



Number 37 of 2006

EUROPOL (AMENDMENT) ACT 2006

ARRANGEMENT OF SECTIONS

Section

1. Amendment of section 1 of Europol Act 1997.
 2. Amendment of section 2 of Europol Act 1997.
 3. Amendment of section 6 of Europol Act 1997.
 4. New Schedules in Europol Act 1997.
 5. Short title.
-

[No. 37.] *Europol (Amendment) Act 2006.* [2006.]

ACTS REFERRED TO

Data Protection Act 1988	1988, No. 25
Data Protection Acts 1988 and 2003	
Europol Act 1997	1997, No. 38



Number 37 of 2006

EUROPOL (AMENDMENT) ACT 2006

AN ACT TO GIVE THE FORCE OF LAW TO THE PROTOCOLS OF 30 NOVEMBER 2000, 28 NOVEMBER 2002 AND 27 NOVEMBER 2003 TO THE CONVENTION OF 26 JULY 1995 ON THE ESTABLISHMENT OF A EUROPEAN POLICE OFFICE, TO AMEND FOR THAT PURPOSE THE EUROPOL ACT 1997 AND TO PROVIDE FOR RELATED MATTERS.

[23rd December, 2006]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—Section 1(1) (interpretation) of the Europol Act 1997 is amended— Amendment of section 1 of Europol Act 1997.

(a) by the deletion of “June, 1997.” in the definition of the 1997 Protocol and the substitution of “June, 1997;”, and

(b) by the addition of the following definitions:

“the 2000 Protocol” means the Protocol drawn up on the basis of Article 43(1) of the Europol Convention amending Article 2 of and the Annex to that Convention, done at Brussels on the 30th day of November, 2000;

“the 2002 Protocol” means the Protocol amending the Europol Convention and the 1997 Protocol, done at Brussels on the 28th day of November, 2002;

“the 2003 Protocol” means the Protocol drawn up on the basis of Article 43(1) of the Europol Convention and amending that Convention, done at Brussels on the 27th day of November 2003.”.

2.—Section 2 (Convention and Protocols to have force of law) of the Europol Act 1997 is amended— Amendment of section 2 of Europol Act 1997.

(a) in subsection (1), by the deletion of “Convention, the 1996 Protocol and the 1997 Protocol” and the substitution of “Convention and the 1996, 1997, 2000, 2002 and 2003 Protocols”,

(b) in subsection (2)—

(i) by the deletion of “and Sixth Schedules” and the substitution of “, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh and Twelfth Schedules”,

- (ii) by the deletion of “and” in paragraph (e),
- (iii) by the deletion of “Protocol.” in paragraph “(f)” and the substitution of “Protocol,” and
- (iv) by the addition of the following paragraphs:
 - “(g) the text in the English language of the 2000 Protocol,
 - (h) the text in the English language of the 2002 Protocol,
 - (i) the text in the English language of the 2003 Protocol,
 - (j) the text in the Irish language of the 2000 Protocol,
 - (k) the text in the Irish language of the 2002 Protocol, and
 - (l) the text in the Irish language of the 2003 Protocol.”.

Amendment of section 6 of Europol Act 1997.

3.—Section 6 (application of Data Protection Act 1988) of the Europol Act 1997 is amended by the substitution of the following subsection for subsection (1):

“(1) For the purposes of this Act and the Convention and the 1996, 1997, 2000, 2002 and 2003 Protocols, the Data Protection Acts 1988 and 2003 shall apply and have effect, with any necessary modifications, in relation to the collection, processing, keeping, use or disclosure of certain information relating to individuals that is processed automatically at Europol.”.

New Schedules in Europol Act 1997.

4.—The following Schedules are added to the Europol Act 1997:

“SEVENTH SCHEDULE

THE TEXT IN THE ENGLISH LANGUAGE OF THE 2000 PROTOCOL

PROTOCOL

drawn up on the basis of Article 43(1) of the Convention on the establishment of a European Police Office (Europol Convention) amending Article 2 and the Annex to that Convention

THE HIGH CONTRACTING PARTIES to this Protocol and Contracting Parties to the Convention on the establishment of a European Police Office, Member States of the European Union,

REFERRING to the Act of the Council of the European Union of 30 November 2000,

Whereas:

- (1) There is a need to give Europol more effective tools to fight money laundering in order to reinforce Europol's possibilities to support the Member States in this fight.
- (2) The European Council invited the Council of the European Union to extend the competence of Europol to money laundering in general, regardless of the type of offence from which the laundered proceeds originate,

HAVE AGREED ON THE FOLLOWING PROVISIONS:

Article 1

The Europol Convention is amended as follows.

1. Article 2 is amended as follows:

- (a) in paragraph 2 the first subparagraph shall be replaced by the following:

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

- (b) in paragraph 3 the first subparagraph shall be replaced by the following:

'3. Europol's competence as regards a form of crime or specific manifestations thereof shall cover related criminal offences. It shall, however, not cover offences predicate to illegal money-laundering activities with regard to which forms of crime Europol has no competence pursuant to paragraph 2.'

2. The Annex is amended as follows:

the paragraph beginning with the words 'In addition, in accordance with Article 2(2)' shall be replaced by the following:

'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 criminal offences.'

Article 2

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 Secretary-General of the Council of the European Union of the completion of their constitutional requirements for adopting this Protocol.
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 establishing this Protocol, is the last to fulfil that formality.

Article 3

1. This Protocol shall be open to accession by any State which becomes a member of the European Union if this Protocol has not entered into force on the date of deposit of the instruments of accession to the Europol Convention in accordance with Article 46 of the Europol Convention.
2. Instruments of accession to this Protocol shall be deposited simultaneously with the instruments of accession to the Europol Convention in accordance with Article 46 thereof.
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. If on the expiry of the period referred to in Article 46(4) of the Europol Convention, this Protocol has not entered into force, it will enter into force for the acceding Member State on the date of entry into force of this Protocol in accordance with Article 2(3).
5. If this Protocol enters into force in accordance with Article 2(3) before the period referred to in Article 46(4) of the Europol Convention has expired but after the deposit of the instrument of accession referred to in paragraph 2, the acceding Member State shall accede to the Europol Convention as amended by virtue of this Protocol, in accordance with Article 46 of the Europol Convention.

Article 4

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 information on the progress of adoptions and accessions and also any other notification concerning this Protocol.

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

Done at Brussels, this thirtieth day of November in the year two thousand, 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)

EIGHTH SCHEDULE

THE TEXT IN THE ENGLISH LANGUAGE OF THE 2002 PROTOCOL

PROTOCOL

amending the Convention on the establishment of a European Police Office (Europol Convention) and the Protocol on the

**privileges and immunities of Europol, the members of its organs,
the deputy directors and the employees of Europol**

THE HIGH CONTRACTING PARTIES to this Protocol and High Contracting Parties to the Convention on the establishment of a European Police Office and to the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol, Member States of the European Union,

REFERRING to the Act of the Council of the European Union of 28 November 2002,

WHEREAS:

- (1) Pursuant to Article 30(2)(a) of the Treaty on European Union, the Council is to enable Europol to facilitate and support the preparation, and to encourage the coordination and carrying out, of specific investigative actions by the competent authorities of the Member States, including operational actions of joint teams comprising representatives of Europol in a support capacity.
- (2) Rules need to be laid down governing such participation of Europol in joint investigation teams. These rules should address the role of Europol officials in these teams, the exchange of information between Europol and the joint investigation team, as well as non-contractual liability for damage caused by Europol officials participating in these teams.
- (3) Pursuant to Article 30(2)(b) of the Treaty on European Union, measures need to be adopted allowing Europol to ask the competent authorities of the Member States to conduct and coordinate investigations in specific cases.
- (4) The Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol should be amended to the effect that the immunity of Europol's staff members in respect to words spoken or written, and/or acts performed by them in the exercise of their official functions, does not extend to their activities as participants in the joint investigation teams,

HAVE AGREED ON THE FOLLOWING PROVISIONS:

Article 1

The Europol Convention is hereby amended as follows:

1. The following points shall be added to Article 3(1):
 - '6. to participate in a support capacity in joint investigation teams, according to Article 3a;
 7. to ask the competent authorities of the Member States concerned to conduct or coordinate investigations in specific cases, according to Article 3b.';
2. The following Articles shall be inserted:
 - (a) *Article 3a*

Participation in joint investigation teams

1. Europol officials may participate in a support capacity in joint investigation teams, including those teams set up in accordance with Article 1 of the Framework Decision of 13 June 2002 on joint investigation teams¹ or in accordance with Article 13 of the Convention of 29 May 2000 on mutual assistance in criminal matters between the Member States of the European Union, as far as those teams are investigating criminal offences for which Europol is competent under Article 2. Europol officials may, within the limits provided for by the law of the Member State where the joint investigation team operates and in accordance with the arrangement referred to in paragraph 2, assist in all activities and exchange information with all members of the joint investigation team, in accordance with paragraph 3. However, they shall not take part in the taking of any coercive measures.
2. The administrative implementation of the participation of Europol officials in a joint investigation team shall be laid down in an arrangement between the Director of Europol and the competent authorities of the Member States participating in the joint investigation team, with the involvement of the National Units. The rules governing such arrangements shall be determined by the Management Board of Europol acting by a majority of two-thirds of its members.
3. Europol officials shall carry out their tasks under the leadership of the leader of the team, taking into account the conditions laid down in the arrangement referred to in paragraph 2.
4. In accordance with the arrangement referred to in paragraphs 2 and 3, officials of Europol may liaise directly with the members of the joint investigation team and provide members and seconded members of the joint investigation team, in accordance with the present Convention, with information from any of the components of the computerised system of collected information referred to in Article 6. In case of direct liaison, the National Units of the Member States represented in the team as well as the Member States which provided the information shall at the same time be informed thereof by Europol.
5. Information obtained by a Europol official while part of a joint investigation team may, with the consent and under the responsibility of the Member State which provided the information, be included in any of the components of the computerised system under the conditions laid down in this Convention.
6. During the operations of a joint investigation team referred to in this Article, Europol officials shall,

