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*Number 38 of 1997*

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**EUROPOL ACT, 1997**

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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Convention and Protocols to have force of law.
3. National unit.
4. Liaison officers.
5. Amendment of Garda Síochána Act, 1989.
6. Application of Data Protection Act, 1988.
7. Designation of national supervisory body.
8. Status of Europol.
9. Application of Official Secrets Act, 1963.
10. Interpretation of Convention.
11. Regulations.
12. Laying of orders and regulations before Houses of Oireachtas.
13. Expenses.
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FIRST SCHEDULE

The Text in the English Language of the Convention

SECOND SCHEDULE

The Text in the English Language of the 1996 Protocol

THIRD SCHEDULE

The Text in the English Language of the 1997 Protocol

[No. 38.]

*Europol Act, 1997.*

[1997.]

FOURTH SCHEDULE

The Text in the Irish Language of the Convention

FIFTH SCHEDULE

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SIXTH SCHEDULE

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Acts Referred to

Data Protection Act, 1988

1988, No. 25

Garda Síochána Act, 1989

1989, No. 1

Official Secrets Act, 1963

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*Number 38 of 1997*  
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**EUROPOL ACT, 1997**  
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AN ACT TO GIVE THE FORCE OF LAW TO THE CONVENTION ON THE ESTABLISHMENT OF A EUROPEAN POLICE OFFICE AND TO PROVIDE FOR RELATED MATTERS. [24th November, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.**—(1) In this Act unless the context otherwise requires— Interpretation.

“the Commissioner” means the Commissioner of the Garda Síochána;

“the Convention” means the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention) and the Annex thereto, done at Brussels on the 26th day of July, 1995;

“national unit” has the meaning assigned to it by *section 3(1)*;

“the Minister” means the Minister for Justice, Equality and Law Reform;

“the 1996 Protocol” means the Protocol drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the establishment of a European Police Office done at Brussels on the 24th day of July, 1996;

“the 1997 Protocol” means the Protocol drawn up, on the basis of Article K.3 of the Treaty on European Union and Article 41(3) of the Europol Convention, on the privileges and immunities of Europol, the members of its organs, the deputy directors and employees of Europol done at Brussels on the 19th day of June, 1997.

(2) In this Act—

- (a) a reference to a section or a Schedule is a reference to a section of or Schedule to this Act unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection or paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and

- S.1 (c) a reference to any enactment shall be construed as a reference to that enactment as amended or extended by or under any enactment including this Act.

Convention and  
Protocols to have  
force of law.

**2.—**(1) Subject to the provisions of this Act, the Convention, the 1996 Protocol and the 1997 Protocol shall have the force of law in the State and judicial notice shall be taken of them.

(2) For convenience of reference, there are set out in the *First, Second, Third, Fourth, Fifth* and *Sixth Schedules* respectively—

- (a) the text in the English language of the Convention,
- (b) the text in the English language of the 1996 Protocol,
- (c) the text in the English language of the 1997 Protocol,
- (d) the text in the Irish language of the Convention,
- (e) the text in the Irish language of the 1996 Protocol, and
- (f) the text in the Irish language of the 1997 Protocol.

National unit.

**3.—**(1) For the purposes of this Act and the Convention, the Minister, following consultation with the Commissioner, shall by order designate a unit within the Garda Síochána, to be known as the “national unit”.

(2) The national unit shall operate under the control and general superintendence of the Commissioner.

(3) The Commissioner may assign such and so many members of the Garda Síochána to be members of the national unit as the Commissioner from time to time thinks fit.

(4) The Commissioner shall assign the management of the national unit to a member of the Garda Síochána not below the rank of Chief Superintendent and the member so assigned shall be known as the “Head of the national unit”.

(5) The Commissioner may assign other duties to the Head of the national unit during his or her assignment as such.

(6) (a) The Minister, after consultation with the Commissioner, the Minister for Finance and any other Minister of the Government as the Minister considers appropriate in the circumstances and, in relation to officers of customs and excise, with the Revenue Commissioners, may, from time to time, appoint such and so many persons who are not members of the Garda Síochána to be members of the national unit.

(b) The appointment of persons under *paragraph (a)* shall be on such conditions as may be agreed with the Minister for Finance.

(7) A member of the Garda Síochána or an officer of customs and excise, who is a member of the national unit, notwithstanding his or her appointment as such, shall continue to be vested with and may exercise or perform the powers or duties of a member of the Garda Síochána or an officer of customs and excise as may be appropriate, for purposes other than the purposes of this Act, as well as for the purposes of this Act.

(8) Unless the context otherwise requires or the Minister by order otherwise provides, the references in the Convention to a Member

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State (whether specific or general) shall, in so far as those references apply to the State, be construed and have effect as if they were references to the national unit. S.3

(9) The Minister may by order amend or revoke an order under *subsection (1) or (8)* (including an order under this subsection).

4.—(1) Subject to *subsection (2)* and the Convention, there shall be sent as a liaison officer with Europol one or more than one member of the national unit as the Commissioner may, for the purposes of this Act and the Convention, determine. Liaison officers.

(2) A member of the national unit, other than a member of the Garda Síochána, shall be sent as a liaison officer with Europol only after consultation with the Minister, and—

- (a) in the case where the member to be sent is an officer of customs and excise, on the nomination of the Revenue Commissioners, or
- (b) in the case of any other member (not being a member of the Garda Síochána or an officer of customs and excise) on the nomination of such other Minister of the Government (if any) as the Minister considers appropriate in the circumstances.

5.—The Garda Síochána Act, 1989, is hereby amended—

Amendment of  
Garda Síochána  
Act, 1989.

(a) in section 3, by the substitution of the following subsection for subsection (2):

“(2) Notwithstanding anything contained in the Acts, a member of the Garda Síochána to whom this section for the time being applies shall be liable to serve outside the State—

- (a) with a contingent of the Garda Síochána which is despatched for service with an International United Nations Force, or
- (b) as a liaison officer with Europol.”, and

(b) in section 4, by the substitution of the following subsection for subsection (1):

“(1) The Minister may by regulations, made with the consent of the Minister for Health and Children, provide for the keeping of a record of—

- (a) the death of a member of the Garda Síochána,
- (b) the death of the spouse or any of such other members of the family of a member of the Garda Síochána as may be specified in the regulations, and
- (c) the birth of a child of a member of the Garda Síochána,

occurring outside the State while the member of the Garda Síochána is serving outside the State with an International United Nations Force or as a liaison officer with Europol and, as respects a death referred to in paragraph (b) of this subsection or a

- S.5 birth, in such circumstances as may be specified in the regulations.”.
- Application of Data Protection Act, 1988. **6.**—(1) For the purposes of this Act and the Convention, the Data Protection Act, 1988, shall apply and have effect with any necessary modifications to the collection, processing, keeping, use or disclosure of certain information relating to individuals that is processed automatically.
- (2) For the purposes of the application of the Convention to the State, references to “national competent authority” in Article 19.1 of the Convention and “national authorities concerned” in Article 19.5 of the Convention shall be construed as references to the Data Protection Commissioner.
- (3) For the purposes of Article 38 of the Convention, section 7 of the Data Protection Act, 1988, shall apply as regards the liability of the State for any damage caused to an individual as a result of legal or factual errors in data stored or processed at Europol as it applies to the collection of or dealing with personal data (within the meaning of that Act).
- Designation of national supervisory body. **7.**—The Data Protection Commissioner is hereby designated as the national supervisory body for the purposes of this Act and the Convention.
- Status of Europol. **8.**—Europol shall have the legal capacity of a body corporate and power to sue and be sued in its corporate name and to acquire, hold and dispose of property.
- Application of Official Secrets Act, 1963. **9.**—(1) Any facts or information which come to the knowledge of the Director or Financial Controller of Europol or members of the Management Board or the Financial Committee, the Deputy Directors of Europol, employees of Europol or liaison officers with Europol as well as any other person under a particular obligation of discretion or confidentiality under this Act or the Convention shall be deemed to be official information within the meaning of official information in the Official Secrets Act, 1963, and the provisions of that Act shall apply accordingly to such facts or information.
- (2) For the purposes of this section, “duly authorised” in section 4 of the Official Secrets Act, 1963, includes being authorised by the Director of Europol or, as the case may be, the Management Board of Europol.
- (3) The application of the Official Secrets Act, 1963, to any facts or information referred to in *subsection (1)* does not include facts or information too insignificant to require confidentiality.
- Interpretation of Convention. **10.**—(1) For the purposes of Article 2 of the 1996 Protocol, paragraph 2(a) of that Article shall apply in the State.
- (2) Judicial notice shall be taken of any ruling or decision of, or expression of opinion by, the Court of Justice of the European Communities on any question as to the meaning or effect of any provision of the Convention.
- Regulations. **11.**—The Minister may from time to time make such regulations as appear to him or her to be necessary or expedient for carrying out the Convention and for giving effect thereto or to any of the provisions thereof.

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**12.**—Every order and regulation made by the Minister under *section 3, 11 or 14* shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling the order or regulation is passed by either House within the next subsequent 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Laying of orders and regulations before Houses of Oireachtas.

**13.**—The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses.

**14.**—(1) This Act may be cited as the Europol Act, 1997.

Short title and commencement.

(2) This Act shall come into operation on such day or days as the Minister may fix by order either generally or with reference to any particular purpose or provision.

#### FIRST SCHEDULE

*Section 2.*

The Text in the English Language of the Convention

#### CONVENTION

**based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention)**

THE HIGH CONTRACTING PARTIES to the present Convention, Member States of the European Union,

REFERRING to the Council Act of 26 July 1995;

AWARE of the urgent problems arising from terrorism, unlawful drug trafficking and other serious forms of international crime;

WHEREAS there is a need for progress in solidarity and cooperation between the Member States of the European Union, particularly through an improvement in police cooperation between the Member States;

WHEREAS such progress should enable the protection of security and public order to be further improved;

WHEREAS the establishment of a European Police Office (Europol) was agreed in the Treaty on European Union of 7 February 1992;

IN VIEW of the decision of the European Council of 29 October 1993 that Europol should be established in the Netherlands and have its seat in The Hague;

MINDFUL of the common objective of improving police cooperation in the field of terrorism, unlawful drug trafficking and other serious forms of international crime through a constant, confidential and intensive exchange of information between Europol and Member States' national units;

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ON THE UNDERSTANDING that the forms of cooperation laid down in this Convention should not affect other forms of bilateral or multilateral cooperation;

CONVINCED that in the field of police cooperation, particular attention must be paid to the protection of the rights of individuals, and in particular to the protection of their personal data;

WHEREAS the activities of Europol under this Convention are without prejudice to the powers of the European Communities; whereas Europol and the Communities have a mutual interest, in the framework of the European Union, in establishing types of cooperation enabling each of them to perform their respective tasks as effectively as possible,

HAVE AGREED AS FOLLOWS:

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## TITLE I

### Establishment and Tasks

#### *Article 1*

##### Establishment

1. The Member States of the European Union, hereinafter referred to as 'Member States', hereby establish a European Police Office, hereinafter referred to as 'Europol'.

2. Europol shall liaise with a single national unit in each Member State, to be established or designated in accordance with Article 4.

*Article 2*

## Objective

1. The objective of Europol shall be, within the framework of cooperation between the Member States pursuant to Article K.1 (9) of 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 terrorism, unlawful drug trafficking and other serious forms of international crime where there are factual indications that an organized criminal structure is involved and two or more Member States are affected by the forms of crime in question 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.

2. In order to achieve progressively the objective mentioned in paragraph 1, Europol shall initially act to prevent and combat unlawful drug trafficking, trafficking in nuclear and radioactive substances, illegal immigrant smuggling, trade in human beings and motor vehicle crime.

Within two years at the latest following the entry into force of this Convention, Europol shall also deal with crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property. The Council, acting unanimously in accordance with the procedure laid down in Title VI of the Treaty on European Union, may decide to instruct Europol to deal with such terrorist activities before that period has expired.

The Council, acting unanimously in accordance with the procedure laid down in Title VI of the Treaty on European Union, may decide to instruct Europol to deal with other forms of crime listed in the Annex to this Convention or specific manifestations thereof. Before acting, the Council shall instruct the Management Board to prepare its decision and in particular to set out the budgetary and staffing implications for Europol.

3. Europol's competence as regards a form of crime or specific manifestations thereof shall cover both:

(1) illegal money-laundering activities in connection with these forms of crime or specific manifestations thereof;

(2) related criminal offences.

The following shall be regarded as related and shall be taken into account in accordance with the procedures set out in Articles 8 and 10:

- criminal offences committed in order to procure the means for perpetrating acts within the sphere of competence of Europol,
- criminal offences committed in order to facilitate or carry out acts within the sphere of competence of Europol,
- criminal offences committed to ensure the impunity of acts within the sphere of competence of Europol.

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4. For the purposes of this Convention, 'competent authorities' Sch.1 means all public bodies existing in the Member States which are responsible under national law for preventing and combating criminal offences.

5. For the purposes of paragraphs 1 and 2, 'unlawful drug trafficking' means the criminal offences listed in Article 3 (1) of the United Nations Convention of 20 December 1988 against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and in the provisions amending or replacing that Convention.

### *Article 3*

#### Tasks

1. In the framework of its objective pursuant to Article 2 (1), Europol shall have the following principal tasks:

(1) to facilitate the exchange of information between the Member States;

(2) to obtain, collate and analyse information and intelligence;

(3) to notify the competent authorities of the Member States without delay via the national units referred to in Article 4 of information concerning them and of any connections identified between criminal offences;

(4) to aid investigations in the Member States by forwarding all relevant information to the national units;

(5) to maintain a computerized system of collected information containing data in accordance with Articles 8, 10 and 11.

2. In order to improve the cooperation and effectiveness of the competent authorities in the Member States through the national units with a view to fulfilling the objective set out in Article 2 (1), Europol shall furthermore have the following additional tasks:

(1) to develop specialist knowledge of the investigative procedures of the competent authorities in the Member States and to provide advice on investigations;

(2) to provide strategic intelligence to assist with and promote the efficient and effective use of the resources available at national level for operational activities;

(3) to prepare general situation reports.

3. In the context of its objective under Article 2 (1) Europol may, in addition, in accordance with its staffing and the budgetary resources at its disposal and within the limits set by the Management Board, assist Member States through advice and research in the following areas:

(1) training of members of their competent authorities;

(2) organization and equipment of those authorities;

(3) crime prevention methods;

(4) technical and forensic police methods and investigative procedures.

*Article 4*

National units

1. Each Member State shall establish or designate a national unit to carry out the tasks listed in this Article.

2. The national unit shall be the only liaison body between Europol and the competent national authorities. Relationships between the national unit and the competent authorities shall be governed by national law, and, in particular the relevant national constitutional requirements.

3. Member States shall take the necessary measures to ensure that the national units are able to fulfil their tasks and, in particular, have access to relevant national data.

4. It shall be the task of the national units to:

(1) supply Europol on their own initiative with the information and intelligence necessary for it to carry out its tasks;

(2) respond to Europol's requests for information, intelligence and advice;

(3) keep information and intelligence up to date;

(4) evaluate information and intelligence in accordance with national law for the competent authorities and transmit this material to them;

(5) issue requests for advice, information, intelligence and analysis to Europol;

(6) supply Europol with information for storage in the computerized system;

(7) ensure compliance with the law in every exchange of information between themselves and Europol.

5. Without prejudice to the exercise of the responsibilities incumbent upon Member States as set out in Article K.2 (2) of the Treaty on European Union, a national unit shall not be obliged in a particular case to supply the information and intelligence provided for in paragraph 4, points 1, 2 and 6 and in Articles 7 and 10 if this would mean:

(1) harming essential national security interests; or

(2) jeopardizing the success of a current investigation or the safety of individuals;

(3) involving information pertaining to organizations or specific intelligence activities in the field of State security.

6. The costs incurred by the national units for communications with Europol shall be borne by the Member States and, apart from the costs of connection, shall not be charged to Europol.

7. The Heads of national units shall meet as necessary to assist Europol by giving advice.

## Liaison officers

1. Each national unit shall second at least one liaison officer to Europol. The number of liaison officers who may be sent by Member States to Europol shall be laid down by unanimous decision of the Management Board; the decision may be altered at any time by unanimous decision of the Management Board. Except as otherwise stipulated in specific provisions of this Convention, liaison officers shall be subject to the national law of the seconding Member State.

2. The liaison officers shall be instructed by their national units to represent the interests of the latter within Europol in accordance with the national law of the seconding Member State and in compliance with the provisions applicable to the administration of Europol.

3. Without prejudice to Article 4 (4) and (5), the liaison officers shall, within the framework of the objective laid down in Article 2 (1), assist in the exchange of information between the national units which have seconded them and Europol, in particular by:

(1) providing Europol with information from the seconding national unit;

(2) forwarding information from Europol to the seconding national unit; and

(3) cooperating with the officials of Europol by providing information and giving advice as regards analysis of the information concerning the seconding Member State.

4. At the same time, the liaison officers shall assist in the exchange of information from their national units and the coordination of the resulting measures in accordance with their national law and within the framework of the objective laid down in Article 2 (1).

5. To the extent necessary for the performance of the tasks under paragraph 3 above, the liaison officers shall have the right to consult the various files in accordance with the appropriate provisions specified in the relevant Articles.

6. Article 25 shall apply *mutatis mutandis* to the activity of the liaison officers.

7. Without prejudice to the other provisions of this Convention, the rights and obligations of liaison officers in relation to Europol shall be determined unanimously by the Management Board.

8. Liaison officers shall enjoy the privileges and immunities necessary for the performance of their tasks in accordance with Article 41 (2).

9. Europol shall provide Member States free of charge with the necessary premises in the Europol building for the activity of their liaison officers. All other costs which arise in connection with seconding liaison officers shall be borne by the seconding Member State; this shall also apply to the costs of equipment for liaison officers, to the extent that the Management Board does not unanimously recommend otherwise in a specific case when drawing up the budget of Europol.

*Article 6*

## Computerized system of collected information

1. Europol shall maintain a computerized system of collected information consisting of the following components:

(1) an information system as referred to in Article 7 with a restricted and precisely defined content which allows rapid reference to the information available to the Member States and Europol;

(2) work files as referred to in Article 10 established for variable periods of time for the purposes of analysis and containing comprehensive information; and

(3) an index system containing certain particulars from the analysis files referred to in point 2, in accordance with the arrangements laid down in Article 11.

2. The computerized system of collected information operated by Europol must under no circumstances be linked to other automated processing systems, except for the automated processing systems of the national units.

## TITLE II

## Information System

*Article 7*

## Establishment of the information system

1. In order to perform its tasks, Europol shall establish and maintain a computerized information system. The information system, into which Member States, represented by their national units and liaison officers, may directly input data in compliance with their national procedures, and into which Europol may directly input data supplied by third States and third bodies and analysis data, shall be directly accessible for consultation by national units, liaison officers, the Director, the Deputy Directors and duly empowered Europol officials.

Direct access by the national units to the information system in respect of the persons referred to in Article 8 (1), point 2 shall be restricted solely to the details of identity listed in Article 8 (2). If needed for a specific enquiry, the full range of data shall be accessible them via the liaison officers.

2. Europol shall:

(1) have the task of ensuring compliance with the provisions governing cooperation on and operation of the information system, and

(2) be responsible for the proper working of the information system in technical and operational respects. Europol shall in particular take all necessary measures to ensure that the measures referred to in Articles 21 and 25 regarding the information system are properly implemented.

3. The national unit in each Member State shall be responsible for communication with the information system. It shall, in particular, be responsible for the security measures referred to in Article 25 in respect of the data-processing equipment used within the territory of the Member State in question, for the review in accordance with Article 21 and, in so far as required under the laws, regulations, administrative provisions and procedures of that Member State, for the proper implementation of this Convention in other respects.

### Content of the information system

1. The information system may be used to store, modify and utilize only the data necessary for the performance of Europol's tasks, with the exception of data concerning related criminal offences as referred to in the second subparagraph of Article 2 (3). Data entered shall relate to:

(1) persons who, in accordance with the national law of the Member State concerned, are suspected of having committed or having taken part in a criminal offence for which Europol is competent under Article 2 or who have been convicted of such an offence;

(2) persons who there are serious grounds under national law for believing will commit criminal offences for which Europol is competent under Article 2.

2. Personal data as referred to in paragraph 1 may include only the following details:

(1) surname, maiden name, given names and any alias or assumed name;

(2) date and place of birth;

(3) nationality;

(4) sex; and

(5) where necessary, other characteristics likely to assist in identification, including any specific objective physical characteristics not subject to change.

3. In addition to the data referred to in paragraph 2 and data on Europol or the inputting national unit, the information system may also be used to store, modify and utilize the following details concerning the persons referred to in paragraph 1:

(1) criminal offences, alleged crimes and when and where they were committed;

(2) means which were or may be used to commit the crimes;

(3) departments handling the case and their filing references;

(4) suspected membership of a criminal organization;

(5) convictions, where they relate to criminal offences for which Europol is competent under Article 2.

These data may be input when they do not yet contain any references to persons. Where Europol inputs the data itself, as well as giving its filing reference it shall also indicate whether the data were provided by a third party or are the result of its own analyses.

4. Additional information held by Europol or national units concerning the groups of persons referred to in paragraph 1 may be communicated to any national unit or Europol should either so request. National units shall do so in compliance with their national law.

Sch.1

Where the additional information concerns one or more related criminal offences as defined in the second subparagraph of Article 2 (3), the data stored in the information system shall be marked accordingly to enable national units and Europol to exchange information on the related criminal offences.

5. If proceedings against the person concerned are dropped or if that person is acquitted, the data relating to either decision shall be deleted.

### *Article 9*

#### Right of access to the information system

1. Only 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 it therefrom. Data may be retrieved where this is necessary for the performance of Europol's tasks in a particular case; retrieval shall be effected in accordance with the laws, regulations, administrative provisions and procedures of the retrieving unit, subject to any additional provisions contained in this Convention.

2. Only the unit which entered the data may modify, correct or delete such data. Where a unit has reason to believe that data as referred to in Article 8 (2) are incorrect or wishes to supplement them, it shall immediately inform the inputting unit; the latter shall examine such notification without delay and if necessary modify, supplement, correct or delete the data immediately. Where the system contains data as referred to in Article 8 (3) concerning a person, any unit may enter additional data as referred to in Article 8 (3). Where there is an obvious contradiction between the data input, the units concerned shall consult each other and reach agreement. Where a unit intends to delete altogether data as referred to in Article 8 (2) which has input on a person and where data as referred to in Article 8 (3) are held on the same person but input by other units, responsibility in terms of data protection legislation pursuant to Article 15 (1) and the right to modify, supplement, correct and delete such data pursuant to Article 8 (2) shall be transferred to the next unit to have entered data as referred to in Article 8 (3) on that person. The unit intending to delete shall inform the unit to which responsibility in terms of data protection is transferred of its intention.

3. Responsibility for the permissibility of retrieval from, input into and modifications within the information system shall lie with the retrieving, inputting or modifying unit; it must be possible to identify that unit. The communication of information between national units and the competent authorities in the Member States shall be governed by national law.

## TITLE III

### Work Files for the Purposes of Analysis

#### *Article 10*

#### Collection, processing and utilization of personal data

1. Where this is necessary to achieve the objective laid down in Article 2 (1), Europol, in addition to data of a non-personal nature, may store, modify, and utilize in other files data on criminal offences for which Europol is competent under Article 2 (2), including data



on the related criminal offences provided for in the second subparagraph of Article 2 (3) which are intended for specific analyses, and concerning: Sch.1

- (1) persons as referred to in Article 8 (1);
- (2) persons who might be called on to testify in investigations in connection with the offences under consideration or in subsequent criminal proceedings;
- (3) persons who have been the victims of one of the offences under consideration or with regard to whom certain facts give reason for believing that they could be the victims of such an offence;
- (4) contacts and associates, and
- (5) persons who can provide information on the criminal offences under consideration.

The collection, storage and processing of the data listed in the first sentence of Article 6 of the Council of Europe Convention of 28 January 1981 with regard to Automatic Processing of Personal Data shall not be permitted unless strictly necessary for the purposes of the file concerned and unless such data supplement other personal data already entered in that file. It shall be prohibited to select a particular group of persons solely on the basis of the data listed in the first sentence of Article 6 of the Council of Europe Convention of 28 January 1981 in breach of the aforementioned rules with regard to purpose.

The Council, acting unanimously, in accordance with the procedure laid down in Title VI of the Treaty on European Union, shall adopt implementing rules for data files prepared by the Management Board containing additional details, in particular with regard to the categories of personal data referred to in this Article and the provisions concerning the security of the data concerned and the internal supervision of their use.

2. Such files shall be opened for the purposes of analysis defined as the assembly, processing or utilization of data with the aim of helping a criminal investigation. Each analysis project shall entail the establishment of an analysis group closely associating the following participants in accordance with the tasks defined in Article 3 (1) and (2) and Article 5 (3):

- (1) analysts and other Europol officials designated by the Europol Directorate: only analysts shall be authorized to enter data into and retrieve data from the file concerned;
- (2) the liaison officers and/or experts of the Member States supplying the information or concerned by the analysis within the meaning of paragraph 6.

3. At the request of Europol or on their own initiative, national units shall, subject to Article 4 (5), communicate to Europol all the information which it may require for the performance of its tasks under Article 3 (1), point 2. The Member States shall communicate such data only where processing thereof for the purposes of preventing, analysing or combating offences is also authorized by their national law.

Sch.1

Depending on their degree of sensitivity, data from national units may be routed directly and by whatever means may be appropriate to the analysis groups, whether via the liaison officers concerned or not.

4. If, in addition to the data referred to in paragraph 3, it would seem justified for Europol to have other information for the performance of tasks under Article 3 (1), point 2, Europol may request that:

(1) the European Communities and bodies governed by public law established under the Treaties establishing those Communities;

(2) other bodies governed by public law established in the framework of the European Union;

(3) bodies which are based on an agreement between two or more Member States of the European Union;

(4) third States;

(5) international organizations and their subordinate bodies governed by public law;

(6) other bodies governed by public law which are based on an agreement between two or more States; and

(7) the International Criminal Police Organization,

forward the relevant information to it by whatever means may be appropriate. It may also, under the same conditions, and by the same means, accept information provided by those various bodies on their own initiative. The Council, acting unanimously in accordance with the procedure laid down in Title VI of the Treaty on European Union and after consulting the Management Board, shall draw up the rules to be observed by Europol in this respect.

5. In so far as Europol is entitled under other Conventions to gain computerized 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 pursuant to Article 3 (1), point 2.

6. If an analysis is of a general nature and of a strategic type, all Member States, through liaison officers and/or experts, shall be fully associated in the findings thereof, in particular through the communication of reports drawn up by Europol.

If the analysis bears on specific cases not concerning all Member States and has a direct operational aim, representatives of the following Member States shall participate therein:

(1) Member States which were the source of the information giving rise to the decision to open the analysis file, or those which are directly concerned by that information and Member States subsequently invited by the analysis group to take part in the analysis because they are also becoming concerned;

(2) Member States which learn from consulting the index system that they need to be informed and assert that need to know under the conditions laid down in paragraph 7.

[1997.]

*Europol Act, 1997.*

[No. 38.]

7. The need to be informed may be claimed by authorized liaison officers. Each Member State shall nominate and authorize a limited number of such liaison officers. It shall forward the list thereof to the Management Board. Sch.1

A liaison officer shall claim the need to be informed as defined in paragraph 6 by means of a written reasoned statement approved by the authority to which he is subordinate in his Member State and forwarded to all the participants in the analysis. He shall then be automatically associated in the analysis in progress.

If an objection is raised in the analysis group, automatic association shall be deferred until completion of a conciliation procedure, which may comprise three stages as follows:

(1) the participants in the analysis shall endeavour to reach agreement with the liaison officer claiming the need to be informed; they shall have no more than eight days for that purpose;

(2) if no agreement is reached, the heads of the national units concerned and the Directorate of Europol shall meet within three days;

(3) if the disagreement persists, the representatives of the parties concerned on the Management Board shall meet within eight days. If the Member State concerned does not waive its need to be informed, automatic association of that Member State shall be decided by consensus.

8. The Member State communicating an item of data to Europol shall be the sole judge of the degree of its sensitivity and variations thereof. Any dissemination or operational use of analysis data shall be decided on in consultation with the participants in the analysis. A Member State joining an analysis in progress may not, in particular, disseminate or use the data without the prior agreement of the Member States initially concerned.

### *Article 11*

#### *Index System*

1. An index system shall be created by Europol for the data stored on the files referred to in Article 10 (1).

2. The Director, Deputy Directors and duly empowered officials of Europol and liaison officers shall have the right to consult the index system. The index system shall be such that it is clear to the liaison officer consulting it, from the data being consulted, that the files referred to in Article 6 (1), point 2 and Article 10 (1) contain data concerning the seconding Member State.

Access by liaison officers shall be defined in such a way that it is possible to determine whether or not an item of information is stored, but that it is not possible to establish connections or further conclusions regarding the content of the files.

