(Acts adopted under Title VI of the Treaty on European Union)

COUNCIL ACT

of 28 February 2002

amending the Council Act of 12 March 1999 adopting the rules governing the transmission of personal data by Europol to third States and third bodies

(2002/C 76/01)

(This text cancels and replaces the text published in OJ C 58 of 5 March 2002, p. 12)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Convention on the establishment of a European Police Office (Europol Convention (1), and in particular Article 18(2) thereof,

Having regard to the initiative of the Kingdom of Sweden (2),

Having regard to the opinion of the European Parliament (3),

Having regard to the draft prepared by the Management Board and the consultation of the Joint Supervisory Body referred to in Article 24 of the Europol Convention,

Whereas:

(1) It is for the Council, acting unanimously, to adopt the general rules governing the transmission of data by Europol to third States or third bodies, taking into account the circumstances referred to in Article 18(3) of the Europol Convention.

(2) In the light of the cooperation of Europol with third bodies, the possibility of onward transmission by third bodies of personal data received from Europol will contribute positively to the fight against organised crime.

(3) In order to safeguard the interests of the Member States concerned and the principles of data protection, appropriate provisions need to be laid down determining the conditions under which onward transmission may take place.

(4) The Council Act of 12 March 1999 adopting the rules governing the transmission of personal data by Europol to third States and third bodies (4) should therefore be amended accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

The Council Act of 12 March 1999 is hereby amended as follows:

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(1) OJ C 316, 27.11.1995, p. 2.
(2) OJ C 163, 6.6.2001, p. 13.
(3) Opinion delivered on 13 November 2001 (not yet published in the Official Journal).
(4) OJ C 88, 30.3.1999, p. 1.

1. the first subparagraph of Article 4 shall be replaced by the following:

'The Director shall inform the Management Board and the Joint Supervisory Body without undue delay of any decision to transmit personal data pursuant to Article 2(1)(b) or to allow onward transmission of personal data pursuant to point (b) of the second subparagraph of Article 5(5), and of the reasons for that decision.';

2. the following subparagraphs shall be added to Article 5(5):

'However, onward transmission by a third body with which Europol has concluded an agreement in accordance with Article 3 may take place

(a) with the prior consent of Europol, in cases where the third State or body receiving the data has concluded an agreement with Europol on the transmission of personal data which covers data from onward transmission; or

(b) exceptionally, after authorisation by the Director of Europol taking account the conditions laid down in Article 2(2), if he considers onward transmission of the data by the third body to be absolutely necessary:

— to safeguard the essential interests of the Member States concerned within the scope of Europol's objectives,

— in the interests of preventing imminent danger associated with crime.

No onward transmission of data communicated to Europol by a Member State shall be allowed without the consent of the Member State concerned.

The Director shall state the reasons for transmission via a third body rather than direct transmission.';

3. the following Article shall be inserted:

'*Article 8a*

Evaluation

As from 1 January 2004, these rules shall be evaluated under the supervision of the Management Board, which shall obtain the opinion of the Joint Supervisory Body.'.

Article 2

This Act shall take effect on 1 March 2002.

Article 3

This Act shall be published in the *Official Journal of the European Communities*.

Done at Brussels on 28 February 2002.

For the Council
The President
A. ACEBES PANIAGUA