¹OJ L 162, 20.6.2002, p. 1.

with respect to offences committed against or by them, be subject to national law of the Member State of operation applicable to persons with comparable functions.’;

(b) *Article 3b*

Requests made by Europol to initiate criminal investigations

1. Member States should deal with any request from Europol to initiate, conduct or coordinate investigations in specific cases and should give such requests due consideration. Europol should be informed whether the requested investigation will be initiated.
2. If the competent authorities of the Member State decide not to comply with a request from Europol, they shall inform Europol of their decision and of the reasons for it unless they are unable to give their reasons because:
 - (i) to do so would harm essential national security interests; or
 - (ii) to do so would jeopardise the success of investigations under way or the safety of individuals.
3. Replies to requests by Europol to initiate, conduct or coordinate investigations in specific cases as well as information to Europol about the results of investigations should be forwarded through the competent authorities in the Member States in accordance with the rules laid down in the Europol Convention and the relevant national legislation.
4. On the basis of a cooperation agreement to be signed with Eurojust, Europol shall, when making a request to initiate criminal investigations, inform Eurojust thereof.’;

(c) *Article 39a*

Liability with regard to Europol’s participation in joint investigation teams

1. The Member State in the territory of which damage was caused by officials of Europol operating in

accordance with Article 3a in that Member State during their assistance in operational measures shall make good such damage under the conditions applicable to damage caused by its own officials.

2. Unless otherwise agreed by the Member State concerned, Europol shall reimburse in full any sums it has paid to the victims or persons entitled on their behalf for damage referred to in paragraph 1. Any dispute between that Member State and Europol over the principle or amount of repayment must be referred to the Management Board, which shall settle the matter by a two-thirds majority.’;
3. The following points shall be inserted in Article 28(1):

‘1a. shall, acting by a majority of two thirds of its members, determine the rules governing the administrative implementation of the participation of Europol officials in joint investigation teams (Article 3a(2));’;

‘21a. shall act by a two-third majority in disputes between a Member State and Europol concerning the liability with regard to Europol’s participation in joint investigation teams (Article 39a);’.

Article 2

The following paragraph shall be added to Article 8 of the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol:

- ‘4. In accordance with Article 17(2), the immunity referred to in paragraph 1(a) shall not be granted in respect of official acts required to be undertaken in fulfilment of the tasks set out in Article 3a of the Convention regarding the participation of Europol officials in joint investigation teams.’.

Article 3

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 Secretary-General of the Council of the European Union of the completion of their constitutional requirements for adopting this Protocol.
3. This Protocol shall enter into force ninety 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 establishing this Protocol, is the last to fulfil that formality.

Article 4

1. This Protocol shall be open to accession by any State which becomes a member of the European Union if this Protocol has not entered into force on the date of deposit of the instruments of accession to the Europol Convention in accordance with Article 46 of the Europol Convention.
2. Instruments of accession to this Protocol shall be deposited simultaneously with the instruments of accession to the Europol Convention in accordance with Article 46 thereof.
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. If, on the expiry of the period referred to in Article 46(4) of the Europol Convention, this Protocol has not entered into force, it shall enter into force for the acceding Member State on the date of entry into force of this Protocol in accordance with Article 3(3) thereof.
5. If this Protocol enters into force in accordance with Article 3(3) before the period referred to in Article 46(4) of the Europol Convention has expired but after the deposit of the instrument of accession referred to in paragraph 2, the acceding Member State shall accede to the Europol Convention as amended by virtue of this Protocol, in accordance with Article 46 of the Europol Convention.

Article 5

1. The Secretary-General of the Council of the European Union shall act as depository of this Protocol.
2. The depository shall publish in the *Official Journal of the European Communities* information on the progress of adoptions and accessions and also any other notification concerning this Protocol.

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

Done at Brussels, this twenty-eighth day of November in the year two thousand and two, 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)

NINTH SCHEDULE

THE TEXT IN THE ENGLISH LANGUAGE OF THE 2003 PROTOCOL

PROTOCOL**Drawn up on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention), amending that Convention**

THE HIGH CONTRACTING PARTIES to this Protocol, Contracting Parties to the Convention on the Establishment of a European Police Office (Europol Convention), Member States of the European Union,

REFERRING TO the act of the Council of the European Union of 27 November 2003,

Considering that:

- (1) The Europol Convention needs to be amended in the light of the discussions within the Council.
- (2) Europol needs to be given the necessary support and means to function effectively as the focal point of European police cooperation.
- (3) The required changes need to be made to the Europol Convention so as to strengthen Europol's operational support function with respect to the national police authorities.
- (4) The European Council has stated that Europol has a key role with respect to cooperation between Member States' authorities in the field of cross-border crime investigation in supporting Union-wide crime prevention, analyses and investigation. The European Council has called on the Council to provide Europol with the necessary support,

HAVE AGREED UPON THE FOLLOWING PROVISIONS:

Article 1

The Europol Convention is hereby amended as follows:

1. Article 2 shall be replaced by the following:

*Article 2***Objective**

1. The objective of Europol shall be, within the framework of police cooperation between the Member States pursuant to 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 serious international crime where there are factual indications or reasonable grounds for believing that an organised criminal structure is involved and two or more Member States are affected 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. For the purpose of this Convention the following forms of crime shall be considered as serious international crime: crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property, unlawful drug trafficking, illegal money-laundering activities, trafficking in nuclear and radioactive substances, illegal immigrant smuggling, trade in human beings, motor vehicle crime and the forms of crime listed in the Annex or specific manifestations thereof.

2. On a proposal from the Management Board, the Council shall unanimously lay down the priorities for Europol in respect of the combating and prevention of the forms of serious international crime within its mandate.
3. Europol's competence as regards a form of crime or specific manifestations thereof shall cover related criminal offences. It shall, however, not cover offences predicate to illegal money-laundering activities with regard to which forms of crime Europol has no competence pursuant to paragraph 1.

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 Europol's sphere of competence,
 - criminal offences committed in order to facilitate or carry out acts within Europol's sphere of competence,
 - criminal offences committed to ensure the impunity of acts within Europol's sphere of competence.
4. For the purposes of this Convention, "competent authorities" means all public bodies existing in the Member States, which are responsible under national law for preventing and combating criminal offences.;

2. Article 3 shall be amended as follows:

(a) Paragraph 3 shall be replaced by the following:

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

1. training of members of their competent authorities;
2. organisation and equipment of those authorities through facilitating the provision of technical support between the Member States;
3. crime prevention methods;
4. technical and forensic police methods and investigative procedures.’;

(b) The following paragraph shall be added:

‘4. Without prejudice to the Convention for the Prevention of Counterfeiting Currency, signed at Geneva on 20 April 1929, and the protocol thereto, Europol shall also act as a European Union contact point in its contacts with third States and organisations for the suppression of counterfeit euro currency.’;

3. Article 4 shall be amended as follows:

(a) paragraph 2 shall be replaced by the following:

‘2. The national unit shall be the only liaison body between Europol and the competent national authorities. However, Member States may allow direct contacts between designated competent authorities and Europol subject to conditions determined by the Member State in question, including prior involvement of the national unit.

The national unit shall at the same time receive from Europol any information exchanged in the course of direct contacts between Europol and designated competent authorities. Relationships between the national unit and the competent authorities shall be governed by national law, and, in particular, the relevant national constitutional requirements.’;

(b) in paragraph 5, ‘as set out in Article K.2(2) of the Treaty on European Union,’ shall be replaced by ‘with regard to the maintenance of law and order and the safeguarding of internal security,’;

(c) paragraph 7 shall be replaced by the following:

‘7. The Heads of national units shall meet on a regular basis to assist Europol, at their own motion or on request, by giving advice.’;

4. the following Article shall be inserted:

‘Article 6a

Information processing by Europol

In support of the execution of its tasks, Europol may also process data for the purpose of determining

whether such data are relevant for its tasks, and can be included in the computerised system of collected information referred to in Article 6(1).

The Contracting Parties meeting within the Council, acting with a two-third majority, shall determine conditions related to the processing of such data, in particular with respect to the access and usage of the data, as well as time limits for the storage and deletion of the data that may not exceed six months, having due regard to the principles referred to in Article 14. The Management Board shall prepare the decision of the Contracting Parties and consult the joint supervisory body referred to in Article 24.’;

5. Article 9 shall be amended as follows:

(a) the first sentence of paragraph 1 shall be replaced by the following:

‘1. 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 them therefrom.’;

(b) the following paragraph shall be added:

‘4. In addition to the national units and persons referred to in paragraph 1, competent authorities designated to this effect by the Member States may also query the Europol Information System. However, the result of the query will only indicate whether the requested data is available in the Europol Information System. Further information may then be obtained via the Europol national unit.