3. The detailed procedures for the design of the index system shall be defined by the Management Board acting unanimously.

*Article 12*

## Order opening a data file

1. For every computerized data file containing personal data operated by Europol for the purposes of performing its tasks referred to in Article 10, Europol shall specify in an order opening the file, which shall require the approval of the Management Board:

- (1) the file name;
- (2) the purpose of the file;
- (3) the groups of persons on whom data are stored;
- (4) the nature of the data to be stored, and any of the data listed in the first sentence of Article 6 of the Council of Europe Convention of 28 January 1981 which are strictly necessary;
- (5) the type of personal data used to open the file;
- (6) the supply or input of the data to be stored;
- (7) the conditions under which the personal data stored in the file may be communicated, to which recipients and under what procedure;
- (8) the time limits for examination and duration of storage;
- (9) the method of establishing the audit log.

The joint supervisory body provided for in Article 24 shall immediately be advised by the Director of Europol of the plan to order the opening of such a data file and shall receive the dossier so that it may address any comments it deems necessary to the Management Board.

2. If the urgency of the matter is such as to preclude obtaining the approval of the Management Board as required under paragraph 1, the Director, on his own initiative or at the request of the Member States concerned, may by a reasoned decision, order the opening of a data file. At the same time he shall inform the members of the Management Board of his decision. The procedure pursuant to paragraph 1 shall then be set in motion without delay and completed as soon as possible.

## TITLE IV

## Common Provisions on Information Processing

*Article 13*

## Duty to notify

Europol shall promptly notify the national units and also their liaison officers if the national units so request, of any information concerning their Member State and of connections identified between criminal offences for which Europol is competent under Article 2. Information and intelligence concerning other serious criminal offences, of which Europol becomes aware in the course of its duties, may also be communicated.

## Standard of data protection

1. By the time of the entry into force of this Convention at the latest, each Member State shall, under its national legislation, take the necessary measures in relation to the processing of personal data in data files in the framework of this Convention to ensure a standard of data protection which at least corresponds to the standard resulting from the implementation of the principles of the Council of Europe Convention of 28 January 1981, and, in doing so, shall take account of Recommendation No R (87) 15 of the Committee of Ministers of the Council of Europe of 17 September 1987 concerning the use of personal data in the police sector.

2. The communication of personal data provided for in this Convention may not begin until the data protection rules laid down in paragraph 1 above have entered into force on the territory of each of the Member States involved in such communication.

3. In the collection, processing and utilization of personal data Europol shall take account of the principles of the Council of Europe Convention of 28 January 1981 and of Recommendation No R (87) 15 of the Committee of Ministers of the Council of Europe of 17 September 1987.

Europol shall also observe the principles in respect of non-automated data held in the form of data files, i.e. any structured set of personal data accessible in accordance with specific criteria.

*Article 15*

## Responsibility in data protection matters

1. Subject to other provisions in this Convention, the responsibility for data stored at Europol, in particular as regards the legality of the collection, the transmission to Europol and the input of data, as well as their accuracy, their up-to-date nature and verification of the storage timelimits, shall lie with:

(1) the Member State which input or otherwise communicated the data;

(2) Europol in respect of data communicated to Europol by third parties or which result from analyses conducted by Europol.

2. In addition, subject to other provisions in this Convention, Europol shall be responsible for all data received by Europol and processed by it, whether such data be in the information system referred to in Article 8, in the data files opened for the purposes of analysis referred to in Article 10, or in the index system referred to in Article 11, or in the data files referred to in Article 14 (3).

3. Europol shall store data in such a way that it can be established by which Member State or third party the data were transmitted or whether they are the result of an analysis by Europol.

*Article 16*

## Provisions on the drawing up of reports

On average, Europol shall draw up reports for at least one in ten retrievals of personal data — and for each retrieval made within the information system referred to in Article 7 — in order to check whether they are permissible under law. The data contained in the reports shall only be used for that purpose by Europol and the supervisory bodies referred to in Articles 23 and 24 and shall be deleted after six months, unless the data are further required for ongoing control. The details shall be decided upon by the Management Board following consultation with the joint supervisory body.

*Article 17*

## Rules on the use of data

1. Personal data retrieved from the information system, the index system or data files opened for the purposes of analysis and data communicated by any other appropriate means, may be transmitted or utilized only by the competent authorities of the Member States in order to prevent and combat crimes falling within the competence of Europol and to combat other serious forms of crime.

The data referred to in the first paragraph shall be utilized in compliance with the law of the Member State responsible for the authorities which utilized the data.

Europol may utilize the data referred to in paragraph 1 only for the performance of its tasks as referred to in Article 3.

2. If, in the case of certain data, the communicating Member State or the communicating third State or third body as referred to in Article 10 (4) stipulates particular restrictions on use to which such data is subject in that Member State or by third parties, such restrictions shall also be complied with by the user of the data except in the specific case where national law lays down that the restrictions on use be waived for judicial authorities, legislative bodies or any other independent body set up under the law and made responsible for supervising the national competent authorities within the meaning of Article 2 (4). In such cases, the data may only be used after prior consultation of the communicating Member State whose interests and opinions must be taken into account as far as possible.

3. Use of the data for other purposes or by authorities other than those referred to in Article 2 of this Convention shall be possible only after prior consultation of the Member State which transmitted the data in so far as the national law of that Member State permits.

*Article 18*

## Communication of data to third States and third bodies

1. Europol may under the conditions laid down in paragraph 4 communicate personal data which it holds to third states and third bodies within the meaning of Article 10 (4), where:

(1) this is necessary in individual cases for the purposes of preventing or combating criminal offences for which Europol is competent under Article 2;

[1997.]

*Europol Act, 1997.*

[No. 38.]

(2) an adequate level of data protection is ensured in that State or that body; and Sch.1

(3) this is permissible under the general rules within the meaning of paragraph 2.

2. In accordance with the procedure in Title VI of the Treaty on European Union, and taking into account the circumstances referred to in paragraph 3, the Council, acting unanimously, shall determine the general rules for the communication of personal data by Europol to the third States and third bodies within the meaning of Article 10 (4). The Management Board shall prepare the Council decision and consult the joint supervisory body referred to in Article 24.

3. The adequacy of the level of data protection afforded by third States and third bodies within the meaning of Article 10 (4) shall be assessed taking into account all the circumstances which play a part in the communication of personal data; in particular, the following shall be taken into account:

- (1) the nature of the data;
- (2) the purpose for which the data is intended;
- (3) the duration of the intended processing; and

(4) the general or specific provisions applying to the third States and third bodies within the meaning of Article 10 (4).

4. If the data referred to have been communicated to Europol by a Member State, Europol may communicate them to third States and third bodies only with the Member State's consent. The Member State may give its prior consent, in general or other terms, to such communications; that consent may be withdrawn at any time.

If the data have not been communicated by a Member State, Europol shall satisfy itself that communication of those data is not liable to:

(1) obstruct the proper performance of the tasks falling within a Member State's sphere of competence;

(2) jeopardize the security and public order of a Member State or otherwise prejudice its general welfare.

5. Europol shall be responsible for the legality of the authorizing communication. Europol shall keep a record of communications of data and of the grounds for such communications. The communication of data shall be authorized only if the recipient gives an undertaking that the data will be used only for the purpose for which it was communicated. This shall not apply to the communication of personal data required for a Europol inquiry.

6. Where the communication provided for in paragraph 1 concerns information subject to the requirement of confidentiality, it shall be permissible only in so far as an agreement on confidentiality exists between Europol and the recipient.

*Article 19*

## Right of access

1. Any individual wishing to exercise his right of access to data relating to him which have been stored within Europol or to have such data checked may make a request to that effect free of charge to the national competent authority in any Member State he wishes, and that authority shall refer it to Europol without delay and inform the enquirer that Europol will reply to him directly.

2. The request must be fully dealt with by Europol within three months following its receipt by the national competent authority of the Member State concerned.

3. The right of any individual to have access to data relating to him or to have such data checked shall be exercised in accordance with the law of the Member State where the right is claimed, taking into account the following provisions:

Where the law of the Member State applied to provides for a communication concerning data, such communication shall be refused if such refusal is necessary to:

- (1) enable Europol to fulfil its duties properly;
- (2) protect security and public order in the Member States or to prevent crime;
- (3) protect the rights and freedoms of third parties,

considerations which it follows cannot be overridden by the interests of the person concerned by the communication of the information.

4. The right to communication of information in accordance with paragraph 3 shall be exercised according to the following procedures:

(1) as regards data entered within the information system defined in Article 8, a decision to communicate such data cannot be taken unless the Member State which entered the data and the Member States directly concerned by communication of such data have first had the opportunity of stating their position, which may extend to a refusal to communicate the data. The data which may be communicated and the arrangements for communicating such data shall be indicated by the Member State which entered the data;

(2) as regards data entered within the information system by Europol, the Member States directly concerned by communication of such data must first have had the opportunity of stating their position, which may extend to a refusal to communicate the data;

(3) as regards data entered within the work files for the purposes of analysis as defined in Article 10, the communication of such data shall be conditional upon the consensus of Europol and the Member States participating in the analysis, within the meaning of Article 10 (2), and the consensus of the Member State(s) directly concerned by the communication of such data.

Should one or more Member State or Europol have objected to a communication concerning data, Europol shall notify the person concerned that it has carried out the checks, without giving any information which might reveal to him whether or not he is known.



5. The right to the checking of information shall be exercised in accordance with the following procedures: Sch.1

Where the national law applicable makes no provision for a communication concerning data or in the case of a simple request for a check, Europol, in close cooperation with the national authorities concerned, shall carry out the checks and notify the enquirer that is has done so without giving any information which might reveal to him whether or not he is known.

6. In its reply to a request for a check or for access to data, Europol shall inform the enquirer that he may appeal to the joint supervisory body if he is not satisfied with the decision. The latter may also refer the matter to the joint supervisory body if there has been no response to his request within the timelimits laid down in its Article.

7. If the enquirer lodges an appeal to the joint supervisory body provided for in Article 24, the appeal shall be examined by that body.

Where the appeal relates to a communication concerning data entered by a Member State in the information system, the joint supervisory body shall take its decision in accordance with the national law of the Member State in which the application was made. The joint supervisory body shall first consult the national supervisory body or the competent judicial body in the Member State which was the source of the data. Either national body shall make the necessary checks, in particular to establish whether the decision to refuse was taken in accordance with paragraphs 3 and 4 (1) of this Article. On confirmation of that, the decision, which may extend to a refusal to communicate any information, shall be taken by the joint supervisory body in close cooperation with the national supervisory body or competent judicial body.

Where the appeal relates to a communication concerning data entered by Europol in the information system or data stored in the work files for the purposes of analysis, the joint supervisory body, in the event of persistent objections from Europol or a Member State, may not overrule such objections unless by a majority of two-thirds of its members after having heard Europol or the Member State concerned. If there is no such majority, the joint supervisory body shall notify the enquirer that it has carried out the checks, without giving any information which might reveal to him whether or not he is known.

Where the appeal concerns the checking of data entered by a Member State in the information system, the joint supervisory body shall ensure that the necessary checks have been carried out correctly in close cooperation with the national supervisory body of the Member State which entered the data. The joint supervisory body shall notify the enquirer that it has carried out the checks, without giving any information which might reveal to him whether or not he is known.

Where the appeal concerns the checking of data entered by Europol in the information system or of data stored in the work files for the purposes of analysis, the joint supervisory body shall ensure that the necessary checks have been carried out by Europol. The joint supervisory body shall notify the enquirer that it has carried out the checks, without giving any information which might reveal to him whether or not he is known.

Sch.1

8. The above provisions shall apply *mutatis mutandis* to non-automated data held by Europol in the form of data files, i.e. any structured set of personal data accessible in accordance with specific criteria.

#### Article 20

##### Correction and deletion of data

1. If it emerges that data held by Europol which have been communicated to it by third States or third bodies or which are the result of its own analyses are incorrect or that their input or storage contravenes this Convention, Europol shall correct or delete such data.

2. If data that are incorrect or that contravene this Convention have been passed directly to Europol by Member States, they shall be obliged to correct or delete them in collaboration with Europol. If incorrect data are transmitted by another appropriate means or if the errors in the data supplied by Member States are due to faulty transmission or have been transmitted in breach of the provisions of this Convention or if they result from their being entered, taken over or stored in an incorrect manner or in breach of the provisions of this Convention by Europol, Europol shall be obliged to correct them or delete them in collaboration with the Member States concerned.

3. In the cases referred to in paragraphs 1 and 2, the Member States which are recipients of the data shall be notified forthwith. The recipient Member States shall also correct or delete those data.

4. Any person shall have the right to ask Europol to correct or delete incorrect data concerning him.

Europol shall inform the enquirer that data concerning him have been corrected or deleted. If the enquirer is not satisfied with Europol's reply or if he has received no reply within three months, he may refer the matter to the joint supervisory body.

#### Article 21

##### Time limits for the storage and deletion of data files

1. Data in data files shall be held by Europol only for as long as is necessary for the performance of its tasks. The need for continued storage shall be reviewed no later than three years after the input of data. Review of data stored in the information system and its deletion shall be carried out by the inputting unit. Review of data stored in other Europol data files and their deletion shall be carried out by Europol. Europol shall automatically inform the Member States three months in advance of the expiry of the time limits for reviewing the storage of data.

2. During the review, the units referred to in the third and fourth sentences of paragraph 1 above may decide on continued storage of data until the next review if this is still necessary for the performance of Europol's tasks. If no decision is taken on the continued storage of data, those data shall automatically be deleted.

3. Storage of personal data relating to individuals as referred to in point 1 of the first subparagraph of Article 10 (1) may not exceed a total of three 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 reviewed annually and the review documented.

4. Where a Member State deletes from its national data files data communicated to Europol which are stored in other Europol data files, it shall inform Europol accordingly. In such cases, Europol shall delete the data unless it has further interest in them, based on intelligence that is more extensive than that possessed by the communicating Member State. Europol shall inform the Member State concerned of the continued storage of such data. Sch.1

5. Deletion shall not occur if it would damage the interests of the data subject which require protection. In such cases, the data may be used only with the consent of the data subject.

#### *Article 22*

##### Correction and storage of data in paper files

1. If it emerges that an entire paper file or data included in that file held by Europol are no longer necessary for the performance of Europol's tasks, or if the information concerned is overall in contravention of this Convention, the paper file or data concerned shall be destroyed. The paper file or data concerned must be marked as not for use until they have been effectively destroyed.

Destruction may not take place if there are grounds for assuming that the legitimate interests of the data subject would otherwise be prejudiced. In such cases, the paper file must bear the same note prohibiting all use.

2. If it emerges that data contained in the Europol paper files are incorrect, Europol shall be obliged to correct them.

3. Any person covered by a Europol paper file may claim the right *vis-à-vis* Europol to correction or destruction of paper files or the inclusion of a note. Article 20 (4) and Article 24 (2) and (7) shall be applicable.

#### *Article 23*

##### National supervisory body

1. Each Member State shall designate a national supervisory body, the task of which shall be to monitor independently, in accordance with its respective national law, the permissibility of the input, the retrieval and any communication to Europol of personal data by the Member State concerned and to examine whether this violates the rights of the data subject. For this purpose, the supervisory body shall have access at the national unit or at the liaison officers' premises to the data entered by the Member State in the information system and in the index system in accordance with the relevant national procedures.

For their supervisory purposes, national supervisory bodies shall have access to the offices and documents of their respective liaison officers at Europol.

In addition, in accordance with the relevant national procedures, the national supervisory bodies shall supervise the activities of national units under Article 4 (4) and the activities of liaison officers under Article 5 (3), points 1 and 3 and Article 5 (4) and (5), in so far as such activities are of relevance to the protection of personal data.

Sch.1

2. Each individual shall have the right to request the national supervisory body to ensure that the entry or communication of data concerning him to Europol in any form and the consultation of the data by the Member State concerned are lawful.

This right shall be exercised in accordance with the national law of the Member State to the national supervisory body of which the request is made.

#### *Article 24*

##### Joint supervisory body

1. An independent joint supervisory body shall be set up, which shall have the task of reviewing, in accordance with this convention, the activities of Europol in order to ensure that the rights of the individual are not violated by the storage, processing and utilization of the data held by Europol. In addition, the joint supervisory body shall monitor the permissibility of the transmission of data originating from Europol. The joint supervisory body shall be composed of not more than two members or representatives (where appropriate assisted by alternates) of each of the national supervisory bodies guaranteed to be independent and having the necessary abilities, and appointed for five years by each Member State. Each delegation shall be entitled to one vote.

The joint supervisory body shall appoint a chairman from among its members.

In the performance of their duties, the members of the joint supervisory body shall not receive instructions from any other body.

2. Europol must assist the joint supervisory body in the performance of the latter's tasks. In doing so, it shall in particular:

(1) supply the information it requests, give it access to all documents and paper files as well as access to the data stored in the system; and

(2) allow it free access at any time to all its premises;

(3) carry out the joint supervisory body's decisions on appeals in accordance with the provisions of Articles 19 (7) and 20 (4).

3. The joint supervisory body shall also be competent for the examination of questions relating to implementation and interpretation in connection with Europol's activities as regards the processing and utilization of personal data, for the examination of questions relating to checks carried out independently by the national supervisory bodies of the Member States or relating to the exercise of the right to information, as well as for drawing up harmonized proposals for common solutions to existing problems.

4. Each individual shall have the right to request the joint supervisory body to ensure that the manner in which his personal data have been collected, stored, processed and utilized by Europol is lawful and accurate.

5. If the joint supervisory body notes any violations of the provisions of this Convention in the storage, processing or utilization of personal data, it shall make any complaints it deems necessary to the Director of Europol and shall request him to reply within a time

limit to be determined by it. The Director shall keep the Management Board informed of the entire procedure. In the event of any difficulty, the joint supervisory body shall refer the matter to the Management Board. Sch.1

6. The joint supervisory body shall draw up activity reports at regular intervals. In accordance with the procedure laid down in Title VI of the Treaty on European Union, these shall be forwarded to the Council; the Management Board shall first have the opportunity to deliver an opinion, which shall be attached to the reports.

The joint supervisory body shall decide whether or not to publish its activity report, and, if it decides to do so, determine how it should be published.

7. The joint supervisory body shall unanimously adopt its rules of procedure, which shall be submitted for the unanimous approval of the Council. It shall set up internally a committee comprising one qualified representative from each Member State with entitlement to a vote. The committee shall have the task of examining the appeals provided for in Articles 19 (7) and 20 (4) by all appropriate means. Should they so request the parties, assisted by their advisers if they so wish, shall be heard by the committee. The decisions taken in this context shall be final as regards all the parties concerned.

8. It may also set up one or more other committees.

9. It shall be consulted on that part of the budget which concerns it. Its opinion shall be annexed to the draft budget in question.

10. It shall be assisted by a secretariat, the tasks of which shall be defined in the rules of procedures.

### *Article 25*

#### Data security

1. Europol shall take the necessary technical and organizational measures to ensure the implementation of this Convention. Measures shall only be necessary where the effort they involve is proportionate to the objective they are designed to achieve in terms of protection.

2. In respect of automated data processing at Europol each Member State and Europol shall implement measures designed to:

(1) deny unauthorized persons access to data processing equipment used for processing personal data (equipment access control);

(2) prevent the unauthorized reading, copying, modification or removal of data media (data media control);

(3) prevent the unauthorized input of data and the unauthorized inspection, modification or deletion of stored personal data (storage control);

(4) prevent the use of automated data processing systems by unauthorized persons using data communication equipment (user control);

Sch.1

(5) ensure that persons authorized to use an automated data processing system only have access to the data covered by their access authorization (data access control);

(6) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment (communication control);

(7) ensure that it is subsequently possible to verify and establish which personal data have been input into automated data or processing systems and when and by whom the data were input (input control);

(8) prevent unauthorized reading, copying, modification or deletion of personal data during transfers of personal data or during transportation of data media (transport control);

(9) ensure that installed systems may, in case of interruption, be immediately restored (recovery);

(10) ensure that the functions of the system perform without fault, that the appearance of faults in the functions is immediately reported (reliability) and that stored data cannot be corrupted by means of a malfunctioning of the system (integrity).

## TITLE V

### Legal Status, Organization and Financial Provisions

#### *Article 26*

##### Legal capacity

1. Europol shall have legal personality.
2. Europol shall enjoy in each Member State the most extensive legal and contractual capacity available to legal persons under that State's law. Europol may in particular acquire and dispose of movable or immovable property and be a party to legal proceedings.
3. Europol shall be empowered to conclude a headquarters agreement with the Kingdom of the Netherlands and to conclude with third States and third bodies within the meaning of Article 10 (4) the necessary confidentiality agreements pursuant to Article 18 (6) as well as other arrangements in the framework of the rules laid down unanimously by the Council on the basis of this Convention and of Title VI of the Treaty on European Union.

#### *Article 27*

##### Organs of Europol

The organs of Europol shall be:

- (1) the Management Board;
- (2) the Director;
- (3) the Financial Controller;
- (4) the Financial Committee.

## Management Board

1. Europol shall have a Management Board. The Management Board:

(1) shall take part in the extension of Europol's objective (Article 2 (2));

(2) shall define unanimously liaison officers' rights and obligations towards Europol (Article 5);

(3) shall decide unanimously on the number of liaison officers the Member States may send to Europol (Article 5);

(4) shall prepare the implementing rules governing data files (Article 10);

(5) shall take part in the adoption of rules governing Europol's relations with third States and third bodies with the meaning of Article 10 (4) (Articles 10, 18 and 42);

(6) shall unanimously decide on details concerning the design of the index system (Article 11);

(7) shall approve by a two-thirds majority orders opening data files (Article 12);

(8) may deliver opinions on the comments and reports of the joint supervisory body (Article 24);

(9) shall examine problems which the joint supervisory body brings to its attention (Article 24 (5));

(10) shall decide on the details of the procedure for checking the legal character of retrievals in the information system (Article 16);

(11) shall take part in the appointment and dismissal of the Director and Deputy Directors (Article 29);

(12) shall oversee the proper performance of the Director's duties (Articles 7 and 29);

(13) shall take part in the adoption of staff regulations (Article 30);

(14) shall take part in the preparation of agreements on confidentiality and the adoption of provisions on the protection of confidentiality (Articles 18 and 31);

(15) shall take part in the drawing up of the budget, including the establishment plan, the auditing and the discharge to be given to the Director (Articles 35 and 36);

(16) shall adopt unanimously the five-year financing plan (Article 35);

(17) shall appoint unanimously the financial controller and oversee the performance of his duties (Article 35);

(18) shall take part in the adoption of the financial regulation (Article 35);

Sch.1

(19) shall unanimously approve the conclusion of the headquarters agreement (Article 37);

(20) shall adopt unanimously the rules for the security clearance of Europol officials;

(21) shall act by a two-thirds majority in disputes between a Member State and Europol or between Member States concerning compensation paid under the liability for unauthorized or incorrect processing of data (Article 38);

(22) shall take part in any amendment of this Convention (Article 43);

(23) shall be responsible for any other tasks assigned to it by the Council particularly in provisions for the implementation of this Convention.

2. The Management Board shall be composed of one representative of each Member State. Each member of the Management Board shall have one vote.

3. Each member of the Management Board may be represented by an alternate member; in the absence of the full member, the alternate member may exercise his right to vote.

4. The Commission of the European Communities shall be invited to attend meetings of the Management Board with non-voting status. However, the Management Board may decide to meet without the Commission representative.

5. The members or alternate members shall be entitled to be accompanied and advised by experts from their respective Member States at meetings of the Management Board.

6. The Management Board shall be chaired by the representative of the Member State holding the Presidency of the Council.

7. The Management Board shall unanimously adopt its rules of procedure.

8. Abstentions shall not prevent the Management Board from adopting decisions which must be taken unanimously.

9. The Management Board shall meet at least twice a year.

10. The Management Board shall adopt unanimously each year:

(1) a general report on Europol's activities during the previous year;

(2) a report on Europol's future activities taking into account Member States' operational requirements and budgetary and staffing implications for Europol.

These reports shall be submitted to the Council in accordance with the procedure laid down in Title VI of the Treaty on European Union.



## Director

1. Europol shall be headed by a Director appointed by the Council, acting unanimously in accordance with the procedure laid down in Title VI of the Treaty on European Union after obtaining the opinion of the Management Board, for a four-year period renewable once.

2. The Director shall be assisted by a number of Deputy Directors as determined by the Council and appointed for a four-year period renewable once, in accordance with the procedure laid down in paragraph 1. Their tasks shall be defined in greater detail by the Director.

3. The Director shall be responsible for:

- (1) performance of the tasks assigned to Europol;
- (2) day-to-day administration;
- (3) personnel management;
- (4) proper preparation and implementation of the Management Board's decisions;
- (5) preparing the draft budget, draft establishment plan and draft five-year financing plan and implementing Europol's budget;
- (6) all other tasks assigned to him in this Convention or by the Management Board.

4. The Director shall be accountable to the Management Board in respect of the performance of his duties. He shall attend its meetings.

5. The Director shall be Europol's legal representative.

6. The Director and the Deputy Directors may be dismissed by a decision of the Council, to be taken in accordance with the procedure laid down in Title VI of the Treaty on European Union by a two-thirds majority of the Member States, after obtaining the opinion of the Management Board.

7. Notwithstanding paragraphs 1 and 2, the first term of office after entry into force of this Convention shall be five years for the Director, four years for his immediate Deputy and three years for the second Deputy Director.

*Article 30*

## Staff

1. The Director, Deputy Directors and the employees of Europol shall be guided in their actions by the objectives and tasks of Europol and shall not take or seek orders from any government, authority, organization or person outside Europol, save as otherwise provided in this Convention and without prejudice to Title VI of the Treaty on European Union.

Sch.1

2. The Director shall be in charge of the Deputy Directors and employees of Europol. He shall engage and dismiss employees. In selecting employees, in addition to having regard to personal suitability and professional qualifications, he shall take into account the need to ensure the adequate representation of nationals of all Member States and of the official languages of the European Union.

3. Detailed arrangements shall be laid down in staff regulations which the Council shall, after obtaining the opinion of the Management Board, adopt unanimously in accordance with the procedure laid down in Title VI of the Treaty on European Union.

### *Article 31*

#### Confidentiality

1. Europol and the Member States shall take appropriate measures to protect information subject to the requirement of confidentiality which is obtained by or exchanged with Europol on the basis of this Convention. To this end the Council shall unanimously adopt appropriate rules on confidentiality prepared by the Management Board and submitted to the Council in accordance with the procedure laid down in Title VI of the Treaty on European Union.

2. Where Europol has entrusted persons with a sensitive activity, Member States shall undertake to arrange, at the request of the Director of Europol, for security screening of their own nationals to be carried out in accordance with their national provisions and to provide each other with mutual assistance for the purpose. The relevant authority under national provisions shall inform Europol only of the results of the security screening, which shall be binding on Europol.

3. Each Member State and Europol may entrust with the processing of data at Europol, only those persons who have had special training and undergone security screening.

### *Article 32*

#### Obligation of discretion and confidentiality

1. Europol organs, their members, the Deputy Directors, employees of Europol and liaison officers shall refrain from any action and any expression of opinion which might be harmful to Europol or prejudice its activities.

2. Europol organs, their members, the Deputy Directors, employees of Europol and liaison officers, as well as any other person under a particular obligation of discretion or confidentiality, shall be bound not to disclose any facts or information which come to their knowledge in the performance of their duties or the exercise of their activities to any unauthorized person or to the public. This shall not apply to facts or information too insignificant to require confidentiality. The obligation of discretion and confidentiality shall apply even after leaving office or employment, or after termination of activities. The particular obligation laid down in the first sentence shall be notified by Europol, and a warning given of the legal consequences of any infringement; a written record shall be drawn up of such notification.

3. Europol organs, their members, the Deputy Directors, employees of Europol and liaison officers, as well as persons under the obligation provided for in paragraph 2, may not give evidence in or outside court or make any statements on any facts or information which come to their knowledge in the performance of their duties or the exercise of their activities, without reference to the Director or, in the case of the Director himself, to the Management Board. Sch.1

The Director or Management Board, depending on the case, shall approach the judicial body or any other competent body with a view to taking the necessary measures under the national law applicable to the body approached; such measures may either be to adjust the procedures for giving evidence in order to ensure the confidentiality of the information, or provided that the national law concerned so permits, to refuse to make any communication concerning data in so far as is vital for the protection of the interests of Europol or of a Member State.

Where a Member State's legislation provides for the right to refuse to give evidence, persons asked to give evidence must obtain permission to do so. Permission shall be granted by the Director and, as regards evidence to be given by the Director, by the Management Board. Where a liaison officer is asked to give evidence concerning information he receives from Europol, such permission shall be given after the agreement of the Member State responsible for the officer concerned has been obtained.

Furthermore, if the possibility exists that the evidence may extend to information and knowledge which a Member State has communicated to Europol or which clearly involve a Member State, the position of that Member State concerning the evidence must be sought before permission is given.

Permission to give evidence may be refused only in so far as this is necessary to protect overriding interests of Europol or of a Member State or States that need protection.

