - See my working document on police cooperation, PE 156.390.
- 24 - Note from the Belgian delegation: cooperation in the fields of justice and home affairs, CIRC, 3612/92. The results are thus unknown.