Information concerning the designated competent authorities, including subsequent modifications, shall be transmitted to the General Secretariat of the Council, which shall publish the information in the *Official Journal of the European Union*.’;

6. Article 10 shall be amended as follows:

(a) in paragraph 1 the introductory part shall be replaced by the following:

‘1. Where this is necessary to achieve the objective laid down in Article 2(1), Europol may, in addition to data of a non-personal nature, store, modify, and utilise in other files data on criminal offences for which Europol is competent, including data on the related criminal offences provided for in the second subparagraph of Article 2(3) which are intended for specific analyses and which concern:’;

- (b) point 1 of paragraph 2, shall be replaced by the following:

‘1. analysts and other Europol officials designated by the Europol Directorate;’

- (c) the following subparagraph shall be added after point 2 of paragraph 2:

‘Only analysts shall be authorised to enter data into the file concerned and modify such data; all participants may retrieve data from the file;’

- (d) paragraph 5 shall be replaced by the following:

‘5. In so far as Europol is entitled under European Union or international legal instruments to gain computerised 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 point 2 of Article 3(1). The applicable provisions of such European Union or international legal instruments shall govern the use of this data by Europol.’;

- (e) the second sentence of paragraph 8 shall be replaced by the following:

‘Any dissemination or operational use of data communicated shall be decided on by the Member State that communicated the data to Europol. If it cannot be determined which Member State communicated the data to Europol, the decision on dissemination or operational use of data shall be taken by the participants in the analysis. A Member State or an associated expert joining an analysis in progress may not, in particular, disseminate or use the data without the prior agreement of the Member States initially concerned.’;

- (f) the following paragraph shall be added:

‘9. Europol may invite experts of third States or third bodies within the meaning of paragraph 4 to be associated with the activities of an analysis group, where:

1. an agreement is in force between Europol and the third State or third body, which contains appropriate provisions on the exchange of information, including the transmission of personal data, as well as on the confidentiality of exchanged information;
2. the association of the experts of the third State or third body is in the interest of the Member States;
3. the third State or third body is directly concerned by the analysis work; and

4. all participants within the meaning of paragraph 2 agree on the association of the experts of the third State or third body with the activities of the analysis group.

The association of experts of a third State or a third body with the activities of an analysis group shall be subject to an arrangement between Europol and the third State or third body. The rules governing such arrangements shall be determined by the Management Board acting by a majority of two-thirds of its members.

Details of the arrangements between Europol and third States or third bodies shall be sent to the joint supervisory body referred to in Article 24 which may address any comments it deems necessary to the Management Board.;

7. Article 12 shall be replaced by the following:

‘Article 12

Order opening a data file

1. For every computerised data file containing personal data operated by Europol for the purpose of performing its tasks referred to in Article 10, Europol shall specify in an order opening the file:
 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 examining the data and the duration of storage;
 9. the method of establishing the audit log.

2. The Management Board and the joint supervisory body provided for in Article 24 shall immediately be advised by the Director of Europol of the order opening the file and shall receive the dossier.

The joint supervisory body may address any comments it deems necessary to the Management Board. The Director of Europol may request the joint supervisory body to do this within a certain period of time.

3. At any time the Management Board may instruct the Director of Europol to amend an opening order or close the file. The Management Board shall decide on what date any such amendment or closure will have effect.
4. The data file may not be retained for a period of more than three years. Before the three year period has expired, however, Europol shall review the need for the continuation of the file. When it is strictly necessary for the purpose of the file, the Director of Europol may order the continuation of the file for a new period of three years. The procedure to be followed in such cases shall be as specified in paragraphs 1 to 3.;

8. Article 16 shall be replaced by the following:

Article 16

Provisions on control of retrievals

Europol shall establish appropriate control mechanisms to allow the verification of the legality of retrievals from the computerised system of collected information referred to in Articles 6 and 6a.

The data thus collected shall be used only for this purpose by Europol and the supervisory bodies referred to in Articles 23 and 24 and shall be deleted after 6 months unless the data are further required for ongoing control. The details of such control mechanisms shall be decided upon by the Management Board following consultation with the joint supervisory body.;

9. Article 18 shall be amended as follows:

point 3 of paragraph 1 shall be replaced by the following:

3. this is permissible under the general rules within the meaning of paragraph 2; such rules may provide for a deviation from point 2 in exceptional cases where the Director of Europol considers the transmission of the data to be absolutely necessary to safeguard the essential interests of the Member States concerned within the scope of Europol's objectives or in the interests of preventing imminent danger associated with crime. The Director of Europol shall in all circumstances consider the data protection level in

the State or body in question with a view to balancing this data protection level with the interests referred to above.’;

10. Article 21(3) shall be replaced by the following:

‘3. The need for continued storage of personal data relating to individuals as referred to in Article 10(1) shall be reviewed every year and the review documented. Storage of such data in a data file referred to in Article 12 may not exceed the period of existence of the file.’;

11. The following paragraph shall be added to Article 22:

‘4. The principles laid down in this title concerning information processing shall apply to data in paper files.’;

12. In Article 24(6) the words ‘In accordance with the procedure laid down in Title VI of the Treaty on European Union, these shall be forwarded to the Council;’ shall be replaced by the following:

‘Such reports shall be forwarded to the European Parliament and to the Council;’

13. In Article 26(3) the words ‘and of Title VI of the Treaty on European Union’ shall be deleted;

14. Article 28 shall be amended as follows:

(a) point 1 shall be replaced by the following:

‘1. shall take part in the establishment of the priorities for Europol in respect of the combating and prevention of the forms of serious international crime within its mandate (Article 2(2));’

(b) the following points shall be inserted:

‘3a. shall take part in the determination of the conditions related to the processing of data for the purpose of determining whether such data are relevant for its tasks, and can be included in the computerised system of collected information (Article 6a);’

‘4a. shall determine by a majority of two-thirds of its members the rules governing arrangements regarding the association of experts of a third State or a third body with the activities of an analysis group (Article 10(9));’

(c) point 7 shall be replaced by the following:

‘7. may instruct the Director of Europol to amend an opening order or close the file (Article 12(3));’

(d) the following point shall be inserted:

‘14a. shall, acting by a majority of two-thirds of its members, adopt rules for access to Europol documents (Article 32a);’

(e) point 22 shall be replaced by the following:

‘22. shall take part in any amendment of this Convention or the Annex thereto (Article 43);’

(f) paragraph 10 shall be replaced by the following:

‘10. Taking into account the priorities as set out by the Council in accordance with Article 2(2) and the update by the Director of Europol as referred to in point 6 of Article 29(3), 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.

Such reports shall be submitted to the Council to take note and endorse. They shall also be forwarded by the Council to the European Parliament for information.’;

15. In Article 29(3):

— point 6 shall be replaced by the following:

‘6. on a regular basis, updating the Management Board on the implementation of the priorities as referred to in Article 2(2);’

— the following point shall be added:

‘7. all other tasks assigned to him in this Convention or by the Management Board.’;

16. In Article 30(1) ‘Title VI of’ shall be deleted;

17. The following Article shall be inserted:

‘Article 32a

Right of access to Europol documents

On the basis of a proposal by the Director of Europol, the Management Board, acting by a majority of two-thirds of its members, shall adopt rules for access to Europol documents for any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, taking account of the principles and limits stated in the Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents adopted on the basis of Article 255 of the Treaty establishing the European Community.’;

18. Article 34 shall be replaced by the following:

‘Article 34

Informing the European Parliament

1. The Council shall consult the European Parliament in accordance with the consultation procedure laid down in the Treaty on European Union on any initiative of a Member State or proposal of the Commission pertaining to the adoption of any measure referred to in Articles 10(1), 10(4), 18(2), 24(7), 26(3), 30(3), 31(1), 42(2), or should this Convention or the Annex thereto be amended in anyway.
2. The Presidency of the Council or its representative may appear before the European Parliament with a view to discuss general questions relating to Europol. The Presidency of the Council or its representative may be assisted by the Director of Europol. The Presidency of the Council or its representative 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 and to the general principles applicable to relations with the European Parliament pursuant to the Treaty on European Union.’;

19. The following shall be added to Article 35(4):

‘The five-year financing plan shall be sent to the Council. It shall also be forwarded by the Council to the European Parliament for information.’;

20. In Article 39(4) the phrase starting with ‘the Brussels Convention of’ shall be replaced by the following:

‘Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.’;

21. The following paragraph shall be added to Article 42:

3. Europol shall establish and maintain close cooperation with Eurojust, in so far as it is relevant for the performance of the tasks of Europol and for achieving its objectives, taking into account the need to avoid duplication of effort. The essential elements of such cooperation shall be determined by an agreement to be established in accordance with this Convention and its implementing measures.’;

22. Article 43 shall be amended as follows:

- (a) in paragraph 1, ‘of Article K.1(9)’ shall be deleted;

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

‘3. However, the Council, acting unanimously, may decide, after the Management Board has discussed the matter, to amend the Annex to this Convention by adding other forms of serious international crime or modifying the definitions therein.’;

23. The Annex shall be amended as follows:

(a) the title shall be replaced by the following:

‘ANNEX

referred to in Article 2

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

(b) the paragraph beginning with ‘In addition, in accordance with Article 2(2)’ shall be deleted;

(c) in the paragraph beginning with ‘With regard to the forms of crime listed in Article 2(2)’, ‘Article 2(2)’ shall be replaced by ‘Article 2(1)’;

(d) the following indent shall be added after ‘signed at Strasbourg on 8 November 1990.’:

‘— “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.’;

24. In Article 10(1) and (4), Article 18(2), Article 29(1), Article 29(6), Article 30(3), Article 31(1), Article 35(5) and (9), Article 36(3), Article 40(1), Article 41(3), Article 42(2) and Article 43(1), ‘in accordance with the procedure laid down in Title VI of the Treaty on European Union’ shall be deleted.