This obligation shall apply even after leaving office or employment or after termination of activities.

4. Each Member State shall treat any infringement of the obligation of discretion or confidentiality laid down in paragraphs 2 and 3 as a breach of the obligations imposed by its law on official or professional secrets or its provisions for the protection of confidential material.

Where appropriate, each Member State shall introduce, no later than the date of entry into force of this Convention, the rules under national law or the provisions required to proceed against breaches of the obligations of discretion or confidentiality referred to in paragraphs 2 and 3. It shall ensure that the rules and provisions concerned apply also to its own employees who have contact with Europol in the course of their work.

### *Article 33*

#### Languages

1. Reports and all other papers and documentation placed before the Management Board shall be submitted in all official languages of the European Union; the working languages of the Management Board shall be the official languages of the European Union.

2. The translations required for Europol's work shall be provided by the translation centre of the European Union institutions.

*Article 34*

## Informing the European Parliament

1. The Council Presidency shall each year forward a special report to the European Parliament on the work of Europol. The European Parliament shall be consulted should this Convention be amended in any way.

2. The Council Presidency or its representative appointed by the Presidency shall, with respect to the European Parliament, take into account the obligations of discretion and confidentiality.

3. The obligations laid down in this Article shall be without prejudice to the rights of national parliaments, to Article K.6 of the Treaty on European Union and to the general principles applicable to relations with the European Parliament pursuant to Title VI of the Treaty on European Union.

*Article 35*

## Budget

1. Estimates shall be drawn up of all of Europol's income and expenditure including all costs of the joint supervisory body and of the secretariat set up by it under Article 22 for each financial year and these items entered in the budget; an establishment plan shall be appended to the budget. The financial year shall begin on 1 January and end on 31 December.

The income and expenditure shown in the budget shall be in balance.

A five-year financing plan shall be drawn up together with the budget.

2. The budget shall be financed from Member States' contributions and by other incidental income. Each Member State's financial contribution shall be determined according to the proportion of its gross national product to the sum total of the gross national products of the Member States for the year preceding the year in which the budget is drawn up. For the purposes of this paragraph, 'gross national product' shall mean gross national product as determined in accordance with Council Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonization of the compilation of gross national product at market prices.

3. By 31 March each year at the latest, the Director shall draw up the draft budget and draft establishment plan for the following financial year and shall submit them, after examination by the Financial Committee, to the Management Board together with the draft five-year financing plan.

4. The Management Board shall take a decision on the five-year financing plan. It shall act unanimously.

5. After obtaining the opinion of the Management Board, the Council shall, in accordance with the procedure laid down in Title VI of the Treaty on European Union, adopt Europol's budget by 30 June of the year preceding the financial year at the latest. It shall act unanimously. The adoption of the budget by the Council shall entail the obligation for each Member State to make available promptly the financial contribution due from it.

[1997.]

*Europol Act, 1997.*

[No. 38.]

6. The Director shall implement the budget in accordance with Sch.1 the financial regulation provided for in paragraph 9.

7. Monitoring of the commitment and disbursement of expenditure and of the establishment and collection of income shall be carried out by a financial controller from an official audit body of one of the Member States who shall be appointed by the Management Board, acting unanimously, and shall be accountable to it. The financial regulation may make provision for *ex-post* monitoring by the financial controller in the case of certain items of income or expenditure.

8. The Financial Committee shall be composed of one budgetary representative from each Member State. Its task shall be to prepare for discussions on budgetary and financial matters.

9. The Council shall, in accordance with the procedure laid down in Title VI of the Treaty on European Union, unanimously adopt the financial regulation, specifying in particular the detailed rules for drawing up, amending and implementing the budget and for monitoring its implementation as well as for the manner of payment of financial contributions by the Member States.

### *Article 36*

#### *Auditing*

1. The accounts in respect of all income and expenditure entered in the budget together with the balance sheet showing Europol's assets and liabilities shall be subject to an annual audit in accordance with the financial regulation. For this purpose the Director shall submit a report on the annual accounts by 31 May of the following year at the latest.

2. The audit shall be carried out by a joint audit committee composed of three members, appointed by the Court of Auditors of the European Communities on a proposal from its President. The term of office of the members shall be three years; these shall alternate in such a way that each year the member who has been on the audit committee for three years shall be replaced. Notwithstanding the provisions of the second sentence, the term of office of the member that, after drawing lots:

- is first, shall be two years,
- is second, shall be three years,
- is third, shall be four years,

in the initial composition of the joint audit committee after Europol has begun to operate.

Any costs arising from the audit shall be charged to the budget provided for in Article 35.

3. The joint audit committee shall in accordance with the procedure laid down in Title VI of the Treaty on European Union submit to the Council an audit report on the annual accounts; prior thereto the Director and Financial Controller shall be given an opportunity to express an opinion on the audit report and the report shall be discussed by the Management Board.

4. The Europol Director shall provide the members of the joint audit committee with all information and every assistance which they require in order to perform their tasks.

Sch.1

5. A decision on the discharge to be given to the Director in respect of budget implementation for the financial year in question shall be taken by the Council, after examination of the report on the annual accounts.

6. The detailed rules for performing audits shall be laid down in the Financial Regulation.

#### Article 37

##### Headquarters agreement

The necessary arrangements concerning the accommodation to be provided for Europol in the headquarters State and the facilities to be made available by that State as well as the particular rules applicable in the Europol headquarters State to members of Europol's organs, its Deputy Directors, employees and members of their families shall be laid down in a headquarters agreement between Europol and the Kingdom of the Netherlands to be concluded after obtaining the unanimous approval of the Management Board.

### TITLE VI

#### Liability and Legal Protection

##### Article 38

##### Liability for unauthorized or incorrect data processing

1. Each Member State shall be liable, in accordance with its national law, for any damage caused to an individual as a result of legal or factual errors in data stored or processed at Europol. Only the Member State in which the event which gave rise to the damage occurred may be the subject of an action for compensation on the part of the injured party, who shall apply to the courts having jurisdiction under the national law of the Member State involved. A Member State may not plead that another Member State had transmitted inaccurate data in order to avoid its liability under its national legislation *vis-à-vis* an injured party.

2. If these legal or factual errors occurred as a result of data erroneously communicated or of failure to comply with the obligations laid down in this Convention on the part of one or more Member States or as a result of unauthorized or incorrect storage or processing by Europol, Europol or the other Member State in question shall be bound to repay, on request, the amounts paid as compensation unless the data were used by the Member State in the territory of which the damage was caused in breach of this Convention.

3. Any dispute between that Member State and Europol or another Member State over the principle or amount of the repayment must be referred to the Management Board, which shall settle the matter by a two-thirds majority.

##### Article 39

##### Other liability

1. Europol's contractual liability shall be governed by the law applicable to the contract in question.

[1997.]

*Europol Act, 1997.*

[No. 38.]

2. In the case of non-contractual liability, Europol shall be obliged, independently of any liability under Article 38, to make good any damage caused through the fault of its organs, of its Deputy Directors or of its employees in the performance of their duties, in so far as it may be imputed to them and regardless of the different procedures for claiming damages which exist under the law of the Member States. Sch.1

3. The injured party shall have the right to demand that Europol refrain from or drop any action.

4. The national courts of the Member States competent to deal with disputes involving Europol's liability as referred to in this Article shall be determined by reference to the relevant provisions of the Brussels Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters, as later amended by Accession Agreements.

#### *Article 40*

##### Settlement of disputes

1. Disputes between Member States on the interpretation or application of this Convention shall in an initial stage be discussed by the Council in accordance with the procedure set out in Title VI of the Treaty on European Union with the aim of finding a settlement.

2. When such disputes are not so settled within six months, the Members States who are parties to the dispute shall decide, by agreement among themselves, the modalities according to which they shall be settled.

3. The provisions on appeals referred to in the rules relating to the conditions of employment applicable to temporary and auxiliary staff of the European Communities shall apply, *mutatis mutandis*, to Europol staff.

#### *Article 41*

##### Privileges and immunities

1. Europol, the members of its organs and the Deputy Directors and employees of Europol shall enjoy the privileges and immunities necessary for the performance of their task in accordance with a Protocol setting out the rules to be applied in all Member States.

2. The Kingdom of the Netherlands and the other Member States shall agree in the same terms that liaison officers seconded from the other Member States as well as members of their families shall enjoy those privileges and immunities necessary for the proper performance of the tasks of the liaison officers at Europol.

3. The Protocol referred to in paragraph 1 shall be adopted by the Council acting unanimously in accordance with the procedure laid down in Title VI of the Treaty on European Union and approved by the Member States in accordance with their respective constitutional requirements.

## TITLE VII

## Final Provisions

*Article 42*

## Relations with third States and third bodies

1. In so far as is relevant for the performance of the tasks described in Article 3, Europol shall establish and maintain cooperative relations with third bodies within the meaning of Article 10 (4), points 1 to 3. The Management Board shall unanimously draw up rules governing such relations. This provision shall be without prejudice to Article 10 (4) and (5) and Article 18 (2); exchanges of personal data shall take place only in accordance with the provisions of Titles II to IV of this Convention.

2. In so far as is required for the performance of the tasks described in Article 3, Europol may also establish and maintain relations with third States and third bodies within the meaning of Article 10 (4), points 4, 5, 6 and 7. Having obtained the opinion of the Management Board, the Council, acting unanimously in accordance with the procedure laid down in Title VI of the Treaty on European Union, shall draw up rules governing the relations referred to in the first sentence. The third sentence of paragraph 1 shall apply *mutatis mutandis*.

*Article 43*

## Amendment of the Convention

1. In accordance with the procedure laid down in Title VI of the Treaty on European Union, the Council, acting on a proposal from a Member State and, after consulting the Management Board, shall unanimously decide, within the framework of Article K.1 (9) of the Treaty on European Union, on any amendments to this Convention which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

2. The amendments shall enter into force in accordance with Article 45 (2) of this Convention.

3. However, the Council, acting unanimously in accordance with the procedure laid down in Title VI of the Treaty on European Union, may decide, on the initiative of a Member State and after the Management Board has discussed the matter, to amplify, amend or supplement the definitions of forms of crime contained in the Annex. It may in addition decide to introduce new definitions of the forms of crime listed in the Annex.

4. The Secretary-General of the Council of the European Union shall notify all Member States of the date of entry into force of the amendments.

*Article 44*

## Reservations

Reservations shall not be permissible in respect of this Convention.



## Entry into force

1. This Convention shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.
2. Member States shall notify the depositary of the completion of their constitutional requirements for adopting this Convention.
3. This Convention shall enter into force on the first day of the month following the expiry of a three-month period after the notification, referred to in paragraph 2, by the Member State which, being a member of the European Union on the date of adoption by the Council of the act drawing up this Convention, is the last to fulfil that formality.
4. Without prejudice to paragraph 2, Europol shall not take up its activities under this Convention until the last of the acts provided for in Articles 5 (7), 10 (1), 24 (7), 30 (3), 31 (1), 35 (9), 37 and 41 (1) and (2) enters into force.
5. When Europol takes up its activities, the activities of the Europol Drugs Unit under the joint action concerning the Europol Drugs Unit of 10 March 1995 shall come to an end. At the same time, all equipment financed from the Europol Drugs Unit joint budget, developed or produced by the Europol Drugs Unit or placed at its disposal free of charge by the headquarters State for its permanent use, together with that Unit's entire archives and independently administered data files shall become the property of Europol.
6. Once the Council has adopted the act drawing up this Convention, Member States, acting either individually or in common, shall take all preparatory measures under their national law which are necessary for the commencement of Europol activities.

*Article 46*

## Accession by new Member States

1. This Convention shall be open to accession by any State that becomes a member of the European Union.
2. The text of this Convention in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.
3. Instruments of accession shall be deposited with the depositary.
4. This Convention shall enter into force with respect to any State that accedes to it on the first day of the month following expiry of a three-month period following the date of deposit of its instrument of accession or on the date of entry into force of the Convention if it has not already entered into force at the time of expiry of the said period.

## Article 47

## Depositary

1. The Secretary-General of the Council of the European Union shall act as depositary of this Convention.

2. The depositary shall publish in the *Official Journal of the European Communities* the notifications, instruments or communications concerning this Convention.

In witness whereof, the undersigned Plenipotentiaries have hereunto set their hands.

Done at Brussels on the twenty-sixth day of July in the year one thousand nine hundred and ninety-five in a single original, in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic, such original remaining deposited in the archives of the General Secretariat of the Council of the European Union.

*(Signatures of Plenipotentiaries)*

## ANNEX

## Referred to in Article 2

List of other serious forms of international crime which Europol could deal with in addition to those already provided for in Article 2 (2) in compliance with Europol's objective as set out in Article 2 (1).

Against life, limb or personal freedom:

- murder, grievous bodily injury
- illicit trade in human organs and tissue
- kidnapping, illegal restraint and hostage-taking
- racism and xenophobia

Against property or public goods including fraud:

- organized robbery
- illicit trafficking in cultural goods, including antiquities and works of art
- swindling and fraud
- racketeering and extortion
- counterfeiting and product piracy
- forgery of administrative documents and trafficking therein
- forgery of money and means of payment
- computer crime
- corruption

[1997.]

*Europol Act, 1997.*

[No. 38.]

Illegal trading and harm to the environment:

Sch.1

- illicit trafficking in arms, ammunition and explosives
- illicit trafficking in endangered animal species
- illicit trafficking in endangered plant species and varieties
- environmental crime
- illicit trafficking in hormonal substances and other growth promoters

In addition, in accordance with Article 2 (2), the act of instructing Europol to deal with one of the forms of crime listed above implies that it is also competent to deal with the related money-laundering activities and the related criminal offences.

With regard to the forms of crime listed in Article 2 (2) for the purposes of this Convention:

- ‘crime connected with nuclear and radioactive substances’ means the criminal offences listed in Article 7 (1) of the Convention on the Physical Protection of Nuclear Material, signed at Vienna and New York on 3 March 1980, and relating to the nuclear and/or radioactive materials defined in Article 197 of the Euratom Treaty and Directive 80/836 Euratom of 15 July 1980,
- ‘illegal immigrant smuggling’ means activities intended deliberately to facilitate, for financial gain, the entry into, residence or employment in the territory of the Member States of the European Union, contrary to the rules and conditions applicable in the Member States,
- ‘traffic in human beings’ means subjection of a person to the real and illegal sway of other persons by using violence or menaces or by abuse of authority or intrigue with a view to the exploitation of prostitution, forms of sexual exploitation and assault of minors or trade in abandoned children,
- ‘motor vehicle crime’ means the theft or misappropriation of motor vehicles, lorries, semi-trailers, the loads of lorries or semi-trailers, buses, motorcycles, caravans and agricultural vehicles, works vehicles, and the spare parts for such vehicles, and the receiving and concealing of such objects,
- ‘illegal money-laundering activities’ means the criminal offences listed in Article 6 (1) to (3) of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, signed at Strasbourg on 8 November 1990.

The forms of crime referred to in Article 2 and in this Annex shall be assessed by the competent national authorities in accordance with the national law of the Member States to which they belong.

SECOND SCHEDULE

The Text in the English Language of the 1996 Protocol

**PROTOCOL**

**drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the establishment of a European Police Office**

THE HIGH CONTRACTING PARTIES,

HAVE AGREED on the following provisions, which shall be annexed to the Convention:

*Article 1*

The Court of Justice of the European Communities shall have jurisdiction, under the conditions laid down in this Protocol, to give preliminary rulings on the interpretation of the Convention on the establishment of a European Police Office, hereinafter referred to as 'the Europol Convention'.

*Article 2*

1. By a declaration made at the time of the signing of this Protocol or at any time thereafter, any Member State shall be able to accept the jurisdiction of the Court of Justice of the European Communities to give preliminary rulings on the interpretation of the Europol Convention under the conditions specified in either paragraph 2 (a) or (b).

2. A Member State making a declaration under paragraph 1 may specify that either:

(a) any court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of the Europol Convention if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment;

or

(b) any court or tribunal of that State may request the Court of Justice of the European Communities to give a preliminary ruling on a question raised in a case pending before it and concerning the interpretation of the Europol Convention if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.

*Article 3*

1. The Protocol on the Statute of the Court of Justice of the European Communities and the Rules of Procedure of that Court of Justice shall apply.

[1997.]

*Europol Act, 1997.*

[No. 38.]

2. In accordance with the Statute of the Court of Justice of the European Communities, any Member State, whether or not it has made a declaration pursuant to Article 2, shall be entitled to submit statements of case or written observations to the Court of Justice of the European Communities in cases which arise under Article 1. Sch.2

#### *Article 4*

1. This Protocol shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.

2. Member States shall notify the depositary of the completion of their respective constitutional requirements for adopting this Protocol and communicate to him any declaration made pursuant to Article 2.

3. This Protocol shall enter into force 90 days after the notification, referred to in paragraph 2, by the Member State which, being a member of the European Union on the date of adoption by the Council of the act drawing up this Protocol, is the last to fulfil that formality. However, it shall at the earliest enter into force at the same time as the Europol Convention.

#### *Article 5*

1. This Protocol shall be open to accession by any State that becomes a member of the European Union.

2. Instruments of accession shall be deposited with the depositary.

3. The text of this Protocol in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.

4. This Protocol shall enter into force with respect to any State that accedes to it 90 days after the date of deposit of its instrument of accession, or on the date of the entry into force of this Protocol if the latter has not yet come into force when the said period of 90 days expires.

#### *Article 6*

Any State that becomes a member of the European Union and accedes to the Europol Convention in accordance with Article 46 thereof shall accept the provisions of this Protocol.

#### *Article 7*

1. Amendments to this Protocol may be proposed by any Member State, being a High Contracting Party. Any proposal for an amendment shall be sent to the depositary, who shall forward it to the Council.

2. Amendments shall be established by the Council, which shall recommend that they be adopted by the Member States in accordance with their respective constitutional requirements.

3. Amendments thus established shall enter into force in accordance with the provisions of Article 4.

*Article 8*

1. The Secretary-General of the Council of the European Union shall act as depositary of this Protocol.

2. The depositary shall publish in the *Official Journal of the European Communities* the notifications, instruments or communications concerning this Protocol.

In witness whereof the undersigned Plenipotentiaries have signed this Protocol.

Done in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic.

*(Signatures of Plenipotentiaries)*

THIRD SCHEDULE

The Text in the English Language of the 1997 Protocol

**PROTOCOL**

**drawn up, on the basis of Article K.3 of the Treaty on European Union and Article 41(3) of the Europol Convention, on the privileges and immunities of Europol, the members of its organs, the deputy directors and employees of Europol**

THE HIGH CONTRACTING PARTIES to the present Protocol, Member States of the European Union,

REFERRING to the Council Act of 19 June 1997,

CONSIDERING that pursuant to Article 41(1) of the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention), Europol, the members of its organs, the Deputy Directors and employees of Europol shall enjoy the privileges and immunities necessary for the performance of their tasks in accordance with a Protocol setting out the rules to be applied in all Member States,

HAVE AGREED AS FOLLOWS:

*Article 1*

Definitions

For the purposes of this Protocol:

- (a) 'Convention' means the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention);

[1997.]

*Europol Act, 1997.*

[No. 38.]

- (b) 'Europol' means the European Police Office; Sch.3
- (c) 'Organs of Europol' means the Management Board as referred to in Article 28 of the Convention, the Financial Controller as referred to in Article 35(7) of the Convention, and the Financial Committee as referred to in Article 35(8) of the Convention;
- (d) 'Board' means the Management Board as referred to in Article 28 of the Convention;
- (e) 'Director' means the Director of Europol as referred to in Article 29 of the Convention;
- (f) 'Staff' means the Director, Deputy Directors and the employees of Europol as referred to in Article 30 of the Convention with the exception of the local staff as referred to in Article 3 of the Staff Regulations;
- (g) 'Archives of Europol' means all records, correspondence, documents, manuscripts, computer and media data, photographs, films, video and sound recordings belonging to or held by Europol or any of its staff members, and any other similar material which in the unanimous opinion of the Board and Director forms part of the archives of Europol.

#### *Article 2*

Immunity from legal process and immunity from search, seizure, requisition, confiscation and any other form of interference

1. Europol shall have immunity from legal process for the liability referred to in Article 38(1) of the Convention in respect of unauthorized or incorrect data processing.

2. The property, funds and assets of Europol, wherever located on the territories of the Member States and by whomsoever held, shall be immune from search, seizure, requisition, confiscation and any other form of interference.

#### *Article 3*

Inviolability of archives

The archives of Europol wherever located on the territories of the Member States and by whomsoever held shall be inviolable.

#### *Article 4*

Exemption from taxes and duties

1. Within the scope of its official activities, Europol, its assets, income and other property shall be exempt from all direct taxes.

2. Europol shall be exempt from indirect taxes and duties included in the price of movable and immovable property and services, acquired for its official use and involving considerable expenditure. The exemption may be granted by way of a refund.

Sch.3

3. Goods purchased under this Article with exemption from value-added tax or excise duties shall not be sold or otherwise disposed of, except in accordance with the conditions agreed upon with the Member State that has granted the exemption.

4. No exemption will be granted from taxes and duties which represent charges for specific services rendered.

#### *Article 5*

##### Freedom of financial assets from restrictions

Without being subject to any financial controls, regulations, notification requirements in respect of financial transactions, or moratoria of any kind, Europol may freely:

- (a) purchase any currencies through authorized channels and hold and dispose of them;
- (b) operate accounts in any currency.

#### *Article 6*

##### Facilities and immunities in respect of communication

1. Member States shall permit Europol to communicate freely and without a need for special permission, for all official purposes, and shall protect the right of Europol to do so. Europol shall have the right to use codes and to dispatch and receive official correspondence and other official communications by courier or in sealed bags which shall be subject to the same privileges and immunities as diplomatic couriers and bags.

2. Europol shall, as far as may be compatible with the International Telecommunications Convention of 6 November 1982, for its official communications enjoy treatment not less favourable than that accorded by Member States to any international organization or government, including diplomatic missions of such government, in the matter of priorities for communication by mail, cable, telegraph, telex, radio, television, telephone, fax, satellite, or other means.

#### *Article 7*

##### Entry, stay and departure

Member States shall facilitate, if necessary, the entry, stay and departure of the persons listed in Article 8 for purposes of official business. This shall not prevent the requirement of reasonable evidence to establish that persons claiming the treatment provided for under this Article come within the classes described in Article 8.

#### *Article 8*

##### Privileges and immunities of members of the organs of Europol and staff members of Europol

1. Members of the organs of Europol and staff members of Europol shall enjoy the following immunities:



[1997.]

*Europol Act, 1997.*

[No. 38.]

- (a) Without prejudice to Article 32 and, so far as applicable, Sch.3 Article 40(3) of the Convention, immunity from legal process of any kind in respect of words spoken or written, and of acts performed by them, in the exercise of their official functions, such immunity to continue notwithstanding that the persons concerned may have ceased to be members of an organ of Europol or staff members of Europol;
- (b) inviolability of all their official papers and documents and other official materials.

2. Staff members of Europol, whose salaries and emoluments are subject to a tax for the benefit of Europol as mentioned in Article 10, shall enjoy exemption from income tax with respect to salaries and emoluments paid by Europol. However, such salaries and emoluments may be taken into account when assessing the amount of tax payable on income from other sources. This paragraph does not apply to pensions and annuities paid to former staff members of Europol and their dependants.

3. The provisions of Article 14 of the Protocol on the privileges and immunities of the European Communities shall apply to the staff members of Europol.

#### *Article 9*

##### Exemptions to immunities

The immunity granted to persons mentioned in Article 8 shall not extend to civil action by a third party for damages, including personal injury or death, arising from a traffic accident caused by any such person.

#### *Article 10*

##### Taxes

1. Subject to the conditions and following the procedures laid down by Europol and agreed by the Board, the staff members of Europol engaged for a minimum period of one year shall be subject to a tax for the benefit of Europol on salaries and emoluments paid by Europol.

2. Each year, Member States shall be notified of the names and addresses of the staff members of Europol mentioned in this Article as well as of any other personnel contracted to work at Europol. Europol shall deliver to each of them a yearly certificate bearing the total gross and net amount of remuneration of any kind paid by Europol for the year in question, including the details and nature of payments and the amounts of withholdings at source.

3. This Article does not apply to pensions and annuities paid to former staff members of Europol and their dependants.

#### *Article 11*

##### Protection of personnel

Member States shall, if so requested by the Director, take all reasonable steps in accordance with their national laws to ensure the necessary safety and protection of the persons mentioned in this Protocol whose security is endangered due to their services to Europol.

*Article 12*

## Waiver of immunities

1. The privileges and immunities granted under the provisions of this Protocol are conferred in the interests of Europol and not for the personal benefit of the individuals themselves. It is the duty of Europol and all persons enjoying such privileges and immunities to observe in all other respects the laws and regulations of Member States.

2. The Director shall be required to waive the immunity of Europol and any staff member of Europol, in cases where the immunity would impede the course of justice and can be waived without prejudice to the interests of Europol. In respect of the Director, the Financial Controller and the members of the Financial Committee, the Board has a similar obligation. In respect of Members of the Board, the waiving of the immunities shall be within the competence of the respective Member States.

3. When the immunity of Europol as mentioned in Article 2(2) has been waived, searches and seizures ordered by the judicial authorities of the Member States shall be effected in the presence of the Director or a person delegated by him, in compliance with the rules of confidentiality laid down in or by virtue of the Convention.

4. Europol shall cooperate at all times with the appropriate authorities of Member States to facilitate the proper administration of justice and shall prevent any abuse of the privileges and immunities granted under the provisions of this Protocol.

5. Should a competent authority or judicial body of a Member State consider that an abuse of a privilege or immunity conferred by this Protocol has occurred, the body responsible for waiving immunity pursuant to paragraph 2 shall, upon request, consult with the appropriate authorities to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory for both sides, the matter shall be settled in accordance with the procedure set out in Article 13.

*Article 13*

## Settlement of disputes

1. Disputes on a refusal to waive an immunity of Europol or of a person who, by reason of his official position, enjoys immunity as mentioned in Article 8(1), shall be discussed by the Council in accordance with the procedure set out in Title VI of the Treaty on European Union with the aim of finding a settlement.

2. When such disputes are not settled, the Council shall unanimously decide on the modalities according to which they shall be settled.

*Article 14*

## Reservations

Reservations shall not be permissible in respect of this Protocol.

[1997.]

*Europol Act, 1997.*

[No. 38.]

*Article 15*

Sch.3

Entry into force

1. This Protocol shall be subject to adoption by the Member States in accordance with their respective constitutional requirements.

2. Member States shall notify the depositary of the completion of their respective constitutional requirements for adopting this Protocol.

3. This Protocol shall enter into force on the first day of the second month following the notification, referred to in paragraph 2, by the Member State which, being a member of the European Union on the date of adoption by the Council of the Act drawing up this Protocol, is the last to fulfil that formality.

*Article 16*

Accession

1. This Protocol shall be open to accession by any State that becomes a member of the European Union.

2. Instruments of accession shall be deposited with the depositary.

3. The text of this Protocol in the language of the acceding State, drawn up by the Council of the European Union, shall be authentic.

4. This Protocol shall enter into force with respect to any State that accedes to it, ninety days after the date of deposit of its instrument of accession, or on the date of the entry into force of this Protocol if the latter has not yet come into force when the said period of ninety days expires.

*Article 17*

Evaluation

1. Within two years after the entry into force of this Protocol, it will be evaluated under the supervision of the Management Board.

2. Immunity pursuant to Article 8(1)(a) shall be granted only in respect of official acts which require to be undertaken in fulfilment of the tasks set out in Article 3 of the Convention in the version signed on 26 July 1995. Prior to each amendment or extension of the tasks in Article 3 of the Convention there shall be a review in accordance with the first paragraph, in particular with regard to Articles 8(1)(a) and 13.

*Article 18*

Amendments

1. Amendments to this Protocol may be proposed by any Member State, being a High Contracting Party. Any proposal for an amendment shall be sent to the depositary, who shall forward it to the Council.

2. Amendments shall be established unanimously by the Council, which shall recommend that they be adopted by the Member States in accordance with their respective constitutional requirements.

Sch.3

3. Amendments thus established shall enter into force in accordance with the provisions of Article 15.

4. The Secretary-General of the Council of the European Union shall notify all Member States of the date of entry into force of the amendments.

#### Article 19

##### Depositary

1. The Secretary-General of the Council of the European Union shall act as depositary of this Protocol.

2. The depositary shall publish in the *Official Journal of the European Communities* the notifications, instruments or communications concerning this Protocol.

In witness whereof, the undersigned Plenipotentiaries have signed this Protocol.

Done at Brussels, this nineteenth day of June in the year one thousand nine hundred and ninety-seven, in a single original, in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic, such original remaining deposited in the archives of the General Secretariat of the Council of the European Union.

*(Signatures of Plenipotentiaries)*

Section 2.

