COUNCIL DECISION

of 15 October 2007

amending the Council Act adopting rules applicable to Europol analysis files

(2007/673/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention) [1], and in particular Article 10(1) thereof,

Having regard to the initiative by the Republic of Finland,

Having regard to the opinion of the European Parliament [2],

Having regard to the draft prepared by the Management Board of Europol,

Whereas:

(1) The Europol Convention makes provision in Title III for work files for the purposes of analysis; amendments thereto were introduced by the Protocol drawn up on the basis of Article 43(1) of the Europol Convention; in particular, amendments were made to Articles 10, 12, 16 and 21 of the Europol Convention, which constitute the framework for the opening of an analysis file and the collection, processing, utilisation and deletion of personal data contained therein.

(2) Implementing rules were adopted for work files for the purpose of analysis by Council Act (1999/C 26/01) of 3 November 1998 adopting rules applicable to Europol analysis files [3]. These rules need to be amended as a consequence of the amendments made by the said Protocol to the Europol Convention. The Act should therefore be amended accordingly.

(3) After consulting the Joint Supervisory Body,

HAS DECIDED AS FOLLOWS:

Article 1

Council Act (1999/C 26/01) adopting rules applicable to Europol analysis files is hereby amended as follows:

1. in Article 3(1), the third subparagraph shall be replaced by the following:

'After receipt, it shall be determined as soon as possible to what extent the data shall be included in a specific file.';

2. Article 5(3) shall be replaced by the following:

'3. The orders mentioned in this Article, including later amendments, shall be established in accordance with the procedure established in Article 12 of the Europol Convention.';

3. Article 7 shall be amended as follows:

(a) in paragraph 1, the fourth subparagraph shall be replaced by the following:

'The review of the need for the continuation of an analysis work file in accordance with Article 12(4) of the Europol Convention shall be carried out by the participants in the analysis. On the basis of this review, a decision shall be taken by the Director on the continuation or closure of the file. The Director shall inform the Management Board of his decision.';

(b) paragraph 3 shall be replaced by the following:

'3. Personal data may not be retained for a period longer than that mentioned in Article 12(4) of the Europol Convention. Where, as a consequence of the continuation of the analysis file, data concerning persons as referred to in Article 6(3) to (6) are stored in a file for a period exceeding five years, the Joint Supervisory Body shall be informed accordingly.';

[1] OJ C 316, 27.11.1995, p. 2. Convention as last amended by the Protocol drawn up on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention), amending that Convention (OJ C 2, 6.1.2004, p. 3).
[2] Opinion of 4 September 2007 (not yet published in the Official Journal).
[3] OJ C 26, 30.1.1999, p. 1. Act as last amended by the Council Act of 19 December 2002 amending the Staff Regulations applicable to Europol employees (OJ C 24, 31.1.2003, p. 1).

4. Article 12 shall be amended as follows:

(a) in paragraph 2, the first subparagraph shall be deleted and the text of the second subparagraph shall be preceded by the number '2.';

(b) paragraph 3 shall be replaced by the following:

'3. Analysis activities and the dissemination of analysis results may begin immediately after the analysis file has been opened in accordance with Article 12(1) of the Europol Convention. Should the Management Board instruct the Director of Europol to amend an opening order or close the file, data which may not be included in the file or, if the file is to be closed, all data contained in that file, shall be deleted immediately.';

5. The following Article shall be inserted:

'*Article 12a*

Participants in an analysis project within the meaning of Article 10(2) of the Europol Convention shall only be authorised to retrieve data after they have been accredited by Europol and undergone training on their specific obligations under the Europol legal framework.';

6. Article 15(4) and (5) shall be deleted.

Article 2

This Decision shall enter into force on the first day following its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 15 October 2007.

For the Council
The President
L. AMADO