Article 2

1. This Protocol shall be adopted by the Member States in accordance with their respective constitutional requirements.
2. Member States shall notify the Secretary-General of the Council of the European Union of the completion of the constitutional procedures for the adoption of this Protocol.
3. This Protocol shall enter into force ninety days after the notification referred to in paragraph 2 by the State which was a member of the European Union at the time of adoption by the Council of the Act establishing this Protocol and was the last to complete the notification.

Article 3

If this Protocol enters into force in accordance with Article 2(3) prior to the entry into force of the Protocol drawn up on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention) amending Article 2 and the Annex to that Convention¹, in accordance with Article 2(3) thereof, the latter protocol shall be deemed to have been repealed.

Article 4

1. This Protocol shall be open to accession by any State that becomes a member of the European Union if it has not already entered into force by the date of deposit of the instruments of accession to the Europol Convention pursuant to Article 46 thereof.
2. The instruments of accession to this Protocol shall be deposited at the same time as the instruments of accession to the Europol Convention pursuant to Article 46 thereof.
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. If this Protocol has not already entered into force at the time of expiry of the period referred to in Article 46(4) of the Europol Convention, it shall enter into force with respect to any acceding State on the date on which the Protocol enters into force in accordance with Article 2(3).
5. If this Protocol enters into force pursuant to Article 2(3) prior to expiry of the period referred to in Article 46(4) of the Europol Convention, but after deposit of the instrument of accession referred to in paragraph 2, the acceding Member State shall accede to the Europol Convention as amended by this Protocol, in accordance with Article 46 of the Europol Convention.

Article 5

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 Union* information on adoptions and accessions and any other notification concerning this Protocol.

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

Done at Brussels, this twenty-seventh day of November in the year two thousand and three, 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)

¹OJ C 358, 13.12.2000, p. 2.

TENTH SCHEDULE

THE TEXT IN THE IRISH LANGUAGE OF THE 2000 PROTOCOL

PRÓTACAL

arna tharraingt suas ar bhonn Airteagal 43(1) den Choinbhinsiún maidir le hOifig Eorpach Póilíní (Coinbhinsiún Europol) a bhunú, a leasaíonn Airteagal 2 agus an Iarscríbhinn a ghabhann leis an gCoinbhinsiún sin

TÁ NA hARDPHÁIRTITHE CONARTHACHA sa Phrótacal seo agus na Páirtithe Conarthacha sa Choinbhinsiún maidir le hOifig Eorpach Póilíní a bhunú, Ballstáit den Aontas Eorpach,

AG TAGAIRT do Ghníomh ón gComhairle den Aontas Eorpach an 30 Samhain 2000,

DE BHRÍ:

- (1) Gur gá uirlisí níos éifeachtaí a thabhairt do Europol chun sciúradh airgid a chomhrac d'fhonn caíonna Europol chun tacú leis na Ballstáit sa chomhrac sin a athneartú.
- (2) Gur iarr an Chomhairle Eorpach ar Chomhairle an Aontais Eorpaigh inniúlacht Europol a chur i mbaint le sciúradh airgid i gcoitinne, is cuma cad é saghas an chiona óna n-eascaíonn na fáiltais arna sciúradh,

TAR ÉIS NA FORÁLACHA SEO A LEANAS A CHOMHAONTÚ:

AIRTEAGAL 1

Leasaítear leis seo an Coinbhinsiún Europol mar a leanas:

1) Leasaítear Airteagal 2 mar a leanas:

(a) i mír (2) cuirtear an méid seo a leanas in ionad na chéad fhomhíre:

“2. Chun an cuspóir atá luaite i mír 1 a ghnóthú go comhleanúnach, gníomhóidh Europol i dtosach chun gáinneáil neamhdhleathach drugaí, gníomhaíochtaí neamhdhlíthiúla maidir le sciúradh airgid, gáinneáil substaintí núicléacha agus radaighníomhacha, smugláil neamhdhlíthiúil imirceach, ceannaíocht i ndaoine agus gáinneáil mhótarfheithiclí goidte a chosc agus a chomhrac.”;

(b) i mír (3) cuirtear an méid seo a leanas in ionad na chéad fhomhíre:

“3. Áireofar freisin ar inniúlacht Europol maidir le saghas coirpeachta nó le cineálacha sonracha de shaghas coirpeachta cionta coiriúla atá gaolmhar leo. Ar a shon sin, ní áireofar príomhchionta a bhaineann le gníomhaíochtaí neamhdhlíthiúla maidir le sciúradh airgid nach bhfuil aon inniúlacht ag Europol de bhun mhír 2 i leith na saghsanna coirpeachta sin.”.

2) Leasaítear an Iarscríbhinn mar a leanas:

cuirtear an méid seo a leanas in ionad na míre dar tús na focail “Ina theannta sin, i gcomhréir le hAirteagal 2(2)”:

“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 cionta coiriúla gaolmhara.”.

AIRTEAGAL 2

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 d’Ardrúnaí Chomhairle an Aontais Eorpaigh go bhfuil na rialacha bunreachtúla chun an Prótacal seo a ghlacadh comhlánaithe acu.
3. Tiocfaidh an Prótacal seo i bhfeidhm nócha lá tar éis an fógra dá dtagraítear i mír 2 a bheith tugtha ag an mBallstát, is Ballstát den Aontas Eorpach ar dháta an Chomhairle an gníomh a ghlacadh ag bunú an Phrótacail seo, is déanaí a chomhlánóidh an fhoirmiúlacht sin.

AIRTEAGAL 3

1. Beidh aontachas leis an bPrótacal seo ar oscailt d’aon Stát a thiocfaidh chun bheith ina Bhallstát den Aontas Eorpach i gcás nach bhfuil an Prótacal seo tagtha i bhfeidhm ar dháta ionstraimí an aontachais don Choinbhinsiún Europol a thaisceadh i gcomhréir le hAirteagal 46 den Choinbhinsiún Europol.
2. Taiscfear na hionstraimí aontachais don Phrótacal seo go comhuaineach leis na hionstraimí aontachais don Choinbhinsiún Europol i gcomhréir le hAirteagal 46 de.
3. Is téacs údarásach téacs an Phrótacail seo i dteanga an Bhallstáit aontaigh, arna tharraingt suas ag Comhairle an Aontais Eorpaigh.
4. I gcás nach bhfuil an Prótacal seo tagtha i bhfeidhm ar an tréimhse dá dtagraítear in Airteagal 46(4) den Choinbhinsiún Europol a dhul in éag, tiocfaidh sé i bhfeidhm maidir leis an mBallstát aontach ar dháta an Prótacal seo a theacht i bhfeidhm i gcomhréir le hAirteagal 2(3).
5. Má thagann an Prótacal seo i bhfeidhm i gcomhréir le hAirteagal 2(3) roimh an tréimhse dá dtagraítear in Airteagal 46(4) den Choinbhinsiún Europol a dhul in éag ach i ndiaidh an ionstraim aontachais dá dtagraítear i mír 2 a thaisceadh, aontóidh an Ballstát aontach don Choinbhinsiún Europol mar atá arna leasú de bhua an Phrótacail seo, i gcomhréir le hAirteagal 46 den Choinbhinsiún Europol.

AIRTEAGAL 4

1. Is é Ardrúnaí Chomhairle an Aontais Eorpaigh taiscí an Choinbhinsiúin seo.

2. Foilseoidh an taiscí san Iris Oifigiúil faisnéis maidir leis an Prótacal a ghlacadh agus aontachais leis maille le haon fhógra eile a bhaineann leis.

Dá fhianú sin, chuir na Lánchumhachtaigh thíos-sínte a lámh leis an bPrótacal seo.

Arna dhéanamh sa Bhruiséil, an trio Chadú lá de Shamhain sa bhliain dhá mhíle, 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 in ngach ceann de na teangacha sin; déanfar an scríbhinn bhunaidh sin a thaisceadh i gcartlann Ardrúnaíocht Chomhairle an Aontais Eorpaigh.

(Sínithe na Lánchumhachtach)

ELEVENTH SCHEDULE

THE TEXT IN THE IRISH LANGUAGE OF THE 2002 PROTOCOL

PRÓTACAL

a leasaíonn an Coinbhinsiún maidir le hOifig Eorpach Póilíneachta a bhunú (Coinbhinsiún Europol) agus an Prótacal maidir le pribhléidí agus díolúintí Europol, comhaltaí a orgán, agus Leas-Stiúrthóirí agus fhostaithe Europol

TÁ NA HARDPHÁIRTHE CONARTHACHA sa Phrótacal seo agus na hArdpháirithe Conarthacha sa Choinbhinsiún maidir le hOifig Eorpach Póilíneachta a bhunú agus sa Phrótacal maidir le pribhléidí agus díolúintí Europol, comhaltaí a orgán, agus Leas-Stiúrthóirí agus fhostaithe Europol, Ballstáit den Aontas Eorpach,

AG TAGAIRT don Ghníomh ó Chomhairle an Aontais Eorpaigh an 28 Samhain 2002,

DE BHRÍ:

- (1) De bhun Airteagal 30(2)(a) den Chonradh ar an Aontas Eorpach, tá an Chomhairle chun Europol a chumasú chun ullmhú gníomhaíochtaí sonracha um imscrúdú de chuid na n-údarás inniúil sna Ballstáit a éascú agus tacú leis an ullmhú sin, lena n-áirítear gníomhaíochtaí oibríochtúla de chuid foirne comhpháirteacha, ar a mbeidh ionadaithe Europol i gcáil tacaíochta, agus comhordú agus cur i gcrích na ngníomhaíochtaí sin a chothú.
- (2) Ní mór rialacha a leagan síos a rialaíonn rannpháirteachas Europol i bhfoirne comhpháirteacha um imscrúdú. Ba chóir do na rialacha sin aghaidh a thabhairt ar an ról atá ag feidhmeannaigh Europol sna foirne sin, ar an malartú faisnéise idir Europol agus an fhoireann chomhpháirteach um imscrúdú, chomh maith leis an dliteanas neamhchonarthach i leith damáiste arna dhéanamh ag feidhmeannaigh Europol atá rannpháirteach sna foirne sin.
- (3) De bhun Airteagal 30(2)(b) den Chonradh ar an Aontas Eorpach ní mór bearta a ghlacadh chun gur féidir le Europol a iarraidh ar na húdaráis inniúla sna Ballstáit a

n-imscrúduithe a sheoladh agus a chomhordú i gcásanna sonracha.