#### FOURTH SCHEDULE

The Text in the Irish Language of the Convention

#### COINBHINSIÚN

**ar bhonn Airteagal K.3 den Chonradh ar an Aontas Eorpach maidir le hOifig Eorpach Póilíní a bhunú (Coinbhinsiún Europol)**

TÁ NA hARDPHÁIRTITHE CONARTHACHA sa Choinbhinsiún seo, Ballstáit an Aontais Eorpaigh,

AG TAGAIRT do Ghníomh ón gComhairle an 26 Iúil 1995;

ÓS FEASACH DÓIBH na fadhbanna práinneacha a eascraíonn ó sceimhlitheoireacht, gáinneáil neamhdhleathach drugaí agus saghsanna eile tromchúiseacha coirpeachta idirnáisiúnta,

DE BHRÍ go bhfuil gá le dul chun cinn i ndlúthpháirtíocht agus i gcomhar idir Bhallstáit an Aontais Eorpaigh, go háirithe trí chomhar póilíneachta idir na Ballstáit a fheabhsú;

DE BHRÍ gur cóir gurbh fhéidir le dul chun cinn den sórt sin breis feabhais a chur ar shlándaíl agus ord poiblí a chosaint;

DE BHRÍ gur comhaontaíodh i gConradh ar an Aontas Eorpach an 7 Feabhra 1992 Oifig Eorpach Póilíní (Europol) a bhunú;

I bhFIANAISE chinneadh ón gComhairle Eorpach an 29 Deireadh Fómhair 1993 gur chóir Europol a bhunú san Ísiltír agus a shuíomh a bheith air sa Háig;

AG MEABHRÚ DÓIBH an chuspóra choitinn comhar póilín- Sch.4  
eachta a fheabhsú i réimse na sceimhlitheoireachta, na gáinneála  
neamhdhleathaí drugaí agus saghsanna eile tromchúiseacha coirp-  
eachta idirnáisiúnta trí bhuanmhalartú rúnda dian faisnéise idir Eur-  
opol agus aonaid náisiúnta na mBallstát;

AR A BHEITH DE THUISCINT ACU nach ndéanfaidh na sagh-  
sanna comhair atá leagtha síos sa Choinbhinsiún seo difear do shagh-  
sanna eile comhair dhéthaobhaigh nó iltaobhaigh;

ÓS DEIMHIN LEO nach foláir aire faoi leith a thabhairt do  
chearta an duine aonair a chosaint agus go háirithe do chosaint a  
shonraí pearsanta, i réimse an chomhair phóilíneachta freisin;

DE BHRÍ go bhfuil gníomhaíochtaí Europol faoin gCoinbhinsiún  
seo gan dochar do chumhachtaí na gComhphobal Eorpach agus gur  
chun leas cómhalmartach Europol agus na gComhphobal, faoi chuim-  
siú an Aontais Eorpaigh, saghsanna comhair a bhunú a chumasaíonn  
do gach ceann acu a bhfeidhmeanna a fheidhmiú a éifeachtaí agus is  
féidir,

TAR ÉIS COMHAONTÚ MAR A LEANAS:

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## Bunú agus Cúraimí

*Airteagal 1*

## Bunú

1. Bunaíonn Ballstáit an Aontais Eorpaigh, dá ngairtear 'na Ballstáit' anseo feasta, leis seo Oifig Eorpach Póilíní dá ngairtear 'Europol' anseo feasta.

2. Beidh Europol i gcuibhreann le haonad náisiúnta amháin i ngach Ballstát a dhéanfar a bhunú nó a ainmniú i gcomhréir le hAirteagal 4.

*Airteagal 2*

## Cuspóir

1. Beidh de chuspóir ag Europol, faoi chuimsiú comhair idir na Ballstáit de bhun Airteagal K.1(9) den Chonradh ar an Aontas Eorpach, trí na bearta dá bhforáiltear sa Choinbhinsiún seo, feabhas a chur ar éifeachtúlacht agus comhar na n-údarás inniúil sna Ballstáit, agus sceimhlitheoireacht, gáinneáil neamhdhleathach drugaí agus saghsanna eile tromchúiseacha coirpeachta idirnáisiúnta á gcosc agus á gcomhrac acu, nuair atá taispeántaí fíorasacha ann go bhfuil struchtúr coiriúil eagraithe i dtreis agus go bhfuil na saghsanna coirpeachta sin ag cur isteach ar dhá Bhallstát nó níos mó ar dhóigh gur gá cur chuige coiteann ag na Ballstáit toisc raon, tábhacht agus iarmhairtí na gcionta i dtrácht.

2. Chun an cuspóir atá luaite i mír 1 a ghnóthú go comhleanúnach, gníomhóidh Europol i dtosach chun gáinneáil neamhdhleathach drugaí agus substaintí núicléacha agus radaighníomhacha, smugláil neamhdhlíthiúil imirceach, ceannaíocht i ndaoine agus gáinneáil mhótarfheithiclí goidte a chosc agus a chomhrac.

Déileálfaidh Europol freisin, faoi cheann dhá bhliain ón gCoinbhinsiún seo a theacht i bhfeidhm ar a dhéanaí, le cionta a dhéantar, nó ar dóigh go ndéanfaí iad, faoi chuimsiú gníomhaíochtaí sceimhlitheoireachta i gcoinne beatha, slándáil phearsanta, sairse agus maoin daoine. Féadfaidh an Chomhairle, ag gníomhú di d'aon toil i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach, a chinneadh a chur de chúram ar Europol déileáil le gníomhaíochtaí sceimhlitheoireachta den sórt sin roimh an tréimhse sin a dhul in éag.

Féadfaidh an Chomhairle, ag gníomhú di d'aon toil i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach, a chinneadh a chur de chúram ar Europol déileáil le saghsanna eile coirpeachta atá liostaithe san Iarscríbhinn a ghabhann leis an gCoinbhinsiún seo nó cineálacha sonracha díobh. Sula ngníomhóidh an Chomhairle, ordóidh sí don Bhord Bainistíochta a chinneadh a ullmhú agus, lena linn sin, go háirithe na hiar-mhairtí buiséadacha agus foirne d'Europol a leagan amach.

3. Áireofar freisin ar inniúlacht Europol maidir le saghas coirpeachta nó le cineálacha sonracha de shaghas coirpeachta:

(1) sciúradh airgid atá ceangailte leis na saghsanna coirpeachta sin nó le cineálacha sonracha díobh;

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(2) cionta coiriúla atá gaolmhar leo.

Meastar gur cionta gaolmhara na cionta seo a leanas agus go bhfuil siad le cur san áireamh de réir na rialacha mionsonraithe in Airteagail 8 agus 10:

- cionta coiriúla a dhéantar chun na meáin a fháil chun gníomhartha a chur i gcrích a bhfuil Europol inniúil ina leith,
- cionta coiriúla a dhéantar chun gníomhartha a bhfuil Europol inniúil ina leith a éascú nó a chur i gcrích,
- cionta coiriúla a dhéantar chun saoirse ó phionós a áirithiú maidir le gníomhartha a bhfuil Europol inniúil ina leith.

4. Chun críocha an Choinbhinsiúin seo, ciallaíonn ‘údaráis inniúla’ gach comhlacht poiblí sna Ballstáit atá freagrach faoin dlí náisiúnta as cionta coiriúla a chosc agus a chomhrac.

5. Chun críocha mhíreanna 1 agus 2, ciallaíonn ‘gáinneáil neamhdhleathach drugaí’ na cionta coiriúla atá liostaithe in Airteagal 3(1) de Choinbhinsiún na Náisiún Aontaithe an 20 Nollaig 1988 i gcoinne Gáinneáil Aindleathach Drugaí Támhshuanacha agus Substaintí Sic-eatrópacha agus sna forálacha ag leasú an Choinbhinsiúin sin nó ag gabháil a ionaid.

### *Airteagal 3*

#### Feidhmeanna

1. Faoi chuimsiú a chuspóra de bhun Airteagal 2(1), beidh na príomhfheidhmeanna seo a leanas ar Europol:

- (1) an malartú faisnéise idir na Ballstáit a éascú;
- (2) faisnéis agus eolas a fháil, a chóimheas agus a anailísiú;
- (3) faisnéis a bhaineann le húdaráis inniúla na mBallstát agus ceangail idir chionta coiriúla arna mbrath aici a pháirtíú leo gan mhoill trí na haonaid náisiúnta atá sainithe in Airteagal 4;
- (4) cabhrú le himscrúduithe sna Ballstáit trí gach faisnéis ábhartha a dhíriú chuig na haonaid náisiúnta;
- (5) córas ríomhairithe faisnéise bailithe ina bhfuil sonraí i gcomhréir le hAirteagail 8, 10 agus 11 a riar.

2. D’fhonn éifeachtúlacht na n-údarás inniúil sna Ballstáit agus an comhar eatarthu a fheabhsú trí na haonaid náisiúnta d’fhonn an cuspóir atá leagtha amach in Airteagal 2(1) a chomhall, beidh ina theannta sin na feidhmeanna breise seo a leanas ar Europol:

- (1) saineolas ar nósanna imeachta imscrúdaithe na n-údarás inniúil sna Ballstáit a fhorbairt agus comhairle maidir le himscrúduithe a sholáthar;
- (2) eolas straitéiseach a sholáthar chun cuidiú le húsáid éifeachtúil agus éifeachtach na n-acmhainní náisiúnta atá ar fáil le haghaidh gníomhaíochtaí oibríochtúla agus chun an úsáid sin a chur ar aghaidh;
- (3) tuarascálacha ginearálta a ullmhú ar aon athruithe sa chor.



3. Ina theannta sin, féadfaidh Europol, faoi chuimsiú a chuspóra Sch.4 de bhun Airteagal 2(1) i gcomhréir lena acmhainní foirne agus buiséadacha agus faoi na teorainneacha arna socrú ag an mBord Bainistíochta, cuidiú le Ballstáit trí chomhairle agus taighde sna réimsí seo a leanas:

- (1) oiliúint chomhaltaí na n-údarás inniúil;
- (2) eagrú agus trealmhú na n-údarás sin;
- (3) modhanna coiscthe cionta;
- (4) modhanna póilíneachta teicniúla agus fóirínseacha agus modhanna imscrúdaithe.

#### *Airteagal 4*

##### Aonaid náisiúnta

1. Bunóidh gach Ballstát, nó ainmneoidh sé, aonad náisiúnta chun na feidhmeanna atá liostaithe san Airteagal seo a chomhall.

2. Is é an t-aonad náisiúnta an t-aon chomhlacht liaison idir Europol agus na húdaráis náisiúnta inniúla. Beidh caidreamh idir an t-aonad náisiúnta agus na húdaráis inniúla faoi rialú ag an dlí náisiúnta, go háirithe ag na rialacha bunreachtúla ábhartha.

3. Glacfaidh na Ballstáit na bearta is gá chun a áirithiú go bhféadfaidh na haonaid náisiúnta a bhfeidhmeanna a chomhall agus, go háirithe, chun rochtain ag aonaid náisiúnta ar shonraí náisiúnta ábhartha a áirithiú.

4. Is é cúram na n-aonad náisiúnta:

(1) an fhaisnéis agus an t-eolas is gá chun feidhmeanna Europol a chomhall a sholáthar dó ar a dtionscnamh féin;

(2) freagra a thabhairt ar iarrataí ó Europol ar fhaisnéis, eolas agus comhairle;

(3) faisnéis agus eolas a choimeád suas chun dáta;

(4) faisnéis agus eolas a mheas i gcomhréir leis an dlí náisiúnta ar mhaithe leis na húdaráis inniúla, agus an t-ábhar sin a sheoladh chucu;

(5) iarrataí ar chomhairle, faisnéis, eolas agus anailís a chur chuig Europol;

(6) faisnéis a sholáthar d'Europol lena stóráil sa chóras ríomhairithe;

(7) féachaint chuige go ndéantar gach malartú faisnéise idir Europol agus iad féin de réir an dlí.

5. Gan dochar d'fheidhmiú fhreagrachtaí na mBallstát mar atá siad leagtha síos in Airteagal K.2(2) den Chonradh ar an Aontas Eorpach, ní dhlífear d'aonad náisiúnta i gcás leithleach an fhaisnéis agus an t-eolas dá bhforáiltear i bpointí 1, 2 agus 6 de mhír 4 agus in Airteagail 7 agus 10 a sholáthar:

(1) dá ndéanfaí dochar do leasanna bunúsacha slándála náisiúnta; nó

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(2) dá gcuirfí rath imscrúdaithe reatha nó sábháilteacht daoine aonair i gcontúirt;

(3) dá mbainfeadh sé le faisnéis a thagann faoi eagraíochtaí nó gníomhaíochtaí sonracha eolais i réimse shlándáil an Stáit.

6. Iompróidh na Ballstáit na costais arna dtabhú ag na haonaid náisiúnta i leith cumarsáidí le hEuropol agus, seachas costais nasctha, ní mhuirearófar ar Europol iad.

7. Tiocfaidh ceannairí na n-aonad náisiúnta le chéile a mhéad is gá chun cabhrú le hEuropol lena gcuid comhairle.

### Airteagal 5

#### Oifigigh liaison

1. Tabharfaidh gach aonad náisiúnta oifigeach liaison amháin ar a laghad ar iasacht d'Europol. Déanfaidh an Bord Bainistíochta líon na n-oifigeach liaison a fhéadfaidh na Ballstáit a chur chuig Europol a leagan síos trí chinneadh d'aon toil; féadfar an cinneadh a athrú tráth ar bith trí chinneadh d'aon toil ón mBord Bainistíochta. Mura bhforáiltear a mhalairt i bhforálacha sonracha an Choinbhinsiúin seo, beidh oifigigh liaison faoi réir dhlí náisiúnta an Bhallstáit tionscnaimh.

2. Ordóidh na haonaid náisiúnta dá n-oifigigh liaison leasanna na n-aonad náisiúnta sin a ionadú laistigh de Europol i gcomhréir le dlí náisiúnta an Bhallstáit tionscnaimh, agus na forálacha is infheidhme ar oibriú Europol á n-urramú acu.

3. Gan dochar d'Airteagal 4(4) agus (5), cuideoidh na hoifigigh liaison, faoi chuimsiú an chuspóra atá leagtha síos in Airteagal 2(1), le faisnéis a mhalartú idir na haonaid náisiúnta tionscnaimh agus Europol, go háirithe:

(1) trí fhaisnéis a sholáthar d'Europol ón aonad náisiúnta tionscnaimh;

(2) trí fhaisnéis ó Europol a pháirtíú leis an aonad náisiúnta tionscnaimh; agus

(3) trí chomhoibriú le hoifigigh Europol trí fhaisnéis agus comhairle a thabhairt in anailís na faisnéise a bhaineann leis an mBallstát tionscnaimh.

4. San am céanna, cuideoidh na hoifigigh liaison le faisnéis ón aonad náisiúnta a mhalartú maille leis na bearta a leanann uaidh a chomhordú, i gcomhréir lena ndlí náisiúnta agus faoi chuimsiú an chuspóra atá leagtha síos in Airteagal 2(1).

5. A mhéad is gá chun na cúraimí faoi mhír 3 thuas a chomhlíonadh, beidh an ceart ag na hoifigigh liaison rochtain a bheith acu ar na comhaid éagsúla sonraí i gcomhréir leis na forálacha iomchuí arna sonrú sna hairteagail ábhartha.

6. Beidh Airteagal 25 infheidhme *mutatis mutandis* ar ghníomhaíocht na n-oifigeach liaison.

7. Gan dochar d'fhorálacha eile an Choinbhinsiúin seo, cinnfidh an Bord Bainistíochta d'aon toil cearta agus oibleagáidí na n-oifigeach liaison i ndáil le hEuropol.

8. Beidh ag na hoifigigh liaison na pribhléidí agus díolúintí is gá Sch.4 chun a gcúraimí a chomhlíonadh i gcomhréir le hAirteagal 41(2).

9. Soláthróidh Europol saor ó tháille do na Ballstáit na háitribh is gá i bhfoirgneamh Europol do ghníomhaíocht a n-oifigeach liaison. Iompróidh an Ballstát tionscnaimh gach costas eile a bheidh i dtreis maidir le hoifigigh liaison a thabhairt ar iasacht; iompróidh sé freisin costas threalamh na n-oifigeach liaison, mura molfaidh an Bord Bainistíochta a mhalairt d'aon toil i gcás leithleach agus buiséad Europol á bhunú aige.

### *Airteagal 6*

#### Córas ríomhairithe faisnéise bailithe

1. Riarfaidh Europol córas ríomhairithe faisnéise bailithe leis na heilimintí seo a leanas:

(1) an córas faisnéise dá dtagraítear in Airteagal 7 agus a mbeidh inneachar ann atá srianta agus sainithe go cruinn chun gur féidir teacht go mear ar fhaisnéis atá ar fáil do na Ballstáit agus d'Europol;

(2) na comhaid oibre dá dtagraítear in Airteagal 10 arna mbunú le haghaidh tréimhsí athraitheacha chun críocha anailise a mbeidh faisnéis mhionsonraithe iontu; agus

(3) córas innéacs ina mbeidh mionsonraí as na comhaid anailise dá dtagraítear i bpointe 2 i gcomhréir leis na rialacha mionsonraithe dá bhforáiltear in Airteagal 11.

2. Ní ceadmhach ar aon chúinse an córas ríomhairithe faisnéise bailithe arna oibriú ag Europol a nascadh le córais eile uathphróiseála, amach ó chóras uathphróiseála na n-aonad náisiúnta.

## TEIDEAL II

### An Córas Faisnéise

#### *Airteagal 7*

#### An córas faisnéise a bhunú

1. D'fhonn a fheidhmeanna a chomhall, déanfaidh Europol córas ríomhairithe faisnéise a bhunú agus a riar. Is iad na Ballstáit, trína n-aonaid náisiúnta agus a gcuid oifigeach liaison i gcomhréir lena nósanna imeachta náisiúnta, agus Europol, maidir leis na sonraí ó thríú Stáit agus tríú comhlachtaí agus na sonraí a thagann ó anailísí, a dhéanfaidh sonraí a ionchur go díreach sa chóras faisnéise. Beidh rochtain dhíreach air chun é a cheadú ag aonaid náisiúnta, oifigigh liaison, an Stiúrthóir, na Leas-Stiúrthóirí agus oifigigh chuí-údaraithe Europol.

Teorannófar rochtain dhíreach na n-aonaid náisiúnta ar an gcóras faisnéise maidir leis na daoine dá dtagraítear i bpointe 2 d'Airteagal 8(1) go dtí na saintréithe sainaitheanta dá bhforáiltear in Airteagal 8(2). Beidh rochtain acu ar na sonraí uile, arna iarraidh sin dóibh, trí na hoifigigh liaison chun críocha fiosrúcháin shonraigh.

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2. Is é cúram Europol:

(1) comhlíonadh na bhforálacha ag rialú an chomhair maidir leis an gcóras faisnéise agus oibriú an chórais a áirithiú; agus

(2) bheith freagrach go teicniúil agus go hoibriochtúil as oibriú cuí an chórais faisnéise. Glacfaidh Europol ach go háirithe na bearta uile is gá chun a áirithiú go ndéanfar na bearta dá dtagraítear in Airteagal 21 agus 25 maidir leis an gcóras faisnéise a chur chun feidhme go cuí.

3. Beidh an t-aonad náisiúnta i ngach Ballstát freagrach as páirtiú leis an gcóras faisnéise. Beidh sé freagrach, ach go háirithe, as na bearta slándála dá dtagraítear in Airteagal 25 i leith trealaimh phróiseála sonraí arna úsáid ar chríoch an Bhallstáit i gceist, as an athbhréithniú i gcomhréir le hAirteagal 21 agus, a mhéad is gá faoi fhorálacha reachtaíochta, rialúcháin agus riaracháin agus nósanna imeachta an Bhallstáit sin, as cur chun feidhme cuí an Choinbhinsiúin seo thairis sin.

### *Airteagal 8*

#### Inneachar an chórais faisnéise

1. Ní fhéadfar an córas faisnéise a úsáid ach amháin chun sonraí a stóráil, a bhunathrú agus a úsáid is gá d'Europol chun a fheidhmeanna a chomhall amach ó shonraí ar chionta coiriúla gaolmhara dá dtagraítear sa dara fómhír d'Airteagal 2(3). Na sonraí a chuirtear ann, bainfidh siad le:

(1) daoine atá, i gcomhréir le dlí náisiúnta an Bhallstáit i gceist, faoi amhras go ndearna siad cion coiriúil a bhfuil Europol inniúil ina leith faoi Airteagal 2 nó go raibh siad páirteach ina dhéanamh nó daoine a ciontaíodh sa chion sin;

(2) daoine a bhfuil forais thromchúiseacha ann lena thiomhdiú faoin dlí náisiúnta go ndéanfaidh siad cionta coiriúla a bhfuil Europol inniúil ina leith faoi Airteagal 2.

2. Ní fhéadfar ach an fhaisnéis seo a leanas a chur sna sonraí pearsanta dá dtagraítear i mír 1:

(1) sloinne, sloinne réamhphósta, céad ainmneacha agus aon alias nó ainm bréige;

(2) dáta agus ionad breithe;

(3) náisiúntacht;

(4) gnéas; agus

(5) nuair is gá, aon saintréithe eile ar dóigh dóibh cuidiú le sainaitheint lena n-áirítear go háirithe saintréithe fisiceacha oibiachtúla nach bhfuil inathraithe.

3. I dteannta leis na sonraí dá dtagraítear i mír 2 agus an tagairt d'Europol nó don aonad náisiúnta ionchuir, féadfar an córas faisnéise a úsáid chun na sonraí breise seo a leanas maidir leis na daoine dá dtagraítear i mír 1 a stóráil, a bhunathrú agus a úsáid:

(1) cionta coiriúla, coireanna arna líomhaint agus an t-am agus an áit ina ndearnadh iad;

(2) na meáin arna n-úsáid nó ar dóigh go n-úsáidfear iad chun na Sch.4 coireanna a dhéanamh;

(3) na ranna atá ag láimhseáil an cháis agus a dtagairtí comhdaithe;

(4) amhras go mbaineann siad le heagraíocht choiriúil;

(5) na daorbhreitheanna a mhéad a bhaineann siad leis na cionta coiriúla a bhfuil Europol inniúil ina leith de réir Airteagal 2.

Féadfar na sonraí sin a ionchur freisin fiú nuair nach dtagraítear do dhaoine iontu. Nuair is é Europol féin a ionchuireann na sonraí, i dteannta lena dtagairtí comhdaithe a thabhairt, cuirfidh sé i bhfios freisin ar sholáthair tríú páirtí na sonraí nó an leanann siad óna anailísí féin.

4. Féadfar an fhaisnéis bhreise maidir leis na cineálacha daoine dá dtagraítear i mír 1 agus atá arna coinneáil ag Europol nó ag na haonaid náisiúnta a pháirtíú arna iarraidh sin d'aon aonad náisiúnta nó d'Europol. Déanfaidh na haonaid náisiúnta an páirtíú sin i gcomhréir lena ndlí náisiúnta.

Má bhaineann an fhaisnéis bhreise sin le cion coiriúil gaolmhar amháin nó níos mó mar atá siad sainithe sa dara fómhír d'Airteagal 2(3), cuirfear leis an sonra atá stóráilte sa chóras faisnéise nod á rá go bhfuil cionta coiriúla gaolmhara ann ionas gur féidir le haonaid náisiúnta agus le hEuropol faisnéis ar na cionta coiriúla gaolmhara a mhalartú.

5. Má dhéantar na himeachtaí i gcoinne an duine i dtrácht a scor nó má dhéantar é a éigiontú, déanfar na sonraí a bhaineann le ceachtar den dá chinneadh sin a scríosadh.

### *Airteagal 9*

#### Ceart rochtana ar an gcóras faisnéise

1. Is iad na haonaid náisiúnta, na hoifigigh liaison, agus an Stiúrthóir, na Leas-Stiúrthóirí agus oifigigh chuí-údaraithe Europol amháin a bheidh i dteideal sonraí a ionchur go díreach sa chóras faisnéise agus iad a aisghabháil as. Féadfar sonraí a aisghabháil nuair is gá sin chun feidhmeanna Europol a chomhlíonadh i gcás áirithe; déanfar an aisghabháil i gcomhréir le forálacha reachtaíochta, rialúcháin agus riaracháin agus nósanna imeachta an aonaid aisghabhála, faoi réir aon rialacha breise atá sa Choinbhinsiún seo.

2. Ní fhéadfaidh ach an t-aonad a rinne na sonraí a iontráil iad a leasú, a cheartú nó a scríosadh. Nuair atá cúis ag aonad lena chreidiúint go bhfuil sonraí dá dtagraítear in Airteagal 8(2) mícheart nó más mian leis iad a fhorlíonadh, cuirfidh sé an t-aonad ionchuir ar an eolas láithreach; scrúdóidh an déanach an fógra sin gan mhoill agus, más gá, déanfaidh sé na sonraí a leasú, a fhorlíonadh, a cheartú nó a scríosadh láithreach. Nuair atá sonraí dá dtagraítear in Airteagal 8(3) stóráilte sa chóras maidir le duine, féadfaidh aon aonad sonraí breise dá dtagraítear in Airteagal 8(3) a iontráil. Nuair atá comhbhréagnú follasach idir na sonraí a ionchuireadh, rachaidh na haonaid i dtrácht i gcomhairle le chéile agus tiocfaidh siad ar comhaontú. Nuair atá sé ar intinn ag aonad sonraí dá dtagraítear in Airteagal 8(2) a d'ionchuir sé maidir le duine a scríosadh ar fad agus go bhfuil sonraí dá dtagraítear in Airteagal 8(3) stóráilte maidir leis an duine céanna ach gur aonaid eile a d'ionchuir iad, déanfar an fhreagracht

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faoi réir reachtaíochta maidir le cosaint sonraí de bhun Airteagal 15(1) agus an ceart chun na sonraí sin a leasú, a fhorlíonadh, a cheartú agus a scriosadh de bhun Airteagal 8(2) a aistriú chuig an gcéad aonad eile a d'ionchuir sonraí dá dtagraítear in Airteagal 8(3) maidir leis an duine sin. Cuirfidh an t-aonad a bhfuil sé ar intinn aige sonraí a scriosadh an t-aonad chuig a ndéanfar an fhreagracht a aistriú maidir le cosaint sonraí a chur ar an eolas faoina intinn.

3. Is é an t-aonad aisghabhála, ionchuir nó bunathraithe a bheidh freagrach as incheadaitheacht sonraí a aisghabháil ón gcóras faisnéise, iad a ionchur ann agus iad a bhunathrú; ní foláir gur féidir an t-aonad sin a aithint. Beidh páirtíú faisnéise idir na haonaid náisiúnta agus na húdaráis inniúla sna Ballstáit faoi rialú ag an dlí náisiúnta.

### TEIDEAL III

#### Comhaid Oibre le haghaidh Anailíse

##### *Airteagal 10*

Sonraí pearsanta a bhailiú, a phróiseáil agus a úsáid

1. A mhéad is gá sin chun an cuspóir atá leagtha síos in Airteagal 2(1) a ghnóthú, féadfaidh Europol, i dteannta le sonraí neamhphearsanta, sonraí a stóráil, a bhunathrú agus a úsáid i gcomhaid eile ar sonraí iad atá bainteach le cionta coiriúla a bhfuil Europol inniúil ina leith i gcomhréir le hAirteagal 2(2) lena n-áirítear na sonraí atá bainteach le cionta coiriúla gaolmhara dá bhforáiltear sa dara fómhír d'Airteagal 2(3), le haghaidh anailís shonrach, agus a bhaineann le:

(1) daoine dá dtagraítear in Airteagal 8(1);

(2) daoine a d'fhéadfadh bheith ina bhfinnéithe in aon fhiosrúchán maidir leis na cionta i gceist nó in aon ionchúiseamh coiriúil iardain;

(3) daoine a bhí ina n-íobartaigh i gcion de na cionta i gceist nó a bhfuil fíorais áirithe lena chreidiúint go bhféadfaidh siad bheith ina n-íobartaigh i gcion coiriúil den sórt sin;

(4) daoine tadhaill agus comthaigh; agus

(5) daoine a fhéadfaidh faisnéis a thabhairt ar na cionta coiriúla i gceist.

Ní ceadmhach na sonraí atá liostaithe sa chéad abairt d'Airteagal 6 de Choinbhinsiún Chomhairle na hEorpa an 28 Eanáir 1981 um Chosaint Daoine Aonair maidir le hUathphróiseáil Sonraí Pearsanta a bhailiú, a stóráil agus a phróiseáil ach amháin má tá dianghá leo ar mhaithe le cuspóir an chomhaid i dtrácht agus má dhéanann na sonraí sin sonraí pearsanta eile atá cláraithe sa chomhad céanna a fhorlíonadh. Beidh sé toirmisceithe cineál áirithe daoine a roghnú ar bhonn na sonraí amháin atá liostaithe sa chéad abairt d'Airteagal 6 de Choinbhinsiún Chomhairle na hEorpa an 28 Eanáir 1981, de sháru ar na rialacha thuasluaite maidir le cuspóirí.