- (4) Ba chóir an Prótacal maidir le pribhléidí agus díolúintí Europol, comhaltaí a orgán, agus Leas-Stiúrthóirí agus fhostaithe Europol a leasú ionas nach gcuirtear an díolúine atá ag bail foirne Europol i dtaca le focail ó bhéal nó i scríbhinn, agus/nó gníomhartha arna ndéanamh acu agus iad ag feidhmiú a gcuid feidhmeanna oifigiúla, i mbaint lena gcuid gníomhaíochtaí mar rannpháirtithe sna foirne comhpháirteacha um imscrúdú,

TAR ÉIS COMHAONTÚ AR NA FORÁLACHA SEO A LEANAS:

AIRTEAGAL 1

Tá an Coinbhinsiún Europol leasaithe leis seo mar a leanas:

- 1) Cuirtear na pointí seo a leanas le hAirteagal 3(1):

“(6) bheith rannpháirteach i gcáil tacaíochta i bhfoirne comhpháirteacha um imscrúdú, de réir Airteagal 3a;

(7) iarraidh ar na húdaráis inniúla sna Ballstáit i dtrácht imscrúduithe a sheoladh nó a chomhordú i gcásanna sonracha, de réir Airteagal 3b.”;

- 2) Cuirtear isteach an tAirteagal seo a leanas:

(a) “*Airteagal 3a*

Rannpháirteachas i bhfoirne comhpháirteacha um imscrúdú

1. Féadfaidh feidhmeannaigh Europol bheith rannpháirteach i gcáil tacaíochta i bhfoirne comhpháirteacha um imscrúdú, lena n-áirítear na foirne sin arna gcur ar bun i gcomhréir le hAirteagal 1 de Threoirchinneadh an 13 Meitheamh 2002 maidir le foirne comhpháirteacha um imscrúdú¹ nó i gcomhréir le hAirteagal 13 de Choinbhinsiún an 29 Bealtaine 2000 maidir le cúnamh frithpháirteach in ábhair choiriúla idir na Ballstáit den Aontas Eorpach, a mhéad atá ábhair choiriúla a bhfuil Europol inniúil ina leith faoi Airteagal 2 á n-imscrúdú ag na foirne sin. Féadfaidh feidhmeannaigh Europol, laistigh de na teorainneacha dá bhforáiltear faoin dlí sa Bhallstát ina bhfuil an fhoireann chomhpháirteach um imscrúdú ag oibriú agus i gcomhréir leis an gcomhshocraíocht dá dtagraítear i mír 2, cuidiú i ngach gníomhaíocht agus faisnéis a mhalartú le gach ball den fhoireann chomhpháirteach um imscrúdú, i gcomhréir le mír 3. Ar a shon sin, ní bheidh siad rannpháirteach in aon bhearta comhéigneacha a ghlacadh.
2. Cur chun feidhme riarthach rannpháirteachas fheidhmeannaigh Europol i bhfoireann chomhpháirteach um imscrúdú, leagfar síos é i gcomhshocraíocht idir Stiúrthóir Europol agus na

¹I.O. L 162, 20.6.2002, lch. 1.

húdaráis inniúla sna Ballstáit atá rannpháirteach san fhoireann chomhpháirteach um imscrúdú, mar aon le páirteachas na n-aonad náisiúnta. Bord Bainistíochta Europol, ag gníomhú dó trí thromlach dhá thrian dá chomhaltaí, a chinnfidh na rialacha a rialaíonn na comhshocraíochtaí sin.

3. Cuirfidh feidhmeannaigh Europol a gcúraimí i gcóir faoi cheannaireacht cheannaire na foirne, agus aird á tabhairt acu ar na coinníollacha atá leagtha síos sa tsocraíocht dá dtagraítear i mír 2.
4. I gcomhréir leis an tsocraíocht dá dtagraítear i míreanna 2 agus 3, féadfaidh feidhmeannaigh Europol coinneáil i dteagmháil go díreach leis an bhfoireann chomhpháirteach um imscrúdú agus faisnéis a chur ar fáil ó aon cheann de na comhpháirteanna den chóras ríomhairithe d'fhaisnéis arna bailiú dá dtagraítear in Airteagal 6, do ghnáthbhaill agus do bhaill ar iasacht den fhoireann chomhpháirteach um imscrúdú, i gcomhréir leis an gCoinbhinsiún seo. Má tá teagmháil dhíreach ann, cuirfidh Europol Aonaid Náisiúnta na mBallstát atá ionadaithe ar an bhfoireann chomh maith leis na Ballstáit a chuir an fhaisnéis ar fáil ar an eolas faoi san am céanna.
5. Faisnéis arna fáil ag feidhmeannach Europol agus é ina bhall de fhoireann chomhpháirteach um imscrúdú, féadfar, le toiliú ón mBallstát a chuir an fhaisnéis ar fáil agus faoina fhreagracht, an fhaisnéis sin a áireamh ar aon cheann de na comhpháirteanna den chóras ríomhairithe faoi na coinníollacha atá leagtha síos sa Choinbhinsiún seo.
6. Le linn na n-oibríochtaí de chuid foireann chomhpháirteach um imscrúdú dá dtagraítear san Airteagal seo, beidh feidhmeannaigh Europol, maidir le cionta arna ndéanamh ina gcoinne nó acu, faoi réir an dlí náisiúnta i mBallstát na hoibríochta is infheidhme ar dhaoine le feidhmeanna inchomparáide.”;

(b) “*Airteagal 3b*

Iarrataí ó Europol chun imscrúduithe coiriúla a thionscnamh

1. Ba chóir do na Ballstáit déileáil le haon iarraidh ó Europol chun imscrúduithe a thionscnamh, a sheoladh nó a chomhordú i gcásanna sonracha agus ba chóir aird chuí a thabhairt ar iarrataí den sórt sin. Ba chóir Europol a chur ar an eolas faoi an ndéanfar an t-imscrúdú arna iarraidh a thionscnamh.
2. Má chinneann na húdaráis inniúla sa Bhallstát gan géilleadh don iarraidh ó Europol, cuirfidh siad Europol ar an eolas faoina gcinneadh agus faoi na cúiseanna atá leis ach amháin mura bhfuil siad in ann a gcuid cúiseanna a thabhairt toisc:

- (i) go ndéanfaí dochar do leasanna slándála náisiúnta sár-riachtanacha trína dtabhairt; nó
- (ii) go ndéanfaí rath imscrúduithe atá faoi lán seoil nó sábháilteacht daoine aonair a chur i gcontúirt trína dtabhairt.

3. Freagraí ar iarrataí ó Europol chun imscrúduithe a thionscnamh, a sheoladh nó a chomhordú i gcásanna sonracha agus faisnéis chuig Europol faoi thorthaí na n-imscrúduithe, ba chóir iad a dhíriú trí na húdaráis inniúla sna Ballstáit i gcomhréir leis na rialacha atá leagtha síos i gCoinbhinsiún Europol agus sa reachtaíocht náisiúnta ábhartha.
4. Ar bhonn comhaontú comhair atá le síniú le Eurojust, cuirfidh Europol, agus iarraidh á déanamh aige chun imscrúduithe coiriúla a thionscnamh, Eurojust ar an eolas faoi.”;

(c) “*Airteagal 39a*

Dlíteanas maidir le rannpháirteachas Europol i bhfoirne comhpháirteacha um imscrúdú

1. An Ballstát ar ar a chríoch a rinne feidhmeannaigh Europol an damáiste agus iad ag oibriú i gcomhréir le hAirteagal 3a sa Bhallstát sin le linn dóibh bheith ag cuidiú i mbearta oibríochtúla, déanfaidh sé an damáiste sin a chúiteamh faoi na coinníollacha is infheidhme maidir le damáiste arna dhéanamh ag a chuid feidhmeannach féin.
2. Mura gcomhaontóidh an Ballstát i dtrácht a mhalairt, déanfaidh Europol aon suimeanna atá íoctha aige leis na híospartaigh nó le daoine atá i dteideal thar a gceann i leith an damáiste dá dtagraítear i mír 1 a aisíoc ina n-iomláine. Ní mór aon díospóid idir an Ballstát sin agus Europol maidir le prionsabal nó méid na haisíocaíochta a tharchur chuig an mBord Bainistíochta agus déanfaidh an Bord an cheist a shocrú trí thromlach dhá thrian.”;
- 3) Cuirtear na pointí seo a leanas isteach in Airteagal 28(1):

“(1a) déanfaidh sé, ag gníomhú dó trí thromlach dhá thrian dá chuid ball, na rialacha a chinneadh a rialáíonn cur chun feidhme riarthach rannpháirteachas fheidhmeannaigh Europol i bhfoirne comhpháirteacha um imscrúdú (Airteagal 3a(2));”;

“(21a) gníomhóidh sé trí thromlach dhá thrian i ndíospóidí idir Ballstát agus Europol i dtaca le dlíteanas maidir le rannpháirteachas Europol i bhfoirne comhpháirteacha um imscrúdú (Airteagal 39a);”.

AIRTEAGAL 2

Cuirtear an mhír seo a leanas le hAirteagal 8 den Phrótacal maidir le pribhléidí agus díolúintí Europol, comhaltaí a orgán, agus Leas-Stiúrthóirí agus fhostaithe Europol:

“(4) I gcomhréir le hAirteagal 17(2), ní thabharfar an díolúine dá dtagraítear i mír 1(a) i leith gníomhartha oifigiúla nach mór a dhéanamh chun na cúraimí a chomhall atá leagtha amach in Airteagal 3a den Choinbhinsiún maidir le rannpháirteachas fheidhmeannaigh Europol i bhfoirne comhpháirteacha um imscrúdú.”.

AIRTEAGAL 3

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 d’Ardrúnaí Chomhairle an Aontais Eorpaigh go bhfuil na rialacha bunreachtúla chun an Prótacal seo a ghlacadh comhlánaithe acu.
3. Tiocfaidh an Prótacal seo i bhfeidhm nócha lá tar éis an fógra dá dtagraítear i mír 2 a bheith tugtha ag an mBallstát, ar Ballstát den Aontas Eorpach é ar dháta na Comhairle do ghlacadh an Gníomh ag bunú an Phrótacail seo, arb é an Ballstát deireanach é chun an fhoirmiúlacht sin a chomhlánú.

AIRTEAGAL 4

1. Beidh aontachas leis an bPrótacal seo ar oscailt d’aon Stát a thagann chun bheith ina Bhallstát den Aontas Eorpach más rud é nach bhfuil an Prótacal seo tagtha i bhfeidhm ar dháta na hionstraimí aontachais do Choinbhinsiún Europol i gcomhréir le hAirteagal 46 de Choinbhinsiún Europol a thaisceadh.
2. Taiscfear na hionstraimí aontachais don Phrótacal seo ar aon uain leis na hionstraimí aontachais do Choinbhinsiún Europol i gcomhréir le hAirteagal 46 den Choinbhinsiún sin.
3. Is téacs údarásach téacs an Phrótacail seo i dteanga an Bhallstáit aontaigh, arna tharraingt suas ag Comhairle an Aontais Eorpaigh.
4. Mura mbeidh an Prótacal seo tagtha i bhfeidhm ar an tréimhse dá dtagraítear in Airteagal 46(4) de Choinbhinsiún Europol a dhul in éag, tiocfaidh sé i bhfeidhm don Bhallstát aontach ar dháta an Prótacal seo a theacht i bhfeidhm i gcomhréir le hAirteagal 3(3) de.
5. Ma thagann an Prótacal seo i bhfeidhm i gcomhréir le hAirteagal 3(3) roimh an tréimhse dá dtagraítear in Airteagal 46(4) de Choinbhinsiún Europol a dhul in éag ach tar éis an ionstraim aontachais a thaisceadh dá dtagraítear i mír 2, aontóidh an Ballstát aontach do Choinbhinsiún Europol mar atá arna leasú de bhua an Phrótacail seo, i gcomhréir le hAirteagal 46 de Choinbhinsiún Europol.

AIRTEAGAL 5

1. Is é Ardrúnaí Chomhairle an Aontais Eorpaigh taiscí an Choinbhinsiúin seo.
2. Foilseoidh an taiscí in *Iris Oifigiúil na gComhphobal Eorpach* faisnéis maidir leis an gPrótacal a ghlacadh agus aontachais leis, maidir leis na ráitis agus na forchoimeádais maille le haon fhógra eile a bhaineann leis.

Dá fhianú sin, chuir na Lánchumhachtaigh thíos-sínte a lámh leis an bPrótacal seo.

Arna dhéanamh sa Bhruiséil, an t-ochtú lá is fiche de Shamhain sa bhliain dhá mhíle a dó, 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 in ngach ceann de na teangacha sin; déanfar an scríbhinn bhunaidh sin a thaisceadh i gcartlann Ardrúnaíocht Chomhairle an Aontais Eorpaigh.

(Sínithe na Lánchumhachtach)

TWELFTH SCHEDULE

THE TEXT IN THE IRISH LANGUAGE OF THE 2003 PROTOCOL

PRÓTACAL

arna tharraingt suas ar bhonn Airteagal 43(1) den Choinbhinsiún maidir le hOifig Eorpach Póilíní a bhunú (Coinbhinsiún Europol) a leasaíonn an Coinbhinsiún sin

TÁ NA hARDPHÁIRTITHE CONARTHACHA sa Phrótacal seo, is Páirtithe Conarthacha sa Choinbhinsiún maidir le hOifig Eorpach Póilíneachta a bhunú (Coinbhinsiún Europol), Ballstáit an Aontais Eorpaigh,

AG TAGAIRT do Ghníomh ó Chomhairle an Aontais Eorpaigh an 27 Samhain 2003,

AG FÉACHAINT DON MHÉID SEO A LEANAS:

- (1) Is gá Coinbhinsiún Europol a leasú i bhfianaise na bpléití sa Chomhairle.
- (2) Is gá an tacaíocht agus na modhanna is gá a thabhairt d'Europol chun go bhfeidhmeoidh sé go héifeachtúil mar phointe comhtheagmhála don chomhar Eorpach póilíneachta.
- (3) Ní mór na hathruithe is gá a dhéanamh ar Choinbhinsiún Europol chun feidhm tacaíochta oibríochtúla Europol a neartú i dtaca leis na húdaráis náisiúnta póilíneachta.
- (4) Tá sé dearbhaithe ag an gComhairle Eorpach go bhfuil ról lárnach ag Europol sa chomhar idir údaráis na mBallstáit i réimse an imscrúdaithe ar an gcoirpeacht trasteorann ó thaobh tacaíocht a thabhairt do chosc, d'anailís agus d'imscrúdú ar an gcoirpeacht ar fud an Aontais. Tá iarrtha ag an gComhairle Eorpach ar an gComhairle an tacaíocht is gá a thabhairt d'Europol,

TAR ÉIS COMHAONTÚ AR NA FORÁLACHA SEO A LEANAS:

AIRTEAGAL 1

Leasaítear leis seo Coinbhinsiún Europol mar a leanas:

1) Cuirtear an méid seo a leanas in ionad Airteagal 2:

“*Airteagal 2*

Cuspóir

1. Beidh de chuspóir ag Europol, faoi chuimsiú an chomhair phóilíneachta idir na Ballstáit de bhun an Chonartha 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 an choirpeacht thromchúiseach idirnáisiúnta á cosc agus á comhrac acu nuair atá taispeántaí fíorasacha ann go bhfuil struchtúr coiriúil eagraithe i dtreis agus go bhfuil sé seo 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. Chun críocha an Choinbhinsiúin seo measfar gur choirpeacht thromchúiseach idirnáisiúnta atá sna saghsanna coirpeachta seo a leanas: cionta a dhéantar, nó ar dóigh go ndéanfaí iad, faoi chuimsiú gníomhaíochtaí sceimhlitheoireachta i gcoinne beatha, slándáil phearsanta, saoirse agus maoin daoine, sciúradh neamhdhlíthiúil airgid, gáinneáil neamhdhleathach drugaí agus substaintí núicléacha agus radaighníomhacha, smugláil neamhdhlíthiúil imirceach, ceannaíocht i ndaoine, coirpeacht a bhaineann le gáinneáil mótarfheithiclí goidte agus na saghsanna eile coirpeachta atá liostáilte san Iarscríbhinn nó cineálacha sonracha díobh.
2. Ar thogra ón mBord Bainistíochta, leagfaidh an Chomhairle amach d’aon toil tosaíochtaí Europol maidir leis na saghsanna éagsúla coirpeachta tromchúisí idirnáisiúnta a thagann faoina shainordú a chomhrac agus a chosc.
3. Áireofar ar inniúlacht Europol maidir le saghas coirpeachta nó le cineálacha sonracha de shaghas coirpeachta cionta coiriúla atá gaolmhar leo. Ar a shon sin, ní áireofar príomhchionta a bhaineann le sciúradh neamhdhlíthiúil airgid ar saghsanna coirpeachta iad nach bhfuil aon inniúlacht ag Europol ina leith de bhun mhír 1.

Measfar 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.”

2) Leasaítear Airteagal 3 mar a leanas:

(a) Cuirtear an méid seo a leanas in ionad mhír 3:

“3. Faoi chuimsiú a chuspóra faoi Airteagal 2(1), féadfaidh Europol, ina theannta sin, i gcomhréir lena acmhainní foirne agus buiséadacha agus faoi na teorainneacha arna socrú ag an mBord Bainaistíochta, cuidiú le Ballstáit trí chomhairle agus taighde, go háirithe sna réimsí seo a leanas:

- 1) comhaltaí a n-údarás inniúil a oiliúint;
- 2) na húdaráis sin a eagrú agus a threalamhú trí sholáthar tacaíochta teicniúla idir na Ballstáit a éascú;
- 3) modhanna coiscthe cionta;
- 4) modhanna póilíneartha teicniúla agus fóirínseacha agus modhanna imscrúdaithe.”

(b) Cuirtear isteach an mhír seo a leanas:

“4. Gan dochar don Choinbhinsiún Idirnáisiúnta chun Cosc a chur le Góchumadh Airgeadra, arna shíniú sa Ghinéiv ar an 20 Aibreán 1929 agus don Phrótocal a ghabhann leis, feidhmeoidh Europol freisin mar phointe teagmhála de chuid an Aontais Eorpaigh ina theagmhálacha le tríú Stáit agus tríú heagraíochtaí i dtaca le hairgeadra góchumtha euro a chosc.”