Déanfaidh an Chomhairle, ag gníomhú di d'aon toil, i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach, rialacha arna n-ullmhú ag an mBord Bainistíochta a bheidh le cur i bhfeidhm ar na comhaid sonraí a ghlacadh agus ina mbeidh sonraí breise go háirithe maidir le cineálacha na sonraí pearsanta dá bhforáiltear san Airteagal seo agus na forálacha maidir le slándáil na sonraí sin agus maoirseacht inmheánach a n-úsáide.

2. Osclófar na comhaid sin chun críocha anailíse; sainítear an anailís mar a leanas: sonraí a bhailiú, a phróiseáil nó a úsáid ar mhaithe leis an imscrúdú coiriúil. Ní mór grúpa anailíse a chur ar bun do gach tionscadal anailíse a bhfuil dlúthbhaint ag na rannpháirtithe seo a leanas leis, i gcomhréir leis na feidhmeanna agus na cúraimí atá sainithe in Airteagal 3(1) agus (2) agus Airteagal 5(3):

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(1) anailísithe agus oifigigh eile Europol arna n-ainmniú ag Stiúrthóireacht Europol. Is iad na hanailísithe amháin a bheidh i dteideal sonraí a ionchur sa chomhad i gceist agus a aisghabháil uaidh;

(2) na hoifigigh liaison agus/nó saineolaithe na mBallstát a thug an fhaisnéis nó ar cás leo an anailís de réir bhrí mhír 6.

3. Arna iarraidh sin d'Europol nó ar a dtionscnamh féin, páirt-eoidh na haonaid náisiúnta gach faisnéis is gá le hEuropol, faoi réir Airteagal 4(5), chun a fheidhmeanna de bhun phointe 2 d'Airteagal 3(1) a chomhall. Ní pháirt-eoidh na Ballstáit na sonraí sin ach amháin nuair is féidir iad a phróiseáil faoina ndlí náisiúnta chun cionta coiriúla a chosc, a anailísiú nó a chomhrac.

Féadfaidh na sonraí ó na haonaid náisiúnta, i bhfianaise a fogaire atá siad, teacht go díreach chuig na grúpaí anailíse trí aon mheán iomchuí, bíodh nó ná bíodh sé trí na hoifigigh liaison i dtrácht.

4. Má tá gá le faisnéis de bhreis ar na sonraí dá dtagraítear i mír 3 thuas chun feidhmeanna Europol de bhun phointe 2 d'Airteagal 3(1) a chomhall, féadfaidh Europol a iarraidh ar:

(1) na Comhphobail Eorpacha agus comhlachtaí atá faoi rialú ag an dlí poiblí arna mbunú faoi na Conarthaí ag bunú na gComhphobal sin;

(2) comhlachtaí eile atá faoi rialú ag an dlí poiblí arna mbunú faoi chuimsiú an Aontais Eorpaigh;

(3) comhlachtaí atá bunaithe ar chomhaontú idir dhá Bhallstát nó níos mó den Aontas Eorpach;

(4) trú Stáit;

(5) eagraíochtaí idirnáisiúnta agus fochomhlachtaí dá gcuid atá faoi rialú ag an dlí poiblí;

(6) comhlachtaí eile atá faoi rialú ag an dlí poiblí atá bunaithe ar chomhaontú idir dhá Stát nó níos mó;

(7) Eagraíocht Idirnáisiúnta na bPóilíní Coirpeachta;

faisnéis ábhartha a pháirtiú leis trí aon mheán iomchuí. Féadfaidh sé freisin, faoi na coinníollacha céanna agus trí na meáin chéanna, faisnéis a ghlacadh ó na comhlachtaí éagsúla sin ar a dtionscnamh siúd. Déanfaidh an Chomhairle, ag gníomhú di d'aon toil i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach agus tar éis dul i gcomhairle leis an mBord Bainistíochta, rialacha a bheidh le hurramú ag Europol ina leith sin a ghlacadh.

5. A mhéad atá Europol i dteideal faoi choinbhinsiúin eile rochtain ríomhairithe a fháil ar shonraí as córais faisnéise eile, féadfaidh sé sonraí pearsanta a aisghabháil trí na meáin sin más gá sin chun a fheidhmeanna de bhun phointe 2 d'Airteagal 3(1) a chomhall.

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6. Más anailís ghinearálta straitéiseach an anailís, beidh na Ballstáit uile, trí mheán na n-oifigeach liaison agus/nó saineolaithe, comhlachaithe go hiomlán leis na torthaí, go háirithe trí na tuarascálacha arna dtarraingt suas ag Europol a pháirtíú.

Más ar chásanna sonracha atá an anailís dírithe nach mbaineann leis na Ballstáit uile agus a bhfuil cuspóir díreach oibríochtúil aici, glacfaidh ionadaithe na mBallstát seo a leanas páirt inti:

(1) na Ballstáit a thug an fhaisnéis as ar tháinig an cinneadh comhad anailíse a oscailt nó a mbaineann sí leo láithreach agus na Ballstáit a fhaigheann cuireadh ar ball ón ngrúpa anailíse bheith comhlachaithe óir is cás leo feasta é;

(2) na Ballstáit a fuair amach tar éis an córas innéacs a cheadú go bhfuil riachtanas ann fios a bheith acu agus a chuireann sin in iúl faoi na coinníollacha atá leagtha síos i mír 7.

7. Cuirfidh na hoifigigh liaison údaraithe in iúl an riachtanas seo fios a bheith acu. Déanfaidh gach Ballstát líon teoranta oifigeach liaison a ainmniú agus a údarú chuige sin. Seolfaidh sé an liosta chuig an mBord Bainistíochta.

Chun an riachtanas seo fios a bheith acu de réir bhrí mhír 6 a chur in iúl, tabharfaidh an t-oifigeach liaison na réasúin i scríbhinn arna faomhadh ag an údarás a bhfuil sé faoina urlámh ina Bhallstát féin agus arna sheoladh chuig na rannpháirtithe uile san anailís. Comhlachófar go huathoibríoch ansin é san anailís reatha.

Má chuirtear ina aghaidh sin sa ghrúpa anailíse, cuirfear an comhlachas uathoibríoch siar go dtí go gcríochnófar nós imeachta comhréitigh a mbeidh trí chéim chomhleanúnacha ann:

(1) déanfaidh na rannpháirtithe san anailís gach dícheall chun teacht ar comhaontú leis an oifigeach liaison a chuir in iúl an riachtanas fios a bheith aige; beidh ocht lá ar a mhéad acu chuige sin;

(2) má mhaireann an t-easaontas, tiocfaidh ceannairí na n-aonad náisiúnta i dtrácht agus Stiúrthóireacht Europol le chéile laistigh de thrí lá;

(3) má mhaireann an t-easaontas fós, tiocfaidh ionadaithe na bpáirtithe i dtrácht ar Bhord Bainistíochta Europol le chéile laistigh d'ocht lá. Mura n-éireoidh an Ballstát i dtrácht as an riachtanas fios a bheith aige a chur in iúl, gabhfaidh éifeacht lena chomhlachas uathoibríoch trí chinneadh comhthola.

8. Is é an Ballstát amháin a pháirtíonn sonra le hEuropol a bheidh i dteideal cineál agus athraitheacht a fogaireachta a shocrú. Beidh leathadh nó úsáid oibríochtúil sonraí anailíse faoi réir comhchomhairle ag na rannpháirtithe san anailís. Ní fhéadfaidh Ballstát a fhaigheann rochtain ar anailís reatha na sonraí a leathadh ná a úsáid gan comhaontú a fháil roimh ré ó na Ballstáit i dtrácht i dtosach báire.

### *Airteagal 11*

#### Córas innéacs

1. Cruthóidh Europol córas innéacs de na sonraí atá stóráilte sna comhaid dá dtagraítear in Airteagal 10(1).

2. Beidh sé de cheart ag Stiúrthóir, Leas-Stiúrthóirí, oifigigh chuí-údaraithe Europol agus oifigigh liaison an córas innéacs a cheadú. Caithfidh an córas innéacs a bheith de chineál gur léir don oifigeach liaison a cheadaíonn é, ar bhonn na sonraí arna gceadú, go bhfuil



sonraí a bhaineann lena Bhallstát tionscnaimh sna comhaid dá dtagr- Sch.4  
aitear i bpointe 2 d'Airteagal 6(1) agus in Airteagail 10(1).

Déanfar an rochtain ag oifigigh liaison a shainiú ionas gur féidir a chinneadh an bhfuil sonra stóráilte nó nach bhfuil ach ionas nach féidir cónaisc a bhunú ná conclúidí breise a dhéanamh maidir le hinneachar na gcomhad.

3. Cinnfidh an Bord Bainistíochta, ag gníomhú dó d'aon toil, na rialacha mionsonraithe maidir leis an gcóras innéacs a dhearadh.

### *Airteagal 12*

#### Ordú ag oscailt comhad sonraí

1. Le haghaidh gach comhad ríomhairithe sonraí ina bhfuil sonraí pearsanta arna oibriú ag Europol chun a fheidhmeanna dá dtagraítear in Airteagal 10 a chomhall, sonrúidh Europol in ordú ag oscailt an chomhaid, a mbeidh formheas an Bhord Bainistíochta riachtanach dó:

- (1) ainm an chomhaid;
- (2) aidhm an chomhaid;
- (3) na grúpaí daoine a bhfuil sonraí stóráilte fúthu;

(4) cineál na sonraí atá le stóráil agus na sonraí orthu sin atá liostaíte sa chéad abairt d'Airteagal 6 de Choinbhinsiún Chomhairle na hEorpa an 28 Eanáir 1981 agus a bhfuil dianghá leo;

(5) saghas na sonraí pearsanta a úsáidtear chun an comhad a oscailt;

(6) soláthar nó ionchur na sonraí atá le stóráil;

(7) na coinníollacha agus an nós imeachta faoina bhféadfar na sonraí pearsanta atá stóráilte sa chomhad a pháirtíú agus cé hiad na faighteoirí;

(8) na tréimhsí don scrúdú agus ré na stórála;

(9) an modh chun an log iniúchóireachta a bhunú.

Cuirfidh Stiúrthóir Europol an Comhchomhlacht Maoirseachta dá bhforáiltear in Airteagal 24 ar an eolas láithreach faoin intinn ordú a thabhairt ag oscailt comhad sonraí den sórt sin agus gheobhaidh sé an comhad páipéir chun pé barúlacha is gá dar leis a chur faoi bhráid an Bhord Bainistíochta.

2. Má tá práinn an chúraim atá le comhlíonadh de chineál nach féidir formheas an Bhord Bainistíochta a fháil dá bhforáiltear i mír 1, féadfaidh an Stiúrthóir a chinneadh ar a thionscnamh féin nó arna iarraidh sin do na Ballstáit i dtrácht ordú a thabhairt trí chinneadh réasúnaíthe, comhad a oscailt. Cuirfidh sé comhaltaí an Bhord Bainistíochta ar an eolas san am céanna. Leanfar láithreach an nós imeachta de bhun mhír 1 thuas agus críochnófar é a luaithe is féidir.

## TEIDEAL IV

## Forálacha Coiteanna maidir le Próiseáil Faisnéise

*Airteagal 13*

## Dualgas maidir le cur ar an eolas

Cuirfidh Europol na haonaid náisiúnta agus, arna iarraidh sin do na haonaid náisiúnta, a gcuid oifigeach liaison freisin, ar an eolas go prap faoi aon fhaisnéis maidir lena mBallstát maille le haon cheangal arna mbrath aige idir chionta coiriúla a bhfuil Europol inniúil ina leith de bhun Airteagal 2. Féadfar faisnéis agus eolas a pháirtíú freisin maidir le cionta coiriúla tromchúiseacha a bhfaigheann Europol fios orthu agus a chúraimí á gcomhlíonadh aige.

*Airteagal 14*

## Caighdeán cosanta sonraí

1. Faoi thráth theacht i bhfeidhm an Choinbhinsiúin seo ar a dhéanaí, glacfaidh gach Ballstát faoina reachtaíocht náisiúnta na bearta is gá i ndáil le próiseáil sonraí pearsanta i gcomhaid sonraí faoi chuimsiú an Choinbhinsiúin seo chun caighdeán cosanta sonraí a áirithiú a fhreagraíonn ar a laghad don chaighdeán a thig ó chur chun feidhme phrionsabail Choinbhinsiún Chomhairle na hEorpa an 28 Eanáir 1981 agus, lena linn sin, tabharfaidh sé aird ar Mholadh Uimh. R(87) 15 ó Choiste Airí Chomhairle na hEorpa an 17 Meán Fómhair 1987 maidir le húsáid sonraí pearsanta san earnáil phóil-ineachta.

2. Ní fhéadfaidh páirtíú sonraí pearsanta dá bhforáiltear sa Choinbhinsiún seo a thosú go dtí go dtiocfaidh na rialacha dá bhforáiltear i mír 1 maidir le chosaint sonraí i bhfeidhm ar chríoch gach Ballstáit a bheidh i dtreis i bpáirtíú den sórt sin.

3. Agus sonraí pearsanta á mbailiú, á bpróiseáil agus á n-úsáid aige, tabharfaidh Europol aird ar phrionsabail Choinbhinsiún Chomhairle na hEorpa an 28 Eanáir 1981 agus ar Mholadh Uimh. R(87) 15 ó Choiste Airí Chomhairle na hEorpa an 17 Meán Fómhair 1987.

Urramóidh Europol na prionsabail sin freisin i gcás sonraí neamh-uathphróiseáilte a bheidh aige i bhfoirm comhad, eadhon gach bailiúchán struchtúrtha de shonraí pearsanta a bhfuil rochtain orthu i gcomhréir le critéir áirithe.

*Airteagal 15*

## Freagracht maidir le sonraí a chosaint

1. Faoi réir forálacha eile sa Choinbhinsiún seo, is iad a bheidh freagrach as na sonraí atá stóráilte ag Europol, go háirithe maidir le dlíthiúlacht a mbailiú agus a seoladh go hEuropol agus as a n-ionchur, a mbeachtas, iad a bheith suas chun dáta, agus fíorú ré na stórála:

(1) an Ballstát a d'ionchuir na sonraí nó a pháirtigh iad ar shlí eile;

(2) Europol i leith na sonraí arna seoladh chuige ag tríú páirtithe nó a leanann ó anailís arna ndéanamh aige.

2. Ina theannta sin, faoi réir forálacha eile sa Choinbhinsiún seo, Sch.4 beidh Europol freagrach as na sonraí uile a thagann chuige agus a phróiseálann sé, bíodh siad sa chóras faisnéise dá dtagraítear in Airteagal 8, sna comhaid sonraí arna n-oscailt le haghaidh anailíse dá dtagraítear in Airteagal 10 nó sa chóras innéacs dá dtagraítear in Airteagal 11, nó sna comhaid sonraí atá luaite in Airteagal 14(3).

3. Déanfaidh Europol sonraí a stóráil ar chaoi gur féidir a shuíomh cén Ballstát nó cén tríú páirtí a sheol na sonraí nó an bhfuarthas iad de bharr anailíse ag Europol.

### *Airteagal 16*

#### Forálacha maidir le tuarascálacha a dhéanamh

Ar an meán, déanfaidh Europol tuarascáil ar cheann amháin ar a laghad as gach deich n-aisghabháil de shonraí pearsanta agus ar gach aisghabháil arna déanamh sa chóras faisnéise dá dtagraítear in Airteagal 7 chun a sheiceáil an bhfuil siad incheadaithe faoin dlí. Ní dhéanfaidh Europol agus na comhlachtaí maoirseachta dá dtagraítear in Airteagail 23 agus 24 na sonraí sna tuarascálacha a úsáid ach chun na críche sin agus déanfar iad a scríosadh tar éis sé mhí mura bhfuil siad riachtanach fós do sheiceáil reatha. Socróidh an Bord Bainistíochta na mionsonraí tar éis dul i gcomhairle leis an gComhchomhlacht Maoirseachta.

### *Airteagal 17*

#### Rialacha maidir le sonraí a úsáid

1. Ní ceart sonraí pearsanta arna n-aisghabháil ón gcóras faisnéise, ón gcóras innéacs nó ó na comhaid sonraí eile arna n-oscailt le haghaidh anailíse, agus sonraí arna bpáirtíú ar aon mhodh iomchuí eile a tharchur ná a úsáid ach ag údaráis inniúla na mBallstát chun an choirpeacht a bhfuil Europol inniúil ina leith agus chun saghsanna eile tromchúiseacha coirpeachta a chosc nó a chomhrac.

Beidh úsáid na sonraí dá dtagraítear sa chéad fhomhír faoi réir dhlí an Bhallstáit a dtug na comhlachtaí a úsáideann iad faoina réim.

Ní fhéadfaidh Europol na sonraí dá dtagraítear sa chéad fhomhír a úsáid ach chun a fheidhmeanna dá dtagraítear in Airteagal 3 a chomhall.

2. I gcás sonraí áirithe, má leagann Ballstát a bpáirtithe nó tríú Stát nó tríú comhlacht a bpáirtithe dá dtagraítear in Airteagal 10(4) srianta speisialta síos leis an úsáid a bhfuil na sonraí sin faoina réir sa Bhallstát sin nó ag tríú páirtí, urramóidh úsáidire na sonraí na srianta sin freisin, amach ón gcás leithleach inar gá dó faoin dlí náisiúnta, na srianta ar úsáid a mhaolú ar mhaithe leis na húdaráis bhreithiúnacha, na hinstiitíúidí reachtacha nó aon chomhlacht neamhspleách eile arna bhunú ag an dlí agus a bhfuil sé de chúram air na húdaráis náisiúnta inniúla de réir bhrí Airteagal 2(4) den Choinbhinsiún seo a rialú. Sa chás sin, ní fhéadfar na sonraí a úsáid sula rachfar i gcomhairle le Stát a bpáirtithe a dtógfar aird ar a leasanna agus a dhearcadh a mhéad is féidir.

3. Ní fhéadfar na sonraí a úsáid chun críocha eile, ná ní fhéadfaidh údaráis eile iad a úsáid, seachas iad sin dá dtagraítear in Airteagal 2 den Choinbhinsiún seo ach tar éis cead a fháil roimh ré ón mBallstát a pháirtigh na sonraí a mhéad is féidir sin faoi dhlí náisiúnta an Bhallstáit sin.

## Sonraí a pháirtiú le tríú Stáit agus tríú comhlachtaí

1. Féadfaidh Europol sonraí pearsanta atá stóráilte aige a pháirtiú le tríú Stáit agus tríú comhlachtaí de réir bhrí Airteagal 10(4) agus faoi na coinníollacha atá leagtha síos i mír 4:

(1) nuair is gá an beart sin i gcásanna leithleacha chun críocha cionta coiriúla a chosc nó a chomhrac a bhfuil Europol inniúil ina leith faoi Airteagal 2;

(2) nuair a áirithítear leibhéal leormhaith cosanta sonraí sa Stát nó sa chomhlacht sin;

(3) nuair atá an beart sin incheadaithe faoi na rialacha ginearálta de réir bhrí mhír 2.

2. I gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach, agus aird á tabhairt aici ar na himthosca dá dtagraítear i mír 3, cinnfidh an Chomhairle, ag gníomhú di d'aon toil, na rialacha ginearálta maidir le hEuropol do pháirtiú sonraí pearsanta le tríú Stáit agus tríú comhlachtaí de réir bhrí Airteagal 10(4). Ullmhóidh an Bord Bainistíochta an Cinneadh ón gComhairle agus rachaidh sé i gcomhairle leis an gComhchomhlacht Maoirseachta dá dtagraítear in Airteagal 24.

3. Measúnófar leordhóthanacht an leibhéil chosanta sonraí dá dtagraítear i mír 1 arna thabhairt ag tríú Stáit agus tríú comhlachtaí de réir bhrí Airteagal 10(4), agus aird á tabhairt ar na himthosca uile atá i dtreis i sonraí pearsanta a pháirtiú; tabharfar aird go háirithe ar an méid seo a leanas:

(1) cineál na sonraí;

(2) an cuspóir atá leo;

(3) ré na próiseála arna beartú; agus

(4) na forálacha ginearálta nó sonracha is infheidhme ar na tríú Stáit agus tríú comhlachtaí de réir bhrí Airteagal 10(4).

4. Más Ballstát a pháirtigh na sonraí le hEuropol, ní fhéadfaidh Europol iad a pháirtiú le tríú Stáit agus tríú comhlachtaí ach le toiliú an Bhallstáit. Chuige sin féadfaidh an Ballstát réamhthoilíú a thabhairt, bíodh nó ná bíodh sé ginearálta, atá inaisghairmthe tráth ar bith.

Mura Ballstát a pháirtigh na sonraí, áiritheoidh Europol nach bhfuil a bpáirtiú de chineál a dhéanfaidh:

(1) comhall cuí na bhfeidhmeanna a thig laistigh de réimse inniúlachta Ballstáit a chosc;

(2) slándáil agus ord poiblí Ballstáit a chur i gcontúirt nó dochar a dhéanamh dá leas ginearálta ar shlí eile.

5. Beidh Europol freagrach as dlíthiúlacht an pháirtithe. Coinneoidh Europol taifead de pháirtiú sonraí agus de na forais atá leis. Ní údarófar sonraí a pháirtiú ach amháin má thugann an faighteoir gealltanas nach n-úsáidfear na sonraí ach chun na críche ar páirtíodh leis iad. Ní bheidh sé sin infheidhme ar pháirtiú na sonraí pearsanta is gá ar Europol iad a iarraidh.

6. Nuair a bhaineann an páirtíú dá bhforáiltear i mír 1 le faisnéis Sch.4 atá faoi réir riachtanas na rúndachta, ní bheidh sé incheadaithe ach amháin a mhéad atá comhaontú maidir le rúndacht ann idir Europol agus an faighteoir.

### *Airteagal 19*

#### Ceart rochtana

1. Aon duine ar mian leis a cheart a fheidhmiú chun rochtain ar na sonraí a bhaineann leis agus atá stóráilte in Europol nó chun go ndéanfaí na sonraí sin a fhíorú, féadfadh sé iarraidh chuige sin a dhéanamh saor ó tháille ina rogha Bhallstát leis an údarás náisiúnta inniúil a chuirfidh faoi bhráid Europol í gan mhoill agus a chuirfidh in iúl don duine a rinne an iarraidh go bhfaighidh sé freagra díreach ó Europol.

2. Caithfidh Europol déileáil go hiomlán leis an iarraidh laistigh de thrí mhí tar éis d'údarás náisiúnta inniúil an Bhallstáit í a fháil.

3. Déanfar an ceart ag gach duine rochtain a bheith aige ar na sonraí a bhaineann leis nó go ndéanfaí iad a fhíorú a fheidhmiú i gcomhréir le dlí an Bhallstáit ina ndéantar an ceart sin a éileamh, ag tabhairt aird ar na forálacha seo a leanas:

Nuair a fhorálann dlí an Bhallstáit a roghnaítear do pháirtíú a bhaineann le sonraí, diúltófar é, a mhéad is gá sin chun:

(1) a chumasú d'Europol a fheidhmeanna a fheidhmiú go cúí;

(2) slándáil agus ord poiblí na mBallstát a chosaint nó chun cionta coiriúla a chomhrac;

(3) cearta agus saoirsí trú páirtithe a chosaint;

agus a mhéad nach bhféadfaidh dá bhrí sin sáraíocht orthu sin a bheith ag leas an duine lena mbaineann páirtíú na faisnéise.

4. Déanfar an ceart chun páirtíú a fheidhmiú ag urramú mhír 3 de réir na nósanna imeachta seo a leanas:

(1) i gcás na sonraí atá curtha sa chóras faisnéise atá sainithe in Airteagal 8, ní fhéadfar a chinneadh iad a pháirtíú mura mbeidh caoi tugtha don Bhallstát a d'ionchuir na sonraí agus do na Ballstáit lena mbaineann an páirtíú sin go díreach a seasamh a chur in iúl, lena n-áirítear fiú páirtíú na sonraí a dhiúltú. Cuirfidh an Ballstát a d'ionchuir na sonraí in iúl na sonraí inpháirtithe maille leis na rialacha mionsonraithe dá bpáirtíú;

(2) i gcás na sonraí atá curtha ag Europol sa chóras faisnéise, ní foláir caoi a thabhairt roimh ré do na Ballstáit lena mbaineann an páirtíú go díreach a seasamh a chur in iúl lena n-áirítear fiú páirtíú na sonraí a dhiúltú;

(3) i gcás na sonraí atá curtha sna comhaid sonraí le haghaidh anailíse atá sainithe in Airteagal 10, beidh a bpáirtíú faoi réir chomhthoil Europol agus na mBallstát atá rannpháirtithe san anailís de réir bhrí Airteagal 10(2) agus chomhthoil an Bhallstáit nó na mBallstát lena mbaineann páirtíú na sonraí sin go díreach.

Sch.4

Má chuireann Ballstát nó Ballstáit nó Europol in iúl go bhfuil siad i gcoinne an pháirtithe a bhaineann leis na sonraí, cuirfidh Europol in iúl don duine a rinne an iarraidh go bhfuil sé tar éis an fíorú a dhéanamh gan aon fhaisnéis a thabhairt a léireodh dó go bhfuil nó nach bhfuil aithne air.

5. Déanfar an ceart chun fíorú a fheidhmiú de réir na nósanna imeachta seo a leanas:

Nuair nach bhforálann an dlí náisiúnta is infheidhme do pháirtiú a bhaineann leis na sonraí nó nuair is iarraidh shimplí ar fhíorú atá i gceist, déanfaidh Europol, i ndlúthchomharaíocht leis na húdaráis náisiúnta i dtrácht, an fíorú agus cuirfidh sé in iúl don duine a rinne an iarraidh go bhfuil sé tar éis an fíorú a dhéanamh gan aon fhaisnéis a thabhairt a léireodh dó go bhfuil nó nach bhfuil aithne air.

6. Ina fhreagra ar iarraidh ar fhíorú nó rochtain ar shonraí, cuirfidh Europol in iúl don duine a rinne an iarraidh go bhféadfaidh sé achomharc a dhéanamh chuig an gComhchomhlacht Maoirseachta mura bhfuil sé sásta lena chinneadh. Féadfaidh an duine a rinne an iarraidh an cheist a chur faoi bhráid an Chomhchomhlachta Maoirseachta mura mbeidh freagra faighte aige ar a iarraidh laistigh den tréimhse atá leagtha síos san Airteagal seo.

7. Má dhéanann an duine a rinne an iarraidh achomharc chuig an gComhchomhlacht Maoirseachta dá bhforáiltear in Airteagal 24, déanfaidh an Comhchomhlacht í a scrúdú.

Má bhaineann an t-achomharc leis an bpáirtiú a bhaineann le sonraí a chuir Ballstát sa chóras faisnéise, glacfaidh an Comhchomhlacht Maoirseachta a chinneadh i gcomhréir le dlí an Bhallstáit lena ndearnadh an iarraidh. Rachaidh an Comhchomhlacht Maoirseachta i gcomhairle roimh ré le húdarás náisiúnta inniúil nó cúirt inniúil an Bhallstáit inar thionscain an sonra. Déanfaidh an comhlacht sin an fíorú is gá chun a shuíomh, ach go háirithe, gur glacadh an cinneadh an iarraidh a dhiúltú i gcomhréir le forálacha mhír 3 agus pointe 1 de mhír 4 den Airteagal seo. Sa chás sin, glacfaidh an Comhchomhlacht Maoirseachta an cinneadh, lena n-áirítear fiú an páirtiú a dhiúltú i ndlúthchomharaíocht leis an údarás náisiúnta maoirseachta nó leis an gcúirt inniúil.

Nuair a bhaineann an t-achomharc le páirtiú a bhaineann le sonraí a chuir Europol sa chóras faisnéise nó sonraí atá stóráilte sna comhaid oibre le haghaidh anailíse, ní fhéadfaidh an Comhchomhlacht Maoirseachta, i gcás go bhfuil Europol nó Ballstát i gcónaí ina choinne sin, tar éis dó Europol nó an Ballstát a éisteacht neamhaird a dhéanamh air ach le tromlach dhá thrian dá chomhaltaí. Mura mbeidh an tromlach sin ann, cuirfidh an Comhchomhlacht Maoirseachta in iúl don duine a rinne an iarraidh go bhfuil sé tar éis an fíorú is gá a dhéanamh, gan aon fhaisnéis a thabhairt dó a léireodh dó go bhfuil nó nach bhfuil aithne air.

Nuair a bhaineann an t-achomharc le fíorú na sonraí a chuir Ballstát sa chóras faisnéise, déanfaidh an Comhchomhlacht Maoirseachta deimhin de go ndearnadh an fíorú is gá i gceart, i ndlúthchomharaíocht le húdarás náisiúnta maoirseachta an Bhallstáit a chuir na sonraí ann. Cuirfidh an Comhchomhlacht Maoirseachta in iúl don duine a rinne an iarraidh go ndearna sé an fíorú, gan aon fhaisnéis a thabhairt dó a léireodh dó go bhfuil nó nach bhfuil aithne air.

Nuair a bhaineann an t-achomharc le sonraí a chuir Europol sa Sch.4 chóras faisnéise nó sonraí atá stóráilte sna comhaid oibre le haghaidh anailíse, déanfaidh an Comhchomhlacht Maoirseachta deimhin de go ndearna Europol an fíorú is gá i gceart. Cuirfidh an Comhchomhlacht Maoirseachta in iúl don duine a rinne an iarraidh go ndearna sé an fíorú, gan aon fhaisnéis a thabhairt dó a léireodh dó go bhfuil nó nach bhfuil aithne air.

8. Beidh na forálacha thuas infheidhme *mutatis mutandis* ar shonraí neamh-uathphróiseáilte atá ag Europol i bhfoirm comhad, eadhon gach bailiúchán struchtúrtha sonraí pearsanta is inrochtana i gcomhréir le critéir shonracha.

### Airteagal 20

#### Sonraí a cheartú agus a scriosadh

1. Sonraí atá stóráilte ag Europol, a pháirtigh tríú Stáit nó tríú comhlachtaí leis nó atá aige de thoradh a ghníomhaíochta anailíse, má thagann sé chun solais go bhfuil siad mícheart nó go sáratonn a n-ionchur nó a stóráil an Coinbhinsiún seo, déanfaidh Europol iad a cheartú nó a scriosadh.

2. Más Ballstáit a pháirtigh na sonraí go díreach le hEuropol atá mícheart nó a sháraíonn forálacha an Choinbhinsiúin seo, déanfaidh na Ballstáit sin iad a cheartú nó a scriosadh i gcuibhreann le hEuropol. Má tharchuirtear sonraí míchearta ar mhodh iomchuí eile nó más tarchur lochtach is cúis le hearráidí sna sonraí arna soláthar ag na Ballstáit nó má tá an tarchur contrártha d'fhorálacha an Choinbhinsiúin seo nó má thagann na hearráidí toisc go ndearna Europol na sonraí sin a chur sa chóras, a chur san áireamh nó a stóráil go lochtach nó go contrártha d'fhorálacha an Choinbhinsiúin seo, déanfaidh Europol iad a cheartú nó iad a scriosadh i gcuibhreann leis na Ballstáit i dtrácht.

3. Sna cásanna dá dtagraítear i mír 1 nó 2, cuirfear sin in iúl gan mhoill do gach faighteoir de na sonraí sin. Déanfaidh an déanach na sonraí sin a cheartú nó a scriosadh freisin.

4. Beidh sé de cheart ag gach duine a iarraidh ar Europol na sonraí a bhaineann leis a cheartú nó a scriosadh.

Cuirfidh Europol in iúl don duine a rinne an iarraidh go ndearna sé na sonraí a bhaineann leis a cheartú nó a scriosadh. Mura bhfuil an duine a rinne an iarraidh sásta le freagra Europol nó mura mbeidh freagra faighte aige laistigh de thréimhse trí mhí, féadfaidh sé an cheist a chur faoi bhráid an Chomhchomhlachta Maoirseachta.

### Airteagal 21

#### Tréimhsí le haghaidh comhaid sonraí a stóráil agus a scriosadh

1. Ní stórálfaidh Europol sonraí i gcomhaid sonraí ach amháin fad is gá sin chun a fheidhmeanna a chomhlíonadh. Déanfar athbhreithniú an gá leanúint de stóráil tráth nach déanaí ná trí bliana tar éis na sonraí a ionchur. Is é an t-aonad a rinne an t-ionchur a dhéanfaidh na sonraí atá stóráilte sa chóras faisnéise a athbhreithniú agus a scriosadh. Is é Europol a dhéanfaidh sonraí atá stóráilte i gcomhaid eile sonraí dá chuid a athbhreithniú agus a scriosadh. Déanfaidh Europol na Ballstáit a chur ar an eolas go huathoibríoch trí mhí roimh dhul in éag na dtréimhsí ama chun stóráil sonraí a athbhreithniú.

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2. Le linn an athbhreithnithe, féadfaidh na haonaid dá dtagraítear sa tríú agus sa cheathrú habairtí de mhír 1 thuas cinneadh maidir le leanúint de shonraí a stóráil go dtí an chéad athbhreithniú eile más gá sin fós chun cúraimí Europol a chomhlíonadh. Mura nglactar cinneadh maidir le leanúint de stóráil sonraí, déanfar iad a scriosadh go huathoibríoch.

3. Ní fhéadfaidh stóráil sonraí pearsanta a bhaineann le daoine aonair dá dtagraítear i bpointe 1 den chéad fhomhír d'Airteagal 10(1) dul thar thrí bliana san iomlán. Tosóidh gach tréimhse as an nua ar an dáta a tharlaíonn teagmhas arb é a thoradh sonraí a bhaineann leis an duine aonair sin a stóráil. Déanfar athbhreithniú bliantúil an gá leanúint de stóráil agus taifeadfar an t-athbhreithniú.

4. Nuair a dhéanann Ballstát sonraí arna bpáirtiú le hEuropol atá stóráilte i gcomhaid eile sonraí de chuid Europol a scriosadh as a chomhaid náisiúnta sonraí, cuirfidh sé Europol ar an eolas dá réir. I gcásanna den sórt sin, scriosfaidh Europol na sonraí mura bhfuil a thuilleadh suime aige iontu ar bhonn eolais atá níos leithne ná mar atá i seilbh an Bhallstáit a pháirtigh na sonraí. Cuirfidh Europol an Ballstát i dtrácht ar an eolas go bhfuiltear ag leanúint de na sonraí sin a stóráil.

5. Ní dhéanfar scriosadh nuair a dhéanfaí dochar do na leasanna is cóir a chosaint de chuid an duine is ábhar do na sonraí. I gcásanna den sórt sin, ní fhéadfar na sonraí a úsáid ach le toiliú an duine is ábhar do na sonraí.

### *Airteagal 22*

#### Sonraí i gcomhaid pháipéir a stóráil agus a cheartú

1. Má thagann sé chun solais nach bhfuil gá a thuilleadh le comhad páipéir iomlán nó le sonraí sa chomhad sin arna choinneáil ag Europol chun feidhmeanna Europol a chomhall nó gur sárú ar an gCoinbhinsiún seo na sonraí sin ina n-iomláine, ní foláir an comhad sin nó na sonraí a scriosadh. Fad nach mbeidh an comhad nó na sonraí i dtrácht scriosta iarbhír, cuirfear nóta isteach ag cur cosc ar an gcomhad nó na sonraí a úsáid.

Féadfar gan comhad páipéir a dhíothú má tá forais ann lena dtoimhdíú go ndéanfaí dochar murach sin do leasanna dlísteanaacha an duine is ábhar do na sonraí. Sa chás sin cuirfear an nóta céanna isteach ag cur cosc ar an gcomhad páipéir sin a úsáid.

2. Má thagann sé chun solais go bhfuil sonraí i gcomhaid pháipéir Europol atá mícheart, déanfaidh Europol iad a cheartú.

3. Féadfaidh gach duine lena mbaineann comhad de chuid Europol an ceart a fheidhmiú i leith Europol go gceartófar nó go ndíothófar comhad páipéir nó go gcuirfear nóta isteach ann. Beidh Airteagal 20(4) agus 24(2) agus (7) infheidhme.

### *Airteagal 23*

#### Comhlacht náisiúnta maoirseachta

1. Ainmneoidh gach Ballstát comhlacht náisiúnta maoirseachta arb é a chúram faireachán neamhspleách a dhéanamh, i gcomhréir lena dhlí náisiúnta faoi seach, ar incheadaitheacht sonraí a ionchur



[1997.]

*Europol Act, 1997.*

[No. 38.]

agus a aisghabháil agus aon pháirtíú eile sonraí pearsanta le hEur- Sch.4  
opol ag an mBallstát i dtrácht agus scrúdú a dhéanamh an sáraítear  
amhlaidh cearta an duine is ábhar do na sonraí. Beidh rochtain  
chuige sin ag an gcomhlacht maoirseachta sna haonaid náisiúnta nó  
trí na hoifigigh liaison ar na sonraí a chuir an Ballstát sa chóras fais-  
néise agus sa chóras innéacs i gcomhréir leis na nósanna imeachta  
náisiúnta ábhartha.

Chun a maoirseacht a fheidhmiú beidh ag na comhlachtaí náisiúnta  
maoirseachta rochtain ar oifigí agus comhaid na n-oifigeach liaison  
faoi seach in Europol.

Ina theannta sin, i gcomhréir leis na nósanna imeachta is infheidh-  
me, déanfaidh na comhlachtaí náisiúnta maoirseacht ar ghníomh-  
aíochtaí na n-aonad náisiúnta i gcomhréir le hAirteagal 4(4) agus  
gníomhaíochtaí na n-oifigeach liaison i gcomhréir le pointí 1, 2 agus  
3 d'Airteagal 5(3) agus le hAirteagal 5(4) agus (5) a mhéad a bhain-  
eann na gníomhaíochtaí sin le cosaint sonraí pearsanta.

2. Beidh an ceart ag gach duine aonair a iarraidh ar an gcomhlacht  
náisiúnta maoirseachta scrúdú a dhéanamh ar incheadaitheacht aon  
ionchur nó páirtíú i bhfoirm ar bith dá shonraí pearsanta le hEur-  
opol, maille le sonraí a cheadú ag an mBallstát i dtrácht.

Feidhmeofar an ceart sin i gcomhréir le dlí náisiúnta an Bhallstáit  
ar chuig a chomhlacht náisiúnta maoirseachta a dhéantar an iarraidh.

#### *Airteagal 24*

##### An Comhchomhlacht Maoirseachta

1. Cuirfear comhchomhlacht neamhspleách maoirseachta ar bun  
arb é a chúram gníomhaíochtaí Europol a athbhreithniú, i gcomhréir  
leis an gCoinbhinsiún seo, chun a áirithiú nach bhfuil cearta an duine  
aonair á sárú ag stóráil, próiseáil agus úsáid na sonraí atá stóráilte  
ag Europol. Ina theannta sin, maoirseoidh an Comhchomhlacht  
Maoirseachta go bhfuil tarchur sonraí a thionscnaíonn in Europol  
incheadaitheach. Beidh ar an gComhchomhlacht Maoirseachta líon  
nach mó ná beirt chomhalta nó ionadaí ó gach ceann de na comh-  
lachtaí náisiúnta maoirseachta, nach mbeidh dá bhrí sin a neamhspl-  
eáchas inchurtha in amhras agus a mbeidh aige an ábaltacht is gá  
agus a cheapfaidh na Ballstáit go ceann cúig bliana. Beidh vóta amh-  
áin ag gach toscaireacht.

Ceapfaidh an Comhlacht Maoirseachta cathaoirleach as measc a  
chomhaltaí.

I bhfeidhmiú a gcumhachtaí, ní ghlacfaidh comhaltaí an Chomh-  
chomhlachta Maoirseachta teagasc ó aon údarás.

2. Caithfidh Europol cuidiú leis an gComhchomhlacht Maoirs-  
eachta chun feidhmeanna an déanaigh a fheidhmiú. Lena linn sin,  
ach go háirithe:

(1) soláthróidh sé don chomhlacht sin an fhaisnéis a iarrann sé,  
tabharfaidh sé rochtain ar gach doiciméad agus comhad páipéir,  
maille le rochtain ar na sonraí atá stóráilte sa chóras;

(2) tabharfaidh sé saor-rochtain dó tráth ar bith ar a áitribh uile;  
agus

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(3) forghníomhóidh sé cinntí an Chomhchomhlachta Maoirseachta maidir le hachomhairc i gcomhréir le forálacha Airteagail 19(7) agus 20(4).

3. Beidh an Comhchomhlacht Maoirseachta inniúil freisin chun ceisteanna a scrúdú a bhaineann le cur chun feidhme agus léiriú ghníomhaíochtaí Europol maidir le próiseáil agus úsáid sonraí pearsanta, chun ceisteanna a scrúdú a bhaineann le seiceálacha arna gcur i gcrích go neamhspleách ag comhlachtaí náisiúnta maoirseachta na mBallstát nó a bhaineann leis an gceart chun faisnéise a fheidhmiú, maille le tograí comhchuibhithe chun réitigh choiteanna ar fhadhbanna atá ann a tharraingt suas.

4. Beidh an ceart ag gach duine aonair a iarraidh ar an gComhchomhlacht Maoirseachta a áirithiú go ndearna Europol sonraí pearsanta a stóráil, a bhailiú, a phróiseáil agus a úsáid go dleathach, ceart.

5. Má thugann an Comhchomhlacht Maoirseachta dá aire aon sár-uithé ar fhorálacha an Choinbhinsiúin seo i stóráil, próiseáil nó úsáid sonraí pearsanta, déanfaidh sé pé gearán a mheasann sé is gá le Stiúrtóir Europol agus iarraidh sé air a fhreagra a thabhairt laistigh de thréimhse a chinnfidh an Comhchomhlacht. Cuirfidh an Stiúrtóir an Bord Bainistíochta ar an eolas faoin nós imeachta ar fad. I gcás deacrachtaí, cuirfidh an Comhchomhlacht Maoirseachta an cheist faoi bhráid an Bhord Bainistíochta.

6. Tarraingeoidh an Comhchomhlacht Maoirseachta tuarascálacha gníomhaíochta suas go tráthrialta. I gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach seolfar iad chuig an gComhairle; beidh deis i dtosach ag an mBord Bainistíochta tuairim a thabhairt a chuirfear i gceangal leis na tuarascálacha.

Déanfaidh an Comhchomhlacht Maoirseachta cinneadh faoina thuarascáil ghníomhaíochta a phoiblíú agus, más iomchuí, faoi na rialacha mionsonracha don phoiblíú sin.

7. Glacfaidh an Comhchomhlacht Maoirseachta a rialacha nós imeachta. Beidh siad faoi réir formheas d'aon toil na Comhairle. Bunóidh sé as líon a chomhaltai coiste ar a mbeidh comhalta ó gach toscaireacht a mbeidh ceart vótála aige. Beidh sé de chúram ar an gcoiste sin na hachomhairc dá bhforáiltear in Airteagail 19(7) agus 20(4) a scrúdú ar gach modh iomchuí. Déanfaidh an coiste sin na páirtithe, arna gcuidiú ag a gcomhairleoir más mian leo sin, a éisteacht arna iarraidh sin dóibh. Is cinntí críochnaitheacha i leith na bpáirtithe uile i dtrácht cinntí arna nglacadh sa chomhthéacs sin.

8. Ina theannta sin, féadfaidh sé coiste amháin nó níos mó a bhunú.

9. Rachfar i gcomhairle leis an gComhchomhlacht Maoirseachta faoin gcuid den bhuiséad a bhaineann leis. Cuirfear a thuairim i gceangal leis an dréachtbhuiséad i gceist.

10. Beidh rúnaíocht de chúnamh aige; cinnfear cúraimí na rúnaíochta sna rialacha nós imeachta.

#### *Airteagal 25*

#### Slándáil sonraí

1. Glacfaidh Europol na bearta teicniúla agus eagraíochtúla is gá chun cur chun feidhme an Choinbhinsiúin seo a áirithiú. Ní gá bearta

ach amháin nuair atá an iarracht is gá ar comhréir leis an gcuspóir Sch.4 atá ceaptha dóibh i dtaca le cosaint de.

2. Maidir le huathphróiseáil sonraí ag Europol, cuirfidh gach Ballstát agus Europol bearta chun feidhme atá ceaptha chun:

(1) rochtain daoine neamhúdaráithe a shéanadh ar threalamh próiseála sonraí a úsáidtear chun sonraí pearsanta a phróiseáil (rialúchán rochtana ar threalamh);

(2) cosc a chur le léamh, cóipeáil, bunathrú nó baint amach neamh-údaráithe meáin sonraí (rialúchán meán sonraí);

(3) cosc a chur le hionchur neamhúdaráithe sonraí agus ceadú, bunathrú nó scriosadh neamhúdaráithe sonraí pearsanta stóráilte (rialúchán stórála);

(4) cosc a chur le húsáid córais uathphróiseála sonraí ag daoine neamhúdaráithe a úsáideann trealamh cumarsáide sonraí (rialúchán úsáidiri);

(5) a áirithiú nach bhfuil rochtain ag daoine atá údaraithe chun córas uathphróiseála sonraí a úsáid ach ar shonraí atá folaithe ag a n-údarú rochtana (rialúchán rochtana ar shonraí);

(6) a áirithiú gur féidir a fhíorú agus a shuíomh cad iad na comhlachtaí ar féidir sonraí pearsanta a tharchur chucu trí threalamh cumarsáide sonraí a úsáid (rialúchán cumarsáide);

(7) a áirithiú gur féidir a fhíorú agus a shuíomh iardain cad iad na sonraí pearsanta atá ionchurtha i gcórais uathphróiseála sonraí agus cathain a ionchuireadh na sonraí agus cé a d'ionchuir iad (rialúchán ionchuir);

(8) cosc a chur le léamh, cóipeáil, bunathrú nó scriosadh neamh-údaráithe sonraí pearsanta le linn sonraí pearsanta a aistriú nó le linn meáin sonraí a iompar (rialúchán iompair);

(9) a áirithiú go bhféadfar, i gcás briseadh, na córais arna suiteáil a aiseag láithreach (athshlánú); agus

(10) a áirithiú go bhfeidhmíonn feidhmeanna an chórais gan locht, go dtaifeadtar láithreach aon lochtanna sna feidhmeanna (iontaofacht) agus nach ndéantar na sonraí arna stóráil a lot trí mhí-fheidhmiú an chórais (sláine).

## TEIDEAL V

Stádas Dlítheanach, Eagrúchán agus Forálacha Airgeadais

### *Airteagal 26*

#### Inniúlacht dhlítheanach

1. Beidh pearsantacht dhlítheanach ag Europol.

2. Beidh ag Europol i ngach Ballstát an inniúlacht dhlítheanach agus chonarhach is fairsinge atá ar fáil ag daoine dlítheanacha faoi dhlí an Bhallstáit sin. Féadfaidh sé go háirithe maoin shochorraithe agus maoin dhochorraithe a fháil nó a dhiúscairt agus féadfaidh sé bheith ina pháirtí in imeachtaí dlí.

Sch.4

3. Cumhachtófar d'Europol comhaontú ceanncheathrún a thabhairt i gcrích le Ríocht na hÍsiltíre agus na comhaontuithe riachtanacha rúndachta de bhun Airteagal 18(6), maille le comhaontuithe eile faoi chuimsiú na rialacha arna leagan síos d'aon toil ag an gComhairle ar bhonn an Choinbhinsiúin seo agus Theideal VI den Chonradh ar an Aontas Eorpach, a thabhairt i gcrích le tríú Stáit agus tríú comhlachtaí de réir bhrí Airteagal 10(4).

*Airteagal 27*

## Orgáin Europol

Is iad orgáin Europol:

- (1) an Bord Bainistíochta;
- (2) an Stiúrthóir;
- (3) an Rialtóir Airgeadais;
- (4) an Coiste Airgeadais.

*Airteagal 28*

## An Bord Bainistíochta

1. Beidh Bord Bainistíochta ag Europol. Seo a leanas feidhmeanna an Bhord Bainistíochta:

- (1) beidh sé rannpháirteach i gcuspóir Europol a leathnú (Airteagal 2(2));
- (2) déanfaidh sé cearta agus oibleagáidí na n-oifigeach liaison i leith Europol a shainiú d'aon toil (Airteagal 5);
- (3) cinnfidh sé d'aon toil líon na n-oifigeach liaison a fhéadfaidh na Ballstáit a chur chuig Europol (Airteagal 5);
- (4) ullmhóidh sé na rialacha cur chun feidhme maidir leis na comhaid sonraí (Airteagal 10);
- (5) beidh sé rannpháirteach i rialacha a ghlacadh ag rialú chaidreamh Europol le tríú Stáit agus tríú comhlachtaí de réir bhrí Airteagal 10(4) (Airteagal 10, 18 agus 42);
- (6) cinnfidh sé, d'aontoil, na rialacha mionsonraithe maidir leis an góras innéacs a dhearadh (Airteagal 11);
- (7) formheasfaidh sé trí thromlach dhá thrian orduithe ag oscailt comhaid sonraí (Airteagal 12);
- (8) féadfaidh sé tuairimí a thabhairt ar bharúlacha agus tuarascálacha an Chomhchomhlachta Maoirseachta (Airteagal 24);
- (9) scrúdóidh sé na fadhbanna a chuirfidh an Comhchomhlacht Maoirseachta faoina bhráid (Airteagal 24(5));
- (10) socróidh sé sonraí an nós imeachta chun a sheiceáil go bhfuil na hiarrataí faoi chuimsiú an chórais faisnéise incheadaithe (Airteagal 16);

[1997.]

*Europol Act, 1997.*

[No. 38.]

(11) beidh sé rannpháirteach sa Stiúirthóir agus sna Leas-Stiúirthóirí a cheapadh agus a dhífhostú (Airteagal 29); Sch.4

(12) maoirseoidh sé comhlíonadh cúí dhualgais an Stiúirthóra (Airteagail 7 agus 29);

(13) beidh sé rannpháirteach sna rialacháin foirne a ghlacadh (Airteagal 30);

(14) beidh sé rannpháirteach i gcomhaontuithe maidir le rúndacht a ullmhú agus le forálacha maidir le cosaint rúndachta a ghlacadh (Airteagail 18 agus 31);

(15) beidh sé rannpháirteach sa bhuiséad, lena n-áirítear an plean bunaíochta, a bhunú, san iniúchóireacht agus san urscaoileadh atá le tabhairt don Stiúirthóir (Airteagail 35 agus 36);

(16) formheasfaidh sé d'aon toil an plean maoinithe cúig bliana (Airteagal 35);

(17) ceapfaidh sé d'aon toil an Rialtóir Airgeadais agus maoirseoidh sé a riarachán (Airteagal 35);

(18) beidh sé rannpháirteach sa rialachán airgeadais a ghlacadh (Airteagal 35);

(19) formheasfaidh sé d'aon toil an comhaontú ceanncheathrún arna thabhairt i gcrích (Airteagal 37);

(20) glacfaidh sé d'aon toil na rialacha ar imréiteach slándála fhoireann Europol;

(21) gníomhóidh sé trí thromlach dhá thrian i ndíospóidí idir Ballstát agus Europol agus idir Ballstáit a bhaineann le cúiteamh arna dhéanamh de bhun an dliteanais maidir le próiseáil neamhúdaraithe nó mhícheart sonraí (Airteagal 38);

(22) beidh sé rannpháirteach in aon leasú ar an gCoinbhinsiún seo (Airteagal 43);

(23) beidh sé freagrach as aon chúraimí eile a chuireann an Chomhairle air, faoi chuimsiú forálacha chun an Coinbhinsiún seo a chur chun feidhme.

2. Beidh ar an mBord Bainistíochta ionadaí amháin ó gach Ballstát. Beidh vóta amháin ag gach comhalta den Bhord Bainistíochta.

3. Féadfaidh malartach gach comhalta den Bhord Bainistíochta a ionadú; má tá an comhalta as láthair, féadfaidh an malartach a cheart vótála a fheidhmiú.

4. Tabharfar cuireadh do Choimisiún na gComhphobal Eorpach freastal ar chruinnithe den Bhord Bainistíochta ach ní bheidh ceart vótála aige. Ar a shon sin, féadfaidh an Bord Bainistíochta a chinn-eadh teacht le chéile gan ionadaí ón gCoimisiún.

5. Beidh na comhaltaí nó na malartaigh i dteideal saineolaithe óna mBallstáit faoi seach a bheith ina gcuideachta agus comhairle a fháil uathu ag cruinnithe den Bhord Bainistíochta.

6. Is é ionadaí an Bhallstáit atá ag sealbhú Uachtaránacht na Comhairle a bheidh ina chathaoirleach ar an mBord Bainistíochta.

Sch.4

7. Glacfaidh an Bord Bainistíochta a rialacha nós imeachta d'aon toil.

8. Ní bac ar an mBord Bainistíochta do ghlacadh cinntí ar gá aon-toilíocht dóibh comhaltaí a staonadh ó vótáil.

9. Tiocfaidh an Bord Bainistíochta le chéile ar a laghad dhá uair sa bhliain.

10. Glacfaidh an Bord Bainistíochta d'aon toil gach bliain:

(1) tuarascáil ghinearálta ar ghníomhaíochtaí Europol i rith na bliana roimhe sin;

(2) tuarascáil ar ghníomhaíochtaí todhchaí Europol a chuireann riachtanais oibríochtúla na mBallstát agus na hiarmhairtí ar bhuiséad agus líon foirne Europol san áireamh.

Cuirfear na tuarascálacha sin faoi bhráid na Comhairle i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach.

### *Airteagal 29*

#### Stiúrthóir

1. Beidh Stiúrthóir a cheapfaidh an Chomhairle, ag gníomhú di d'aon toil i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach tar éis tuairim a fháil ón mBord Bainistíochta, i gceannas ar Europol go ceann tréimhse ceithre bliana. Féadfar a cheapachán a athnuachan uair amháin.

2. Beidh de chúnamh ag an Stiúrthóir Leas-Stiúrthóirí a socróidh an Chomhairle a líon agus a cheapfar go ceann tréimhse ceithre bliana i gcomhréir leis an nós imeachta atá leagtha síos i mír 1; féadfar a gcheapachán a athnuachan uair amháin. Saineoidh an Stiúrthóir a gcuid cúraimí níos mionchruinne.

3. Beidh an Stiúrthóir freagrach as:

(1) na cúraimí a chuirtear ar Europol a chomhlíonadh;

(2) cúrsaí riaracháin ó lá go lá;

(3) bainistíocht pearsanra;

(4) cinntí ón mBord Bainistíochta a ullmhú agus a chur chun feidhme go cúí;

(5) an dréachtbhuiséad, an dréachtphlean bunaíochta agus an dréachtphlean maoinithe cúig bliana a ullmhú agus buiséad Europol a chur i ngníomh;

(6) gach cúram eile a chuirtear air sa Choinbhinsiún seo nó ag an mBord Bainistíochta.

4. Beidh an Stiúrthóir freagrach as a riarachán os comhair an Bhord Bainistíochta. Glacfaidh sé páirt ina chuid cruinnithe.

5. Is é an Stiúrthóir ionadaí dlíthiúil Europol.

6. Féadfar an Stiúrthóir agus na Leas-Stiúrthóirí a dhífhostú trí chinneadh ón gComhairle a ghlacfar trí thiomlath dhá thrian de vótaí na mBallstát, i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach, tar éis tuairim a fháil ón mBord Bainistíochta. Sch.4

7. De mhaolú ar mhéireanna 1 agus 2, leanfaidh céadtéarma oifige an Stiúrthóra go ceann cúig bliana tar éis theacht i bhfeidhm an Choinbhinsiúin seo, céadtéarma oifige an chéad Leas-Stiúrthóra go ceann ceithre bliana agus céadtéarma oifige an dara Leas-Stiúrthóir go ceann trí bliana.

### *Airteagal 30*

#### Foireann

1. Beidh cuspóirí agus cúraimí Europol mar stiúir ag an Stiúrthóir, na Leas-Stiúrthóirí agus fostaithe Europol ina gcuid gníomhaíochtaí agus ní fhéadfaidh siad teagasc a iarraidh ná a ghlacadh ó aon rialtas, údarás, eagraíocht ná duine lasmuigh d'Europol mura bhforáiltear a mhalairt sa Choinbhinsiún seo agus gan dochar do Theideal VI den Chonradh ar an Aontas Eorpach.

2. Beidh an Stiúrthóir i gceannas ar Leas-Stiúrthóirí agus fostaithe Europol. Fostóidh sé agus dífhostóidh sé fostaithe. Agus fostaithe á roghnú aige, tabharfaidh sé aird, de bhreis ar oiriúnacht phearsanta agus cáilíochtaí gairmiúla, ar an ngá ionadaíocht leormhaith a áirithiú do náisiúnaigh na mBallstát uile agus teangacha oifigiúla an Aontais Eorpaigh.

3. Leagfar síos rialacha mionsonraithe i rialacháin foirne a ghlacfaidh an Chomhairle d'aon toil i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach, tar éis tuairim a fháil ón mBord Bainistíochta.

### *Airteagal 31*

#### Rúndacht

1. Glacfaidh Europol agus na Ballstáit bearta iomchuí chun faisnéis a chosaint atá faoi réir riachtanas na rúndachta a ndéantar í a fháil nó a mhalartú faoi chuimsiú Europol ar bhonn an Choinbhinsiúin seo. Chuige sin, déanfaidh an Chomhairle rialacha iomchuí maidir le rúndacht a ghlacadh d'aon toil a luaithe atá siad ullmhaithe ag an mBord Bainistíochta agus curtha faoi bhráid na Comhairle i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach.

2. Nuair a chuireann Europol gníomhaíocht íogair de chúram ar dhaoine, gabhfaidh na Ballstáit orthu féin criathrú slándála a chur i gcrích, arna iarraidh sin do Stiúrthóir Europol, ar a gcuid náisiúnach féin i gcomhréir lena bhforálacha náisiúnta agus cúnamh frithpháirt-each a thabhairt dá chéile chuige sin. Ní dhéanfaidh an t-údarás atá inniúil faoi na forálacha náisiúnta Europol a chur ar an eolas ach amháin faoi thorthaí an chriathraithe slándála a bheidh ceangailteach ar Europol.