3) Leasaítear Airteagal 4 mar a leanas:

(a) Cuirtear an méid seo a leanas in ionad mhír 2:

“2. Is é an t-aonad náisiúnta an t-aon comhlacht liaison idir Europol agus na húdaráis náisiúnta inniúla. Féadfaidh Ballstáit, áfach, teagmhálacha díreacha idir údaráis inniúla arna n-ainmniú agus Europol a cheadú faoi réir coinníollacha arna gcinneadh ag an mBallstát i dtrácht, lena n-áirítear réamhpháirteachas an aonaid náisiúnta.

Ag an am céanna, gheobhaidh an t-aonad náisiúnta ó Europol aon fhaisnéis arna malartú le linn

teagmhálacha díreacha idir Europol agus na húdaráis inniúla arna n-ainmniú. Beidh caidreamh idir an t-aonad náisiúnta agus na húdaráis inniúla faoi rialú ag an dlí náisiúnta, go háirithe na rialacha bunreachtúla ábhartha.”

(b) I mír 5 cuirtear “maidir leis an ord poiblí a chaomhnú agus an tslándáil inmheánach a choimirciú” in ionad “mar atá siad leagtha síos in Airteagal K. 2(2) den Chonradh ar an Aontas Eorpach”.

(c) Cuirtear an méid seo a leanas in ionad mhír 7:

“7. Tiocfaidh ceannairí na n-aonad náisiúnta le chéile ar bhonn tráthrialta, as a stuaim féin nó arna iarraidh sin, chun cabhrú le hEuropol lena gcomhairle.”

4) Cuirtear isteach an tAirteagal seo a leanas:

“*Airteagal 6a*

Próiseáil faisnéise ag Europol

Mar thacaíocht i bhfeidhmiú a fheidhmeanna, féadfaidh Europol freisin sonraí a phróiseáil d’fhonn a chinneadh an bhfuil na sonraí sin ábhartha i dtaca lena chúraimí agus an féidir iad a áireamh sa chóras ríomhairithe faisnéise bailithe dá dtagraítear in Airteagal 6(1).

Déanfaidh na Páirtithe Conarthacha ag teacht le chéile dóibh i dtionól na Comhairle, ag gníomhú di trí thromlach dhá thrian, na coinníollacha a bhaineann le próiseáil na sonraí sin a chinneadh, go háirithe maidir le rochtain ar na sonraí agus úsáid na sonraí, chomh maith le teorainneacha ama nach féidir dul thar sé mhí do stóráil agus do scríosadh na sonraí, agus aird chuí á tabhairt acu ar na prionsabail dá dtagraítear in Airteagal 14. Ullmhóidh an Bord Bainistíochta an cinneadh ó na Páirtithe Conarthacha agus rachaidh sé i gcomhairle leis an gcomhchomhlacht maoirseachta dá dtagraítear in Airteagal 24.”

5) Leasaítear Airteagal 9 mar a leanas:

(a) Cuirtear an méid seo a leanas in ionad na chéad abairte de mhír 1:

“1. Is iad na haonaid náisiúnta, na hoifigigh liaison, agus an Stiúrthóir, na Leas-Stiúrthóirí nó oifigigh chuí-údaraithe Europol a bheidh i dteideal sonraí a ionchur go díreach sa chóras faisnéise agus iad a aisghabháil as.”

(b) Cuirtear isteach an mhír seo a leanas:

“4. Chomh maith leis na haonaid náisiúnta agus na daoine dá dtagraítear i mír 1, féadfaidh údaráis inniúla atá ceaptha ag na Ballstáit chuige sin Córas Faisnéise Europol a cheistiú. Ní chuirfear in iúl sa fhreagra, áfach, ach amháin an bhfuil na sonraí arna n-iarraidh ar fáil ar Chóras Faisnéise

Europol. Féadfar faisnéis bhreise a fháil ina dhiaidh sin trí aonad náisiúnta Europol.

Déanfar faisnéis a bhaineann leis na húdaráis inniúla arna n-ainmniú, lena n-áirítear modhnuithe iardain, a tharchur chuig Ard-Rúnaíocht na Comhairle agus déanfaidh sí an fhaisnéis a fhoilsiú in *Iris Oifigiúil an Aontais Eorpaigh*.”

6) Leasaítear Airteagal 10 mar a leanas :

(a) I mír 1 cuirtear an méid seo a leanas in ionad na coda tosaigh:

“1. A mhéad is gá 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 lena n-áirítear na sonraí atá bainteach le cionta coiriúla gaolmhara dá bhforáiltear sa dara fómhír d’Airteagal 2(3), le haghaidh anailísí sonracha, agus a bhaineann le:”

(b) Cuirtear an méid seo a leanas in ionad phointe 1 de mhír 2:

“(1) anailísithe agus oifigigh eile Europol arna n-ainmniú ag Stiúrthóireacht Europol;”

(c) Cuirtear isteach an fhomhír seo a leanas i ndiaidh phointe 2 de mhír 2:

“Is iad na hanailísithe amháin a bheidh i dteideal sonraí a ionchur sa chomhad i gceist agus a aisghabháil uaidh; féadfaidh na rannpháirtithe go léir sonraí a aisghabháil ón gcomhad”.

(d) Cuirtear an méid seo a leanas in ionad mhír 5:

“5. A mhéad atá Europol i dteideal faoi ionstraimí de chuid an Aontais Eorpaigh nó faoi ionstraimí idirnáisiúnta dlí, 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. Rialóidh na forálacha is infheidhme de na hionstraimí sin de chuid an Aontais Eorpaigh nó de na hionstraimí idirnáisiúnta dlí sin an úsáid a bhaineann Europol as na sonraí seo.”

(e) Cuirtear an méid seo a leanas in ionad an dara habairt de mhír 8:

“Déanfaidh an Ballstát a pháirtíonn sonraí le hEuropol cinneadh maidir le leathadh nó úsáid oibríochtúil sonraí arna bpáirtíú. Murar féidir an Ballstát a pháirtigh na sonraí le hEuropol a shuíomh, is iad na rannpháirtithe san anailís a dhéanfaidh cinneadh maidir le leathadh nó úsáid oibríochtúil sonraí. Ní fhéadfaidh Ballstát ná

saineolaí comhlachaithe 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.”

(f) Cuirtear isteach an mhír seo a leanas:

“9. Féadfaidh Europol cuireadh a thabhairt do shaineolaithe as tríú Stáit nó as tríú comhlachtaí de réir bhrí mhír 4 chun bheith comhlachaithe i gníomhaíochtaí grúpa anailíse i gcás:

- (1) go bhfuil comhaontú i bhfeidhm idir Europol agus an tríú Stáit nó an tríú comhlacht ina bhfuil forálacha iomchuí maidir le malartú faisnéise, lena n-áirítear tarchur sonraí pearsanta, agus maidir le rúndacht faisnéise arna malartú;
- (2) gur ar leas na mBallstáit comhlachas shaineolaithe an tríú Stáit nó an tríú comhlacht;
- (3) go mbaineann an obair anailíse go díreach leis an tríú Stáit nó leis an tríú comhlacht; agus
- (4) go gcomhaontaíonn na rannpháirtithe uile de réir bhrí mhír 2 maidir le comhlachas shaineolaithe an tríú Stáit nó an tríú comhlacht le gníomhaíochtaí an ghrúpa anailíse.

Beidh an comhlachas de shaineolaithe tríú Stáit nó tríú comhlacht le gníomhaíochtaí grúpa anailíse faoi réir socrúithe idir Europol agus an tríú Stáit nó an tríú comhlacht. Cinnfidh an Bord Bainistíochta, ag gníomhú dó trí thromlach dhá thrian dá chomhaltaí, na rialacha a rialaíonn na socrúithe sin.

Déanfar mionsonraí na socrúithe idir Europol agus tríú Stáit nó tríú comhlachtaí a chur chuig an gcomhchomhlacht maoirseachta dá dtagraítear in Airteagal 24, a fhéadfaidh pé barúlacha a mheasann sé is gá a chur faoi bhráid an Bhord Bainistíochta.”

7) Cuirtear an méid seo a leanas in ionad Airteagal 12:

“*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:

- (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 liostaithe 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 pháirtiú agus cé hiad na faighteoirí;
 - (8) na tréimhsí don scrúdú agus ré na stórála;
 - (9) an modh chun an log iniúchóireachta a bhunú.
2. Cuirfidh Stiúrthóir Europol an Bord Bainistíochta agus an comhchomhlacht maoirseachta dá bhforáiltear in Airteagal 24 ar an eolas láithreach faoin ordú ag oscailt an chomhaid agus gheobhaidh siad an comhad.
- Féadfaidh an comhchomhlacht maoirseachta pé barúlacha a mheasann sé is gá a chur faoi bhráid an Bhord Bainistíochta. Féadfaidh Stiúrthóir Europol a iarraidh ar an gcomhchomhlacht maoirseachta é seo a dhéanamh laistigh de thréimhse áirithe ama.
3. Féadfaidh an Bord Bainistíochta tráth ar bith teagasc a thabhairt do Stiúrthóir Europol an t-ordú oscailte a leasú nó an comhad a dhúnadh. Cinnfidh an Bord Bainistíochta an dáta a mbeidh éifeacht ag aon leasú nó aon dúnadh den sórt sin.
4. Ní fhéadfar an comhad sonraí a choimeád ar feadh tréimhse is faide ná trí bliana. Roimh an tréimhse trí bliana sin a dhul in éag, áfach, déanfaidh Europol athbhreithniú ar an ngá atá le fadú thréimhse an chomhaid. Má tá dianghá leis seo chun críocha an chomhaid, féadfaidh Stiúrthóir Europol a ordú go bhfadaítear tréimhse an chomhaid ar feadh tréimhse nua trí bliana. Saineofar i míreanna 1 go 3 d’Airteagal 12 an nós imeachta atá le leanúint i gcásanna den sórt sin.”