3. Ní fhéadfaidh aon Bhallstát ná Europol daoine a cheapadh le haghaidh próiseáil sonraí ag Europol mura mbeidh oiliúint speisialta orthu agus mura mbeifear tar éis criathrú slándála a dhéanamh orthu.

## Oibleagáid discréide agus rúndachta

1. Staonfaidh orgáin Europol, a gcomhaltaí, na Leas-Stiúrthóirí, fostaithe Europol agus na hoifigigh liaison ó aon ghníomhaíocht agus ó aon tuairim a nochtadh a d'fhágfadh máchail ar íomhá Europol nó a dhéanfadh dochar dá ghníomhaíocht.

2. Beidh de cheangal ar orgáin Europol, a gcomhaltaí, na Leas-Stiúrthóirí, fostaithe Europol agus na hoifigigh liaison, maille le gach duine eile atá faoi oibleagáid shainráite discréide nó rúndachta, gan fíorais ná faisnéis a nochtadh a bhfaigheann siad fios orthu i bhfeidhmiú a bhfeidhmeanna nó faoi chuimsiú a ngníomhaíochtaí d'aon duine neamhúdaraíthe ná don phobal. Ní bheidh sé seo infheidhme ar fhíorais ná faisnéis nach gá a choimeád faoi rún de bharr a neamhthábhachta. Leanfaidh an oibleagáid discréide agus rúndachta fiú tar éis dóibh scor dá bhfeidhmeanna, dá bhfostaíocht nó dá ngníomhaíochtaí. Tabharfaidh Europol fógra faoin oibleagáid shonrach atá leagtha síos sa chéad abairt maille le fainic maidir í hiarmhairtí dlíthiúla aon sáráithe; tarraingeofar suas taifead i scríbhinn den fhógra sin.

3. Ní fhéadfaidh orgáin Europol, a gcomhaltaí, na Leas-Stiúrthóirí, fostaithe Europol, na hoifigigh liaison ná daoine eile atá faoin oibleagáid dá bhforáiltear i mír 2, fianaise a thabhairt ná ráiteas a dhéanamh le linn imeachtaí breithiúnacha nó neamhbhreithiúnacha ar aon fhíorais nó faisnéis a bhfuair siad fios orthu i bhfeidhmiú a bhfeidhmeanna nó faoi chuimsiú a ngníomhaíochtaí, gan an cheist a chur faoi bhráid an Stiúrthóra nó, más é an Stiúrthóir atá i dtreis, faoi bhráid an Bhord Bainistíochta.

Rachaidh an Stiúrthóir nó an Bord Bainistíochta, de réir mar is iomchuí, i gcomhairle leis an údarás breithiúnach nó le haon chomhlacht inniúil eile d'fhonn na bearta a ghlacadh is gá faoin dlí náisiúnta is infheidhme ar an gcomhlacht i dtrácht chun na rialacha mionsonracha maidir le fianaise a thabhairt a leasú ar mhaithe le rúndacht na faisnéise a áirithiú nó, más féidir sin faoin dlí náisiúnta, chun an páirtíú a bhaineann leis an bhfaisnéis a dhiúltú a mhéad is gá sin chun leasanna príomhordúla Europol nó Ballstáit a chosaint.

Má fhoráiltear i ndlí an Bhallstáit gur féidir diúltú fianaise a thabhairt, ní foláir do na daoine a n-iarrtar orthu fianaise a thabhairt cead a fháil fianaise a thabhairt. Is é an Stiúrthóir a thabharfaidh an cead; i gcás gurb é an Stiúrthóir a n-iarrtar air fianaise a thabhairt, is é an Bord Bainistíochta a thabharfaidh an cead. Nuair a iarrtar ar oifigeach liaison fianaise a thabhairt ar fhaisnéis a fhaigheann sé ó Europol, tabharfar an cead sin tar éis comhaontú a fháil ón mBallstát atá freagrach as an oifigeach i dtrácht.

Ina theannta sin, nuair is léir go gcuimseoidh an fhianaise faisnéis agus eolas a pháirtigh Ballstát nó a bhaineann go soiléir le Ballstát, ní foláir tuairim an Bhallstáit sin a fháil roimh an gcead a thabhairt.

Ní fhéadfar diúltú an cead a thabhairt chun fianaise a thabhairt ach a mhéad is gá sin ar mhaithe le cosaint na n-ardleasanna is gá a chosaint de chuid Europol nó an Bhallstáit nó na mBallstát i dtrácht.

Leanfaidh an oibleagáid sin fiú tar éis dóibh scor dá bhfeidhmeanna, dá bhfostaíocht nó dá ngníomhaíocht.

4. Roinnfidh gach Ballstát le haon sárú ar an oibleagáid discréide nó rúndachta atá leagtha síos i míreanna 2 agus 3 mar shárú ar a dhlí



um rúin oifigiúla nó ghairmiúla nó a chuid forálacha maidir le hábhar Sch.4 rúndachta a chosaint.

Más iomchuí, bunóidh gach Ballstát ar dháta an Choinbhinsiúin seo a theacht i bhfeidhm ar a dhéanaí na rialacha dlí náisiúnta nó na forálacha is gá d'fhonn sárú ar an oibleagáid discréide a ionchúiseamh nó an rúndacht dá dtagraítear i míreanna 2 agus 3 a chosaint. Áiritheoidh sé go mbeidh na rialacha agus na forálacha sin infheidhme freisin ar a oifigh féin a bhíonn i dteagmháil le hEuropol faoi chuimsiú a ngníomhaíochtaí.

### *Airteagal 33*

#### Teangacha

1. Tiolacfar tuarascálacha agus gach páipéar agus doiciméadú eile a chuirtear faoi bhráid an Bhord Bainistíochta i dteangacha oifigiúla uile an Aontais Eorpaigh; is iad teangacha oifigiúla an Aontais Eorpaigh teangacha oibre an Bhord Bainistíochta.

2. Is é lárionad aistriúcháin institiúidí an Aontais Eorpaigh a sholáthróidh na haistriúcháin is gá d'obair Europol.

### *Airteagal 34*

#### Parlaimint na hEorpa a chur ar an eolas

1. Seolfaidh Uachtaránacht na Comhairle tuarascáil speisialta ar obair Europol chuig Parlaimint na hEorpa gach bliain. Rachfar i gcomhairle le Parlaimint na hEorpa tráth aon leasaithe ar an gCoinbhinsiún seo.

2. I dtaca le Parlaimint na hEorpa, tabharfaidh Uachtaránacht na Comhairle, nó a hionadaí arna ainmniú ag an Uachtaránacht, aird ar na hoibleagáidí discréide agus rúndachta.

3. Beidh na hoibleagáidí dá bhforáiltear san Airteagal seo gan dochar do chearta na bparlaimintí náisiúnta, d'Airteagal K.6 den Chonradh ar an Aontas Eorpach agus do na prionsabail ghinearálta is infheidhme ar an gcaidreamh le Parlaimint na hEorpa de bhun Theideal VI den Chonradh ar an Aontas Eorpach.

### *Airteagal 35*

#### Buiséad

1. Déanfar meastacháin ar ioncam agus caiteachas uile Europol, lena n-áirítear costais uile an Chomhchomhlachta Maoirseachta agus na rúnaíochta arna bunú aige de bhun Airteagal 24, a tharraingt suas do gach bliain airgeadais agus déanfar na míreanna sin a iontráil sa bhuiséad; cuirfear plean bunaíochta i gceangal leis an mbuiséad. Tosóidh an bhliain airgeadais ar an 1 Eanáir agus críochnóidh sí ar an 31 Nollaig.

Ní foláir an t-ioncam agus an caiteachas a thaispeántar sa bhuiséad a bheith ar comhardú.

Sch.4

Bunófar plean maoinithe cúig bliana mar aon leis an mbuiséad.

2. Maíneofar an buiséad as ranníocaíochtaí na mBallstát agus aon fho-ioncam eile. Cinnfear ranníocaíocht gach Ballstáit de réir choibhneas a olltáirgeachta náisiúnta le suim iomlán olltáirgeachtaí náisiúnta na mBallstát don bhliain roimh an mbliain ina mbunaítear an buiséad. Chun críocha na míre seo, ciallóidh ‘olltáirgeacht náisiúnta’ olltáirgeacht náisiúnta mar atá sí sainithe i dTreoir ón gComhairle 89/130/CEE, Euratom an 13 Feabhra 1989 maidir le tiomsú na holltáirgeachta náisiúnta ag margadhphraghsanna a chomhchuíbhíú.

3. Faoin 31 Márta gach bliain ar a dhéanaí, bunóidh an Stiúrthóir an dréachtbhuiséad agus an dréachtphlean bunaíochta don bhliain airgeadais ina dhiaidh agus, tar éis don Choiste Airgeadais iad a scrúdú, cuirfidh sé faoi bhráid an Bhord Bainistíochta iad mar aon leis an dréachtphlean maoinithe cúig bliana.

4. Glacfaidh an Bord Bainistíochta cinneadh ar an bplean maoinithe cúig bliana. Gníomhóidh sé d’aon toil.

5. Tar éis tuairim a fháil ón mBord Bainistíochta, déanfaidh an Chomhairle, i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach, buiséad Europol a ghlacadh ar a dhéanaí faoin 30 Meitheamh den bhliain roimh an mbliain airgeadais. Gníomhóidh sí d’aon toil. Glacfar buiséid fhorlíontacha agus cheartaitheacha ar an modh céanna. Béarfaidh glacadh an bhuiséid ag an gComhairle oibleagáid ar gach Ballstát na ranníocaíochtaí atá dlite uaidh a chur ar fáil in am trátha.

6. Cuirfidh an Stiúrthóir an buiséad i ngníomh i gcomhréir leis an rialachán airgeadais dá bhforáiltear i mír 9.

7. Ceapfaidh an Bord Bainistíochta, ag gníomhú dó d’aon toil, rialtóir airgeadais; déanfaidh an rialtóir airgeadais faireachán ar cheangaltas agus eisiocaíochtaí an chaiteachais agus ar bhunú agus bailiú an ioncaim agus beidh sé freagrach don Bhord Bainistíochta. Féadfaidh an rialachán airgeadais foráil d’fhaireachán *ex-post* ag an rialtóir airgeadais i gcás míreanna áirithe ioncaim nó caiteachais.

8. Beidh ar an gCoiste Airgeadais ionadaí buiséadach amháin ó gach Ballstát. Beidh de chúram air pléiti ar chúrsaí buiséadacha agus airgeadais a ullmhú.

9. Déanfaidh an Chomhairle, i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach, an rialachán airgeadais a ghlacadh d’aon toil, ag sonrú go háirithe na rialacha mionsonraithe chun an buiséad a bhunú, a leasú agus a chur i ngníomh agus chun faireachán a dhéanamh ar a chur i ngníomh agus an dóigh ina n-íocfaidh na Ballstáit a gcuid ranníocaíochtaí.

### Airteagal 36

#### Iniúcháireacht

1. Beidh na cuntais i leith gach ioncaim agus caiteachais arna n-iontráil sa bhuiséad mar aon leis an gclár comhardaithe ag taispeáint shócmhainní agus dhliteanais Europol faoi réir iniúcháireacht bhliantúil i gcomhréir leis an rialachán airgeadais. Chuige sin, tiolfaidh an Stiúrthóir tuarascáil ar na cuntais bhliantúla ar a dhéanaí faoin 31 Bealtaine den bhliain ina dhiaidh.

2. Is comhchoiste iniúchóireachta ar a mbeidh triúr comhalta arna gceapadh ag Cúirt Iniúchóireachta na gComhphobal Eorpach ar thogra óna hUachtarán a dhéanfaidh an iniúchóireacht. Trí bliana a bheidh i dtéarma oifige na gcomhaltaí sin; déanfaidh siad uainíocht ar a chéile ionas go ngabhfar ionad gach comhalta a bheidh tar éis bheith ar an gcoiste iniúchóireachta ar feadh trí bliana. Gan dochar d'fhorálacha an dara habairt, i gcéad-chomhdhéanamh an chomhchoiste iniúchóireachta tar éis d'Europol tús a chur lena fheidhmeanna a fheidhmiú, is é téarma oifige na gcomhaltaí a roghnófar trí chrannchur:

- an chéad chomhalta, dhá bhliain,
- an dara comhalta, trí bliana, agus
- an tríú comhalta, ceithre bliana.

Déanfar costais na hiniúchóireachta más ann dóibh a fhritháireamh i gcoinne an bhuiséid dá bhforáiltear in Airteagal 35.

3. Cuirfidh an comhchoiste iniúchóireachta tuarascáil iniúchóireachta ar chuntais na bliana roimhe faoi bhráid na Comhairle i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach; roimhe sin, tabharfar caoi don Stiúrthóir agus don Rialtóir Airgeadais a gcuid tuairimí a thabhairt ar an tuarascáil iniúchóireachta agus déanfar an tuarascáil a phlé sa Bhord Bainistíochta.

4. Soláthróidh Stiúrthóir Europol do chomhaltaí an chomhchoiste iniúchóireachta gach faisnéis agus gach cúnamh is gá dóibh chun a gcúram a chomhall.

5. Is é an Chomhairle a thabharfaidh urscaoileadh don Stiúrthóir maidir leis an mbuiséad don bhliain i gceist a chur i ngníomh tar éis di an tuarascáil ar na cuntais bhliantúla a scrúdú.

6. Leagfar rialacha mionsonraithe don iniúchóireacht síos sa Rialachán Airgeadais.

### *Airteagal 37*

#### Comhaontú ceanncheathrún

Na socrúithe is gá maidir leis an gcóiríocht atá le soláthar d'Europol sa Stát ceanncheathrún agus maidir leis na saoráidí atá le soláthar ag an Stát sin maille leis na rialacha sonracha is infheidhme, i Stát ceanncheathrún Europol, ar chomhaltaí a orgáin, ar a Leas-Stiúrthóirí, ar a fhoireann agus ar bhaill teaghlaigh, leagfar síos iad i gcomhaontú ceanncheathrún idir Europol agus Ríocht na hÍsiltíre a thabharfar i grích tar éis formheas d'aon toil a fháil ón mBord Bainistíochta.

### TEIDEAL VI

#### Dlíteanas agus Cosaint Dhlítheanach

### *Airteagal 38*

Dlíteanas maidir le próiseáil neamhúdairithe nó mhícheart sonraí

1. Beidh gach Ballstát faoi dhlíteanas i gcomhréir lena dhlí náisiúnta i leith aon damáiste a tharla do dhuine de bharr sonraí míchearta ó thaobh dlí nó fórais a rinne Europol a stóráil nó a phróiseáil.

Sch.4

Is é an Ballstát amháin inar tharla an teagmhas díobhálach a fhéadfaidh bheith ina ábhar do chaingean chúitimh ag an duine éagóraithe a rachaidh ar iontaoibh na gcúirteanna ag a bhfuil dlínse de bhun dhlí náisiúnta an Bhallstáit i dtrácht. Ní fhéadfaidh Ballstát a agairt gur sheol Ballstát eile sonraí míchearta chuige chun é féin a urscaoileadh ón dliteanas atá air faoina dhlí náisiúnta i leith an duine éagóraithe.

2. Más toradh na sonraí míchearta sin ó thaobh dlí nó fíoraís ar shonraí a pháirtigh Ballstát amháin nó roinnt Ballstát go hearráideach nó trí mhainneachtain sna hoibleagáidí dá bhforáiltear sa Choinbhinsiún seo nó a rinne Europol a stóráil nó a phróiseáil ar dhóigh neamhúdaraíthe nó mhícheart, dlítear d'Europol nó de na Ballstáit sin na suimeanna arna n-íoc mar chúiteamh a aisíoc, arna iarraidh sin, murar bhain an Ballstát ar ar a chríoch a tharla an teagmhas díobhálach úsáid as na sonraí de shárú ar an gCoinbhinsiún seo.

3. Ní mór aon easaontas idir an Ballstát sin agus Europol nó Ballstát eile maidir le prionsabal nó méid na híocaíochta sin a chur faoi bhráid an Bhord Bainistíochta a ghníomhóidh trí thromlach dhá thrian.

#### *Airteagal 39*

##### Dlíteanais eile

1. Beidh dlíteanas conarthach Europol faoi rialú ag an dlí is infheidhme ar an gconradh i gceist.

2. I gcás dlíteanas neamhchonarthach, is é Europol, gan spleáchas d'aon dlíteanas de bhun Airteagal 38, a shlánóidh aon damáiste arbh iad a chuid orgán, a Leas-Stiúrthóirí nó a chuid fostaithe ba chúis leis i bhfeidhmiú a bhfeidhmeanna, a mhéad is féidir an damáiste sin a chur ina leith. Ní eisíofaídh an fhoráil sin roimhe seo an ceart leorghníomhartha eile bunaithe ar reachtaíocht náisiúnta na mBallstát.

3. Beidh sé de cheart ag an duine éagóraithe a éileamh go staonfaidh Europol ó chaingean nó go scoirfidh sé di.

4. Déanfar cúirteanna náisiúnta na mBallstát a bhfuil dlínse acu chun na díospóidí ina mbeidh dlíteanas Europol i gceist dá dtagraítear san Airteagal seo a chinneadh ag féachaint d'fhorálacha ábhartha Choinbhinsiún na Bruiséile an 27 Meán Fómhair 1968 ar Dhlínse agus ar Fhorghníomhú Breithiúnas in Ábhair Shibhialta agus Tráchtála, mar atá arna leasú iardain leis na Coinbhinsiúin aontachais.

#### *Airteagal 40*

##### Díospóidí a réiteach

1. Ní foláir don Chomhairle aon díospóidí idir na Ballstáit maidir le léiriú nó cur i bhfeidhm an Choinbhinsiúin seo, a phlé mar chéad chéim i gcomhréir leis an nós imeachta atá leagtha amach i dTeideal VI den Chonradh ar an Aontas Eorpach d'fhonn teacht ar réiteach.

2. Mura mbeidh réiteach ar na díospóidí sin faighte laistigh de thréimhse sé mhí, cinnfidh na Ballstáit is páirtithe sa díospóid, trí chomhaontú eatarthu féin, na rialacha mionsonraithe faoina ndéanfar na díospóidí i gceist a réiteach.

3. Beidh na forálacha maidir le hachomhairc dá bhforáiltear sna rialacháin a bhaineann le coinníollacha fostaíochta is infheidhme ar fhostaithe sealadacha agus cúntacha na gComhphobal Eorpach infheidhme *mutatis mutandis* ar fhoireann Europol. Sch.4

#### Airteagal 41

##### Pribhléidí agus díolúintí

1. Beidh ag Europol, ag comhaltáí a orgán, agus ag Leas-Stiúrthóirí agus fostaithe Europol na pribhléidí agus na díolúintí is gá chun a gcúraimí a chomhlíonadh i gcomhréir le Prótacal ag leagan síos na rialacha atá le cur i bhfeidhm sna Ballstáit uile.

2. Comhaontóidh Ríocht na hÍsiltíre agus na Ballstáit eile sna téarmaí céanna go mbeidh ag oifigigh liaison ar iasacht ó Bhallstáit eile maille le baill a dteaghlaiigh na pribhléidí agus díolúintí is gá chun cúraimí na n-oifigeach liaison laistigh d'Europol a chomhlíonadh go cuí.

3. Glacfaidh an Chomhairle, ag gníomhú di d'aon toil i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach, an Prótacal dá dtagraítear i mír 1 agus glacfaidh na Ballstáit é i gcomhréir lena rialacha bunreachtúla faoi seach.

## TEIDEAL VII

### Forálacha Críochnaitheacha

#### Airteagal 42

##### Caidreamh le tríú Stáit agus tríú comhlachtaí

1. A mhéad is fóna chun na feidhmeanna atá sainithe in Airteagal 3 a chomhall, déanfaidh Europol caidreamh comhair a bhunú agus a chothabháil le tríú comhlachtaí de réir bhrí phointí 1 go 3 d'Airteagal 10(4). Déanfaidh an Bord Bainistíochta rialacha ag rialú an chaidrimh sin a bhunú d'aon toil. Beidh an fhoráil seo gan dochar d'Airteagal 10(4) agus (5) agus d'Airteagal 18(2); ní dhéanfar sonraí pearsanta a mhalartú ach amháin i gcomhréir le forálacha Theidil II go IV den Choinbhinsiún seo.

2. A mhéad is gá chun na feidhmeanna atá sainithe in Airteagal 3 a chomhall, féadfaidh Europol caidreamh a bhunú agus a chothabháil freisin le tríú Stáit agus tríú comhlachtaí de réir bhrí phointí 4, 5, 6 agus 7 d'Airteagal 10(4). Déanfaidh an Chomhairle, ag gníomhú di d'aon toil i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach agus tar éis tuairim a fháil ón mBord Bainistíochta, rialacha a bhunú ag rialú an chaidrimh dá dtagraítear sa chéad abairt. Beidh an tríú habairt de mhír 1 infheidhme *mutatis mutandis*.

#### Airteagal 43

##### An Coinbhinsiún a leasú

1. I gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach, déanfaidh an Chomhairle, ag gníomhú di ar thionscnamh ó Bhallstát agus tar éis dul i gcomhairle leis an mBord Bainistíochta, cinneadh d'aon toil, faoi chuimsiú

Sch.4

phointe 9 d'Airteagal K.1 den Chonradh ar an Aontas Eorpach, maidir le haon leasuithe ar an gCoinbhinsiún seo a mholfaidh sí do na Ballstáit lena nglacadh i gcomhréir lena rialacha bunreachtúla faoi seach.

2. Tiocfaidh na leasuithe i bhfeidhm i gcomhréir le hAirteagal 45(2) den Choinbhinsiún seo.

3. Ar a shon sin, féadfaidh an Chomhairle, ag gníomhú di d'aon toil i gcomhréir leis an nós imeachta dá bhforáiltear i dTeideal VI den Chonradh ar an Aontas Eorpach, a chinneadh ar thionscnamh ó Bhallstát agus tar éis don Bhord Bainistíochta é a scrúdú, sainmhíniú na bhfoirmeacha coirpeachta atá san Iarscríbhinn a shaibhriú, a leasú nó a chomhlánú. Féadfaidh sé freisin a chinneadh sainmhíniú nua de na foirmeacha coirpeachta sin a chur isteach.

4. Cuirfidh Ardrúnaí Chomhairle an Aontais Eorpaigh dáta theacht i bhfeidhm na leasuithe in iúl do na Ballstáit uile.

#### *Airteagal 44*

##### Forchoimeádais

Ní bheidh forchoimeádais i leith an Choinbhinsiúin seo incheadaithe.

#### *Airteagal 45*

##### Teacht i bhfeidhm

1. Beidh an Coinbhinsiún seo faoi réir a ghlactha ag na Ballstáit i gcomhréir lena rialacha bunreachtúla faoi seach.

2. Cuirfidh na Ballstáit in iúl don taiscí go bhfuil na nósanna imeachta is gá faoina rialacha bunreachtúla faoi seach chun an Coinbhinsiún seo a ghlacadh comhlíonta acu.

3. Tiocfaidh an Coinbhinsiún seo i bhfeidhm ar an gcéad lá den mhí a leanann an tréimhse trí mhí tar éis don fhógra dá dtagraítear i mír 2 a bheith tugtha ag an Stát is Ballstát den Aontas Eorpach ar an dáta a ghlacfaidh an Chomhairle an Gníomh ag dréachtú an Choinbhinsiúin seo is déanaí a dhéanfaidh an beart sin.

4. Gan dochar do mhír 2, ní rachaidh Europol i mbun a ghníomhaíochtaí faoin gCoinbhinsiún seo go dtí go dtiocfaidh an ceann deiridh de na gníomhartha dá bhforáiltear in Airteagail 5(7), 10(1), 24(7), 30(3), 31(1), 35(9), 37 agus 41(1) agus (2) i bhfeidhm.

5. Nuair a rachaidh Europol i mbun a ghníomhaíochtaí, beidh deireadh le gníomhaíochtaí Aonad Drugaí Europol i gcomhréir le comhghníomhaíocht an 10 Márta 1995 maidir le hAonad Drugaí Europol. I gcomhthráth, tiocfaidh gach trealamh arna mhaoiniú ó chomhbhuiséad Aonad Drugaí Europol, arna fhorbairt nó arna tháirgeadh ag Aonad Drugaí Europol nó arna chur ar láimh dó saor ó tháille ag an Stát ceanncheathrún dá bhuanúsáid, mar aon le cartlann iomlán an Aonaid sin agus a chomhaid sonraí arna riar go neamhspleách aige chun bheith ina maoín ag Europol.

6. Amhail ón dáta a ghlacfaidh an Chomhairle an Gníomh ag dréachtú an Choinbhinsiúin seo, glacfaidh na Ballstáit, ag gníomhú go leithleach nó go comhpháirteach dóibh, na bearta ullmhúcháin uile faoina ndlí náisiúnta atá riachtanach do thús gníomhaíochtaí Europol.

## Aontachas Ballstát nua

1. Beidh aontachas leis an gCoinbhinsiún seo ar oscailt d'aon Stát a thagann chun bheith ina Bhallstát den Aontas Eorpach.

2. Is téacs údarásach téacs an Choinbhinsiúin seo i dteanga an Bhallstáit aontaigh, arna bhunú ag Comhairle an Aontais Eorpaigh.

3. Taiscfear na hionstraimí aontachais leis an taiscí.

4. Tiocfaidh an Coinbhinsiún seo i bhfeidhm maidir le Ballstát aontach ar an gcéad lá den mhí tar éis do thréimhse trí mhí a dhul in éag tar éis dó a ionstraim aontachais a thaisceadh nó ar dháta an Choinbhinsiúin a theacht i bhfeidhm mura mbeadh sé tagtha i bhfeidhm fós tráth na tréimhse trí mhí sin a dhul in éag.

## Airteagal 47

## Taiscí

1. Is é Ardrúnaí Chomhairle an Aontais Eorpaigh taiscí an Choinbhinsiúin seo.

2. Foilseoidh an taiscí in *Iris Oifigiúil na gComhphobal Eorpach* na fógraí, na hionstraimí nó na cumarsáidí a bhaineann leis an gCoinbhinsiún seo.

Dá fhianú sin, chuir na Lánchumhachtaigh thíos-sínithe a lámh leis an gCoinbhinsiún seo.

Arna dhéanamh sa Bhruiséil, an séú lá is fiche d'Iúil sa bhliain míle naoi gcéad nócha a cúig, i scríbhinn bhunaidh amháin sa Bhéarla, sa Danmhairgis, san Fhionlainnis, sa Fhraincis, sa Ghaeilge, sa Ghearmáinis, sa Ghréigis, san Iodáilis, san Ollainnis, sa Phortaingéilis, sa Spáinnis agus sa tSualainnis, agus comhúdarás ag na téacsanna i ngach ceann de na teangacha sin; déanfar an scríbhinn bhunaidh sin a thaisceadh i gcartlann Ardrúnaíocht Chomhairle an Aontais Eorpaigh.

(*Sínithe na Lánchumhachtach*)

## IARSCRÍBHINN

## Dá dtagraítear in Airteagal 2

Liosta de na sagsanna eile tromchúiseacha coirpeachta idirnáisiúnta a bhféadfadh Europol déileáil leo de bhreis orthu siúd dá bhforáiltear cheana in Airteagal 2(2) agus ag urramú chuspóir Europol mar atá sé sonraithe in Airteagal 2(1).

I gcoinne saol duine, i gcoinne na saoirse ó dhiobháil choirp agus na saoirse pearsanta:

- dúnbhású, mórdhiobháil choirp,
- ceannaíocht aindleathach in orgáin agus fíocháin dhaonna,
- fuadach, srianadh neamhdhleathach agus gialla a ghabháil,
- ciníochas agus seineafóibe.

Sch.4

I gcoinne maoinne, i gcoinne sealúchas poiblí lena n-áirítear calaois:

- goid eagraithe,
- ceannaíocht aindleathach in earraí cultúrtha, lena n-áirítear seandachtaí agus saothair ealaíne,
- caimiléireacht agus calaois,
- cambheartaíocht agus sracadh,
- góchumadh agus píoráideacht táirgí,
- brionnú doiciméad riarthach agus ceannaíocht iontu,
- brionnú airgid agus modhanna íocaíochta,
- coirpeacht ríomhaire,
- corbadh.

Trádáil neamhdhlíthiúil agus dochar don chomhshaol:

- ceannaíocht aindleathach in airm, muinisean agus pléascaigh,
- ceannaíocht aindleathach i speicis ainmhithe i mbaol,
- ceannaíocht aindleathach i speicis agus cineálacha plandaí i mbaol,
- coirpeacht chomhshaoil,
- ceannaíocht aindleathach i substaintí hormónacha agus fáis-fionscnóirí eile.

Ina theannta sin, i gcomhréir le hAirteagal 2(2), beidh sé le tuiscint, má chuirtear de chúram ar Europol déileáil le haon cheann de na saghsanna coirpeachta atá liostaithe thuas, go mbeidh sé inniúil freisin chun déileáil leis na gníomhaíochtaí gaolmhara sciúrtha airgid agus leis na cionta coiriúla gaolmhara.

Maidir leis na saghsanna coirpeachta atá liostaithe in Airteagal 2(2) de réir bhrí an Choinbhinsiúin seo:

- ciallaíonn ‘coirpeacht a bhaineann le substaintí núicléacha agus radaighníomhacha’ na cionta coiriúla atá liostaithe in Airteagal 7(1) den Choinbhinsiún um Chosaint Fhisiceach Ábhair Núicléach, a síníodh i Vín agus Nua-Eabhrac ar an 3 Márta 1980, agus a bhaineann leis na substaintí núicléacha agus/nó radaighníomhacha atá sainithe in Airteagal 197 de Chonradh CEFA agus i dTreoir 80/836/Euratom an 15 Iúil 1980 faoi seach,
- ciallaíonn ‘smugláil neamhdhlíthiúil imirceach’ gníomhaíochtaí a bheartaítear d’aon toisc chun a éascú, le haghaidh brabúis, do dhaoine iontráil, cónaí nó obair a dhéanamh ar chríocha Bhallstáit an Aontais Eorpaigh atá contrártha do na rialacha agus na coinníollacha is infheidhme sna Ballstáit,



[1997.]

*Europol Act, 1997.*

[No. 38.]

- ciallaíonn ‘ceannaíocht i ndaoine’ duine a chur faoi smacht iar-bhír agus neamhdhleathach daoine eile trí fhoréigean nó bagairtí a úsáid nó trí ghaol údaráis a mhí-úsáid nó trí inflochtai d’fhonn gabháil le dúshaothrú meirdreachais, foirmeacha dúshaothraithe chollaí agus ionsaí ar mhionaoisigh nó tráchtail i ndáil le leanaí a thréigean, Sch.4
- ciallaíonn ‘coirpeacht a bhaineann le gáinneáil mhótarfeithiclí goidte’ mótarfeithiclí, leoraithe, leathleantóirí, ualaí leoraithe nó leathleantóirí, busanna, gluaisrothair, carbháin agus feithiclí talmhaíochta, feithiclí oibre, agus páirteanna spártha d’fheithiclí den sórt sin a ghoid nó a mhídhílsiú, agus réada den sórt sin a ghlacadh agus a cheilt,
- ciallaíonn ‘sciúradh neamhdhlíthiúil airgid’ na cionta coiriúla atá liostaithe in Airteagal 6(1) go (3) de Choinbhinsiún Chomhairle na hEorpa maidir le Sciúradh, Cuardach, Urghabháil agus Coigistiú a dhéanamh ar na Fáltais ó Choirpeacht, a síníodh in Strasbourg ar an 8 Samhain 1990.

Déanfaidh na húdaráis náisiúnta inniúla na saghsanna coirpeachta dá dtagraítear in Airteagal 2 agus san Iarscribhinn seo a mheasúnú i gcomhréir le dlí náisiúnta na mBallstát lena mbaineann siad.

#### FIFTH SCHEDULE

*Section 2.*

The Text in the Irish Language of the 1996 Protocol

#### AN PRÓTACAL

**arna dhreachtú ar bhonn Airteagal K.3 den Chonradh ar an Aontas Eorpach, maidir le léiriú, trí réamhrialú, ar an gCoinbhinsiún maidir le hOifig Eorpach Póilíní a bhunú ag Cúirt Bhreithiúnais na gComhphobal Eorpach**

TÁ NA hARDPHÁIRTITHE CONARTHACHA,

TAR ÉIS COMHAONTÚ ar na forálacha seo a leanas a chuirfear i gceangal leis an gCoinbhinsiún:

#### *Airteagal 1*

Beidh dlínse ag Cúirt Bhreithiúnais na gComhphobal Eorpach, faoi na coinníollacha atá leagtha síos sa Phrótacal seo, chun réamhrialuithe a thabhairt ar léiriú ar an gCoinbhinsiún maidir le hOifig Eorpach Póilíní a bhunú, dá ngairtear ‘Coinbhinsiún Europol’ anseo feasta.

#### *Airteagal 2*

1. Féadfaidh aon Bhallstát, trí dhearbhu a dhéanamh tráth sínithe an Phrótaicail seo nó aon tráth eile ina dhiaidh sin, glacadh le dlínse Chúirt Bhreithiúnais na gComhphobal Eorpach chun réamhrialuithe a thabhairt ar léiriú ar Choinbhinsiún Europol faoi na coinníollacha atá sonraithe i bpointe (a) de mhír 2 nó i bpointe (b) de mhír 2.

Sch.5

2. Féadfaidh Ballstát a dhéanann dearbhú faoi mhír 1 a shonrú:

(a) go bhféadfaidh aon cheann de chúirteanna nó binsí an Bhallstáit sin nach bhfuil leigheas breithiúnach faoin dlí náisiúnta in aghaidh a bhreitheanna a iarraidh ar Chúirt Bhreithiúnais na gComhphobal Eorpach réamhrialú a thabhairt ar cheist a ardaítear i gcás atá ar feitheamh os a chomhair agus a bhaineann le léiriú ar Choinbhinsiún Europol má mheasann sé gur gá breith ar an gceist ionas go bhféadfaidh sé breithiúnas a thabhairt;

nó

(b) go bhféadfaidh aon cheann de chúirteanna nó binsí an Bhallstáit sin a iarraidh ar Chúirt Bhreithiúnais na gComhphobal Eorpach réamhrialú a thabhairt ar cheist a ardaítear i gcás atá ar feitheamh os a chomhair agus a bhaineann le léiriú ar Choinbhinsiún Europol má mheasann sé gur gá breith ar an gceist ionas go bhféadfaidh sé breithiúnas a thabhairt.

### *Airteagal 3*

1. Beidh an Prótacal ar Reacht Chúirt Bhreithiúnais na gComhphobal Eorpach agus Rialacha Nós Imeachta na Cúirte Breithiúnais sin infheidhme.

2. I gcomhréir le Reacht Chúirt Bhreithiúnais na gComhphobal Eorpach, beidh gach Ballstát, bíodh nó ná bíodh dearbhú de bhun Airteagal 2 déanta aige, i dteideal ráitis cháis nó barúlacha i scríbhinn a thíolacadh do Chúirt Bhreithiúnais na gComhphobal Eorpach i gcásanna a thagann chun cinn faoi Airteagal 1.

### *Airteagal 4*

1. Beidh an Prótacal seo faoi réir a ghlactha ag na Ballstáit i gcomhréir lena rialacha bunreachtúla faoi seach.

2. Cuirfidh na Ballstáit in iúl don taiscí go bhfuil na nósanna imeachta is gá faoina rialacha bunreachtúla faoi seach chun an Prótacal seo a ghlacadh comhlíonta acu, agus cuirfidh siad in iúl dó freisin aon dearbhú arna dhéanamh de bhun Airteagal 2.

3. Tiocfaidh an Prótacal seo i bhfeidhm 90 lá tar éis don fhógra dá dtagraítear i mír 2 a bheith tugtha ag an Stát is Ballstát den Aontas Eorpach tráth na Comhairle do ghlacadh an Ghnímh ag dréachtú an Choinbhinsiúin seo is déanaí a dhéanfaidh an beart sin. Ar a shon sin, tiocfaidh sé i bhfeidhm ar a luaithe san am céanna le Coinbhinsiún Europol.

### *Airteagal 5*

1. Beidh aontachas leis an bPrótacal seo ar oscailt d'aon Stát a thagann chun bheith ina Bhallstát den Aontas Eorpach.

2. Taiscfear na hionstraimí aontachais leis an taiscí.

3. Is téacs údarásach téacs an Phrótacail seo i dteanga an Bhallstáit aontaigh, arna bhunú ag Comhairle an Aontais Eorpaigh.

[1997.]

*Europol Act, 1997.*

[No. 38.]

4. Tiocfaidh an Prótacal seo i bhfeidhm maidir le Ballstát aontach Sch.5 90 lá tar éis dó a ionstraim aontachais a thaisceadh nó ar dháta an Phrótacail seo a theacht i bhfeidhm mura mbeidh sé tagtha i bhfeidhm fós tráth na tréimhse 90 lá thuasluaite a dhul in éag.

#### *Airteagal 6*

Aon Stát a thagann chun bheith ina Bhallstát den Aontas Eorpach agus a aontaíonn do Choinbhinsiún Europol i gcomhréir le hAirteagal 46 de, glacfaidh sé le forálacha an Phrótacail seo.

#### *Airteagal 7*

1. Féadfaidh gach Ballstát is Ardpháirtí Conarthach leasuithe ar an bPrótacal seo a mholadh. Cuirfear gach togra do leasú chuig an taiscí agus cuirfidh seisean in iúl don Chomhairle é.

2. Glacfaidh an Chomhairle leasuithe ar an bPrótacal seo agus molfaidh sí iad lena nglacadh ag na Ballstáit i gcomhréir lena rialacha bunreachtúla faoi seach.

3. Tiocfaidh na leasuithe arna nglacadh amhlaidh i bhfeidhm i gcomhréir le hAirteagal 4.

#### *Airteagal 8*

1. Is é Ardrúnaí Chomhairle an Aontais Eorpaigh taiscí an Phrótacail seo.

2. Foilseoidh an taiscí in *Iris Oifigiúil na gComhphobal Eorpach* fógraí, ionstraimí agus cumarsáidí a bhaineann leis an bPrótacal seo.

Dá fhianú sin, chuir na Lánchumhachtaigh thíos-sínithe a lámh leis an bPrótacal seo.

Arna dhéanamh i scríbhinn bhunaidh amháin sa Bhéarla, sa Danmhairgis, san Fhionlainnis, sa Fhraincis, sa Ghaeilge, sa Ghearmáinis, sa Ghréigis, san Iodáilis, san Ollainnis, sa Phortaingéilis, sa Spáinnis agus sa tSualainnis, agus comhúdarás ag gach ceann de na téacsanna sin.

*(Sínithe na Lánchumhachtaigh)*

### SIXTH SCHEDULE

*Section 2.*

The Text in the Irish Language of the 1997 Protocol

### **AN PRÓTACAL**

**arna dhréachtú ar bhonn Airteagal K.3 den Chonradh ar an Aontas Eorpach agus Airteagal 41(3) de Choinbhinsiún Europol, maidir le príbhleáidí agus díolúintí Europol, chomhaltar a orgán agus Leas-Stiúrthóirí agus fhostaithe Europol**

TÁ NA hARDPHÁIRTITHE CONARTHACHA sa Phrótacal seo, Ballstáit an Aontais Eorpaigh

AG TAGAIRT do Ghníomh ón gComhairle an 19 Meitheamh 1997

Sch.6

DE BHRÍ go mbeidh, de bhun Airteagal 41(1) den Choinbhinsiún ar bhonn Airteagal K.3 den Chonradh ar an Aontas Eorpach maidir le hOifig Eorpach Póilíní a bhunú (Coinbhinsiún Europol), ag Europol, comhaltá a orgán agus Leas-Stiúrthóirí agus fostaithe Europol na príbléidí agus na díolúintí is gá chun a gcúraimí a chomhlíonadh i gcomhréir le Prótacal ag leagan síos na rialacha atá le cur i bhfeidhm sna Ballstáit uile,

TAR ÉIS COMHAONTÚ MAR A LEANAS:

*Airteagal 1*

Sainmhínithe

Chun críoch an Phrótacail seo:

- (a) ciallaíonn ‘an Coinbhinsiún’ an Coinbhinsiún ar bhonn Airteagal K.3 den Chonradh ar an Aontas Eorpach maidir le hOifig Eorpach Póilíní a bhunú (Coinbhinsiún Europol);
- (b) ciallaíonn ‘Europol’ an Oifig Eorpach Póilíní;
- (c) ciallaíonn ‘orgáin Europol’ an Bord Bainistíochta dá dtagraítear in Airteagal 28 den Choinbhinsiún, an Rialtóir Airgeadais dá dtagraítear in Airteagal 35(7) den Choinbhinsiún, agus an Coiste Airgeadais dá dtagraítear in Airteagal 35(8) den Choinbhinsiún;
- (d) ciallaíonn ‘an Bord’ an Bord Bainistíochta dá dtagraítear in Airteagal 28 den Choinbhinsiún;
- (e) ciallaíonn ‘an Stiúrthóir’ Stiúrthóir Europol dá dtagraítear in Airteagal 29 den Choinbhinsiún;
- (f) ciallaíonn ‘an fhoireann’ Stiúrthóir, Leas-Stiúrthóirí agus fostaithe Europol dá dtagraítear in Airteagal 30 den Choinbhinsiún amach ón bhfoireann áitiúil dá dtagraítear in Airteagal 3 de na Rialacháin Foirne;
- (g) ciallaíonn ‘cartlann Europol’ gach taifead, comhfhreagras, doiciméad, lámhscríbhinn, sonra ríomhaire agus meán, grianghraf, scannán, taifead amhairc agus fuaimne is le hEuropol nó atá á shealbhú aige nó is le haon bhall dá fhoireann nó atá á shealbhú aige, agus aon ábhar eile dá shamhail atá ina chuid de chartlann Europol i dtuairim d’aon toil an Bhoird agus an Stiúrthóra.

*Airteagal 2*

Díolúine ó phróis dlí agus díolúine ó chuardach, urghabháil, foréil-  
eamh, coigistiú agus aon sórt eile cur isteach

1. Beidh ag Europol díolúine ó phróis dlí i leith an dliteanais maidir le próiseáil neamhúdaráithe nó mhícheart sonraí dá dtagraítear in Airteagal 38(1) den Choinbhinsiún.

2. Beidh maoin, cistí agus sócmhainní Europol, cibé áit ar chríocha na mBallstát agus ag cibé duine a mbeidh siad, díolmhaithe ó chuardach, urghabháil, foréileamh, coigistiú agus aon sórt eile cur isteach.

## Dosháraitheacht na cartlainne

Beidh cartlann Europol, cibé áit ar chríocha na mBallstát agus ag cibé duine a mbeidh sí, dosháraithe.

*Airteagal 4*

## Saoirseacht ó chánacha agus dleachtanna

1. Laistigh de raon feidhme a ghníomhaíochtaí oifigiúla, beidh Europol, a shócmhainní, a ioncam agus a mhaoín eile saortha ó gach cáin dhíreach.

2. Beidh Europol saortha ó chánacha indíreacha agus dleachtanna a bheidh ar áireamh i bpraghas maoine sochorraithe agus dochorraithe agus seirbhísí arna bhfáil le haghaidh a úsáide oifigiúla agus a mbeidh caiteachas suntasach ag roinnt leo. Féadfar an tsaoirseacht a dheonú i bhfoirm aisíocaíochta.

3. Earraí arna gceannach faoin Airteagal seo atá saortha ó cháin bhreisluacha nó dleachtanna máil, ní dhéanfar iad a dhíol, ná a dhiúscairt ar dhóigh eile, ach amháin i gcomhréir leis na coinníollacha arna gcomhaontú leis an mBallstát a dheonaigh an tsaoirseacht.

4. Ní dheonófar saoirseacht ar bith i leith cánacha agus dleachtanna is táillí as seirbhísí sonracha arna soláthar.

*Airteagal 5*

## Sócmhainní airgeadais a bheith saor ó shrianta

Gan é a bheith faoi réir aon rialuithe airgeadais, rialachán, ceanglas fógra i leith idirbheart airgeadais, ná mortchairde d'aon saghas, féadfaidh Europol, faoi shaoirse:

- (a) aon airgead reatha a cheannach trí bhealaí údaraithe, a shealbhú agus a dhiúscairt;
- (b) cuntais a bheith aige in aon airgead reatha.

*Airteagal 6*

## Saoráidí agus díolúintí i leith cumarsáide

1. Ceadóidh Ballstáit d'Europol cumarsáid a dhéanamh faoi shaoirse, gan ghá le cead speisialta, chun gach críoch oifigiúil, agus cosnóidh siad ceart Europol chuige sin. Beidh ag Europol an ceart cóid a úsáid agus comhfhreagras oifigiúil agus cumarsáidí oifigiúla eile a sheachadadh agus a ghlacadh trí theachtairé nó i málaí séalaithe a bheidh faoi réir na bpríbhleáidí agus na ndíolúintí céanna atá ag teachtairí agus málaí taidhleoireachta.

2. A mhéad a bheidh i gcomhréir le Coinbhinsiún Teileachumarsáide Idirnáisiúnta an 6 Samhain 1982, beidh ag Europol, le haghaidh a chumarsáidí oifigiúla, cóir nach lú fabhar ná an chóir a thugann Ballstáit d'aon eagraíocht idirnáisiúnta nó rialtas, lena n-áirítear misin taidhleoireachta na rialtas sin, i dtaca le tosaíochtaí maidir le cumarsáidí tríd an bpost, trí chábla, teileagraf, teiléacs, raidió, teilifís, teileafón, facs, saitlíl, nó aon mheán eile.

*Airteagal 7*

## Iontráil, fanacht agus imeacht

Éascóidh Ballstáit, más gá, iontráil, fanacht agus imeacht na ndaoine atá liostaithe in Airteagal 8 chun críoch gnó oifigiúil. Ní choiscfidh sin an ceanglas fianaise réasúnta a thabhairt chun a shuíomh go dtagann daoine a éilíonn an chóir dá bhforáiltear san Airteagal seo faoi na haicmí atá tuairiscithe in Airteagal 8.

*Airteagal 8*

Pribhléidí agus díolúintí comhaltaí d'orgáin Europol agus comhaltaí d'fhoireann Europol

1. Beidh ag comhaltaí d'orgáin Europol agus comhaltaí d'fhoireann Europol na díolúintí seo a leanas:

(a) gan dochar d'Airteagal 32, agus a mhéad is infheidhme, d'Airteagal 40(3) den Choinbhinsiún, díolúine ó phróis dlí d'aon saghas i leith a bhfocal labhartha nó scríofa agus gníomhartha a rinne siad i bhfeidhmiú a bhfeidhmeanna oifigiúla; leanfaidh an díolúine sin d'ainneoin go bhféadfaidh na daoine sin bheith tar éis scor de bheith ina gcomhaltaí d'orgán de chuid Europol nó ina gcomhaltaí d'fhoireann Europol;

(b) dosháraitheacht a bpáipéar agus a ndoiciméad oifigiúil uile agus a n-ábhar oifigiúil eile.

2. Comhaltaí d'fhoireann Europol a bhfuil a dtuarastail agus a n-éadálacha inchurtha faoi cháin chun tairbhe d'Europol mar atá luaite in Airteagal 10, beidh acu díolúine ó cháin ioncaim i dtaca le tuarastail agus éadálacha arna n-íoc ag Europol. Ar a shon sin, féadfar na tuarastail agus na héadálacha sin a chur san áireamh, agus méid na cánach is iníoctha ar ioncam ó fhoinsí eile á mheas. Ní bheidh an mhír seo infheidhme ar phinsin agus blianachtaí arna n-íoc le hiarchomhaltaí d'fhoireann Europol agus lena gcleithiúnaithe.

3. Beidh forálacha Airteagal 14 den Phrótacal ar phribhléidí agus díolúintí na gComhphobal Eorpach infheidhme ar chomhaltaí d'fhoireann Europol.

*Airteagal 9*

## Saoirseachtaí ó dhíolúintí

Ní chuirfear an díolúine arna deonú do dhuine atá luaite in Airteagal 8 i mbaint le caingean dlí arna tionscnamh ag tríú páirtí i leith damáistí, lena n-áirítear díobháil do dhuine nó bás duine, de dheasca tionóisce bóthair a raibh an duine sin ciontach inti.

*Airteagal 10*

## Cánacha

1. Faoi réir na gcoinníollacha agus i gcomhréir leis na nósanna imeachta arna leagan síos ag Europol agus arna gcomhaontú ag an mBord, beidh comhaltaí d'fhoireann Europol arna bhfostú go ceann íostréimhse bliana inchurtha faoi cháin chun tairbhe d'Europol ar tuarastail agus éadálacha arna n-íoc ag Europol leo.

[1997.]

*Europol Act, 1997.*

[No. 38.]

2. Gach bliain, cuirfear in iúl do na Ballstáit ainmneacha agus Sch.6 seoltaí chomhaltaí fhoireann Europol atá luaite san Airteagal seo, maille le hainmneacha aon phearsanra eile arna chonrú chun obair a dhéanamh ag Europol. Eiseoidh Europol do gach duine díobh deimhniú bliantúil ina luafar mórmhéid agus glanmhéid luach saothair d'aon chineál arna íoc ag Europol don bhliain i gceist, lena n-áirítear mionsonraí agus cineál na n-íocaíochtaí agus aon mhéideanna arna gcoimeád siar ag an bhfoinse.

3. Ní bheidh an tAirteagal seo infheidhme ar phinsin agus bliantaichtaí arna n-íoc le hiarchomhaltaí d'fhoireann Europol agus lena gcleithiúnaithe.

### *Airteagal 11*

#### An pearsanra a chosaint

Arna iarraidh sin don Stiúrthóir, déanfaidh na Ballstáit gach beart réasúnach i gcomhréir lena ndlíthe náisiúnta, chun an tsábháilteacht agus an chosaint is gá a áirithiú do na daoine atá luaite sa Phrótacal seo a bhfuil a slándáil i mbaol de bharr a gcuid seirbhísí d'Europol.

### *Airteagal 12*

#### Díolúintí a tharscaoileadh

1. Is chun leasa Europol a dheonófar na pribhléidí agus na díolúintí faoi fhorálacha an Phrótacail seo agus ní chun leas pearsanta na ndaoine féin. Beidh de dhualgas ar Europol agus ar na daoine go léir a mbeidh na pribhléidí agus na díolúintí sin acu dlíthe agus rialacháin na mBallstát a chomhlíonadh ar gach slí eile.

2. Beidh de cheangal ar an Stiúrthóir díolúine Europol agus aon chomhaltaí d'fhoireann Europol a tharscaoileadh i gcásanna ina mbeadh an díolúine sin ina bac ar chúrsa an cheartais agus inar féidir í a tharscaoileadh gan dochar do leasanna Europol. Beidh oibleagáid dá samhail ar an mBord i leith an Stiúrthóra, an Rialóra Airgeadais agus chomhaltaí an Choiste Airgeadais. Is iad na Ballstáit faoi seach a bheidh inniúil chun na díolúintí a tharscaoileadh i leith chomhaltaí an Bhoird.

3. Nuair a tharscaoiltear díolúine Europol mar atá luaite in Airteagal 2(2), déanfar na cuardaigh agus na hurghabhálacha arna n-ordú ag údaráis bhreithiúnacha na mBallstát i láthair an Stiúrthóra nó toscaire arna cheapadh aige, i gcomhlíonadh na rialacha rúndachta arna leagan síos sa Choibhinsiún nó dá bhua.

4. Comhoibreoidh Europol i gcónaí le húdaráis iomchuí na mBallstát chun riar rianúil an cheartais a éascú agus coiscfidh sé aon mhí-úsáid de na pribhléidí agus de na díolúintí arna ndeonú faoi fhorálacha an Phrótacail seo.

5. Má mheasann údarás nó comhlacht breithiúnach inniúil de chuid Ballstáit go ndearnadh pribhléid nó díolúine arna deonú ag an bPrótacal seo a mhí-úsáid, rachaidh an comhlacht atá freagrach as an díolúine a tharscaoileadh de bhun mhír 2 i gcomhairle, arna iarraidh sin, leis na húdaráis iomchuí chun a shuíomh ar tharla aon mhí-úsáid den sórt sin. Mura dtagann toradh atá sásúil don dá thaobh as na comhairliúcháin sin, déanfar an t-ábhar a réiteach i gcomhréir leis an nós imeachta atá leagtha amach in Airteagal 13.

*Airteagal 13*

## Díospóidí a réiteach

1. Díospóidí maidir le diúltú díolúine de chuid Europol nó duine a mbeidh aige, de bhun a phoist oifigiúil, díolúine mar atá luaithe in Airteagal 8 (1) a tharscaoileadh, déanfaidh an Chomhairle iad a phlé i gcomhréir leis an nós imeachta atá leagtha amach i dTeideal VI den Chonradh ar an Aontas Eorpach d'fhonn teacht ar réiteach.

2. Nuair nach ndéantar na díospóidí sin a réiteach, cinnfidh an Chomhairle d'aon toil na rialacha mionsonraithe faoina ndéanfar iad a réiteach.

*Airteagal 14*

## Forchoimeádais

Ní fhéadfaidh an Prótacal seo a bheith faoi réir forchoimeádas.

*Airteagal 15*

## Teacht i bhfeidhm

1. Beidh an Prótacal seo faoi réir a ghlactha ag na Ballstáit i gcomhréir lena rialacha bunreachtúla faoi seach.

2. Cuirfidh na Ballstáit in iúl don taiscí go bhfuil a rialacha bunreachtúla faoi seach chun an Prótacal seo a ghlacadh comhlíonta acu.

3. Tiocfaidh an Prótacal seo i bhfeidhm ar an gcéad lá den dara mí tar éis don fhógra dá dtagraítear i mír 2 a bheith tugtha ag an mBallstát is ball den Aontas Eorpach ar dháta na Comhairle do ghlacadh an Ghnímh ag dréachtú an Phrótacail seo is déanaí a dhéanfaidh an beart sin.

*Airteagal 16*

## Aontachas

1. Beidh an Prótacal seo ar oscailt d'aontachas aon Stát a thiocfaidh chun bheith ina Bhallstát den Aontas Eorpach.

2. Taiscfear ionstraimí aontachais leis an taiscí.

3. Is téacs údarásach téacs an Phrótacail seo i dteanga an Stáit aontaigh, arna dhréachtú ag Comhairle an Aontais Eorpaigh.

4. Tiocfaidh an Prótacal seo i bhfeidhm i leith aon Stát a aontaíonn dó 90 lá tar éis dháta a ionstraime aontachais a thaisceadh nó ar dháta an Phrótacail seo a theacht i bhfeidhm mura mbeidh sé tagtha i bhfeidhm fós tráth na tréimhse 90 lá thuasluaite a dhul in éag.

*Airteagal 17*

## Meastóireacht

1. Faoi cheann dhá bhliain tar éis don Phrótacal seo teacht i bhfeidhm, déanfar meastóireacht air faoi mhaoirsiú an Bhoird Bhainistíochta.

2. Ní dheonófar díolúine de bhun pointe (a) d'Airteagal 8 (1) ach i leith gníomhartha oifigiúla nach foláir a ghabháil de lámh i gcomhall na bhfeidhmeanna atá leagtha amach in Airteagal 3 den



Choinbhinsiún sa leagan a síníodh ar an 26 Iúil 1995. Roimh gach leasú nó leathnú ar na feidhmeanna in Airteagal 3 den Choinbhinsiún, déanfar athbhreithniú i gcomhréir leis an gcéad mhír, go háirithe i ndáil le pointe (a) d'Airteagal 8 (1) agus le Airteagal 13. Sch.6

### *Airteagal 18*

#### Leasuithe

1. Féadfaidh gach Ballstát is Ardpháirtí Conarthach sa Phrótacal seo leasuithe ar an bPrótacal seo a mholadh. Cuirfear gach togra do leasú chuig an taiscí agus cuirfidh seisean ar aghaidh chuig an gComhairle é.

2. Bunóidh an Chomhairle leasuithe d'aon toil agus molfaidh sí iad lena nglacadh ag na Ballstáit i gcomhréir lena rialacha bunreachtúla faoi seach.

3. Tiocfaidh na leasuithe arna mbunú amhlaidh i bhfeidhm i gcomhréir le forálacha Airteagal 15.

4. Cuirfidh Ardrúnaí Chomhairle an Aontais Eorpaigh dáta theacht i bhfeidhm na leasuithe in iúl do na Ballstáit uile.

### *Airteagal 19*

#### Taiscí

1. Is é Ardrúnaí Chomhairle an Aontais Eorpaigh taiscí an Phrótacail seo.

2. Foilseoidh an taiscí in *Iris Oifigiúil na gComhphobal Eorpach* na fógraí, na hionstraimí agus na cumarsáidí a bhaineann leis an bPrótacal seo.

Dá fhianú sin, chuir na Lánchumhachtaigh thíos-sínithe a lámh leis an bPrótacal seo.

Arna dhéanamh sa Bhruiséil, an naoú lá déag de Mheitheamh sa bhliain míle naoi gcéad nócha a seacht, i scríbhinn bhunaidh amháin sa Bhéarla, sa Danmhairgis, san Fhionlainnis, sa Fhraincis, sa Ghaeilge, sa Ghearmáinis, sa Ghréigis, san Iodáilis, san Ollainnis, sa Phortaingéilis, sa Spáinnis agus sa tSualainnis, agus comhúdarás ag na téacsanna i ngach ceann de na teangacha sin; déanfar an scríbhinn bhunaidh sin a thaisceadh i gcartlann Ardrúnaíocht Chomhairle an Aontais Eorpaigh.

*(Sínithe na Lánchumhachtach)*