8) Cuirtear an méid seo a leanas in ionad Airteagal 16:

“*Airteagal 16*

Forálacha maidir le haisghabhálacha a rialú

Bunóidh Europol meicníochtaí iomchuí rialaithe chun go mbeifear in ann dlíthiúlacht na n-aisghabhálacha ón gcóras ríomhairithe faisnéise bailithe dá dtagraítear in Airteagail 6 agus 6a a fhíorú.

Ní dhéanfaidh Europol ná na comhlachtaí maoirseachta dá dtagraítear in Airteagail 23 agus 24 na sonraí a bhailítear amhlaidh a úsáid ach chun na críche sin

agus déanfar iad a scriosadh tar éis sé mhí mura bhfuil siad riachtanach fós do sheiceáil reatha. Cinnfidh an Bord Bainistíochta mionsonraí na meicníochtaí rialaithe sin tar éis dul i gcomhairle leis an gcomhchomhlacht maoirseachta.”

9) Leasaítear Airteagal 18 mar a leanas:

Cuirtear an méid seo a leanas in ionad phointe 3 de mhír 1:

“(3) nuair atá an beart sin incheadaithe faoi na rialacha ginearálta de réir bhrí mhír 2; féadfaidh na rialacha sin foráil do chlaonadh ó phointe 2 in gcásanna eisceachtúla ina measann Stiúrthóir Europol go bhfuil sé fíor-riachtanach na sonraí sin a tharchur chun leasanna bunúsacha na mBallstát lena mbaineann a chosaint laistigh de raon feidhme chuspóirí Europol nó ar mhaithe le garchontúirt a bhaineann le coirpeacht a chosc. Breithneoidh Stiúrthóir Europol sna himthosca go léir an leibhéal cosanta sonraí sa Stát nó sa chomhlacht atá i gceist chun an leibhéal cosanta sonraí seo a chomhardú leis na leasanna dá dtagraítear thuas.”

10) Cuirtear an méid seo a leanas in ionad Airteagal 21(3):

“3. Déanfar athbhreithniú gach bliain ar an ngá atá le leanúint de shonraí pearsanta a bhaineann le daoine aonair dá dtagraítear in Airteagal 10(1) a stóráil agus taifeadfar an t-athbhreithniú. Ní fhéadfaidh stóráil sonraí den sórt sin i gcomhad sonraí dá dtagraítear in Airteagal 12 dul thar thréimhse marthana an chomhaid.”

11) Cuirtear an mhír seo a leanas le hAirteagal 22:

“4. Beidh feidhm ag na prionsabail arna leagan síos sa teideal seo a bhaineann le próiseáil faisnéise maidir le sonraí i gcomhaid pháipéir.”

12) In Airteagal 24(6), in ionad “I gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach seolfar iad chuig an gComhairle” cuirtear an méid seo a leanas:

“Seolfar na tuarascálacha sin chuig Parlaimint na hEorpa agus chuig an gComhairle;”

13) In Airteagal 26(3) scriostar “agus Theideal VI den Chonradh ar an Aontas Eorpach”.

14) Leasaítear Airteagal 28 mar a leanas:

(a) Cuirtear an méid seo a leanas in ionad phointe (1):

“(1) beidh sé rannpháirteach i mbunú tosaíochtaí d’Europol maidir leis na saghsanna coirpeachta tromchúisí idirnáisiúnta a thagann faoina shainordú a chomhrac agus a chosc (Airteagal 2(2));”

(b) Cuirtear isteach na pointí seo a leanas:

“(3a) beidh sé rannpháirteach i gcinneadh na gcoinníollacha a bhaineann le sonraí a phróiseáil d’fhonn a chinneadh an bhfuil na sonraí sin ábhartha i dtaca lena chúraimí agus an féidir iad a áireamh sa chóras ríomhairithe faisnéise bailithe (Airteagal 6a);”

“(4a) cinnfidh sé, ag gníomhú dó trí thiomlath dhá thrian dá chomhaltaí, na rialacha a rialaíonn na socrúithe maidir le comhlachas saineolaithe tríú Stát nó tríú comhlachta le gníomhaíochtaí grúpa anailíse (Airteagal 10(9));”

(c) Cuirtear an méid seo a leanas in ionad phointe (7):

“(7) féadfaidh sé teagasc a thabhairt do Stiúrthóir Europol ordú oscailte a leasú nó an comhad a dhúnadh. (Airteagal 12(3));”

(d) Cuirtear isteach an pointe seo a leanas:

“(14a) déanfaidh sé, ag gníomhú dó trí thiomlath dhá thrian dá chomhaltaí, rialacha a ghlacadh maidir le rochtain ar dhoiciméid Europol (Airteagal 32a);”

(e) Cuirtear an méid seo a leanas in ionad phointe (22):

“(22) beidh sé rannpháirteach in aon leasú ar an gCoinbhinsiún seo nó ar an Iarscríbhinn a ghabhann leis (Airteagal 43);”

(f) Cuirtear an méid seo a leanas in ionad mhír 10:

“10. Agus na tosaíochtaí arna leagan amach ag an gComhairle i gcomhréir le hAirteagal 2(2) á gcur san áireamh, mar aon leis an tabhairt suas chun dáta ag Stiúrthóir Europol dá dtagraítear in Airteagal 29(3), déanfaidh an Bord Bainistíochta na nithe seo a leanas a ghlacadh d’aon toil gach bliain:

- 1) tuarascáil ghinearálta ar ghníomhaíochtaí Europol i rith na bliana roimhe sin;
- 2) tuarascáil ar ghníomhaíochtaí Europol sa todhchaí ina gcuirtear riachtanais oibríochtúla na mBallstát agus na hiarmhairtí ar bhuiséad agus líon foirme Europol san áireamh.

Cuirfear na tuarascálacha sin faoi bhráid na Comhairle lena dtabhairt dá haire agus lena bhformhuiniú. Cuirfidh an Chomhairle na tuarascálacha seo chuig Parlaimint na hEorpa freisin mar eolas.”

15) In Airteagal 29(3):

— cuirtear an méid seo a leanas in ionad phointe 6:

“6) an Bord Bainistíochta a thabhairt suas chun dáta, ar bhonn tráthrialta, maidir le cur chun feidhme na dtosaíochtaí dá dtagraítear in Airteagal 2(2);

— cuirtear isteach an pointe seo a leanas:

“7) gach cúram eile a chuirtear air sa Choinbhinsiún seo nó ag an mBord Bainistíochta.”

16) In Airteagal 30(1) cuirtear an focal “don” in ionad na bhfocal “gan dochar do Theideal VI den”.

17) Cuirtear isteach an tAirteagal seo a leanas:

“*Airteagal 32a*

Ceart rochtana ar dhoiciméid Europol

Ar bhonn togra ó Stiúrthóir Europol, déanfaidh an Bord Bainistíochta, ag gníomhú dó trí thromlach dhá thrian dá chomhaltaí, rialacha a ghlacadh maidir le rochtain ar dhoiciméid Europol do gach saoránach den Aontas, agus do gach duine nádúrtha nó dlítheanach a chónaíonn nó a bhfuil a oifig chláraithe aige i mBallstát, ag cur na bprionsabal agus na dteorainneacha san áireamh a luaitear sa Rialachán ó Pharlaimint na hEorpa agus ón gComhairle maidir le rochtain phoiblí ar dhoiciméid de chuid Parlaimint na hEorpa, na Comhairle agus an Choimisiúin, arna ghlacadh ar bhonn Airteagal 255 den Chonradh ag bunú an Chomhphobail Eorpaigh.”

18) Cuirtear an méid seo a leanas in ionad Airteagal 34:

“*Airteagal 34*

Parlaimint na hEorpa a chur ar an eolas

1. Rachaidh an Chomhairle i gcomhairle le Parlaimint na hEorpa i gcomhréir leis an nós imeachta comhairliúcháin arna leagan síos sa Chonradh ar an Aontas Eorpach maidir le haon tionscnamh ó Bhallstát nó togra ón gCoimisiún a bhaineann le glacadh aon bhirt dá dtagraítear in Airteagail 10(1), 10(4), 18(2), 24(7), 26(3), 30(3), 31(1), 42(2), nó tráth aon leasaithe ar an gCoinbhinsiún seo nó ar an Iarscríbhinn a ghabhann leis.
2. Féadfaidh Uachtaránacht na Comhairle nó a hionadaí láithriú os comhair Parlaimint na hEorpa chun plé a dhéanamh ar cheisteanna ginearálta a bhaineann le hEuropol. Féadfaidh Stiúrthóir Europol a bheith de chúnamh ag Uachtaránacht na Comhairle nó ag a hionadaí. I dtaca le Parlaimint na hEorpa, tabharfaidh Uachtaránacht na Comhairle, nó a hionadaí, aird ar na hoibleagáidí discréide agus rúndachta.
3. Beidh na hoibleagáidí dá bhforáiltear san Airteagal seo gan dochar do chearta na bparlaimintí náisiúnta agus do na prionsabail ghinearálta is

infheidhme maidir leis an gcaidreamh le Parlaimint na hEorpa de bhun an Chonartha ar an Aontas Eorpach.”

19) Cuirtear an méid seo a leanas le hAirteagal 35(4):

“Cuirfear an plean maoinithe cúig bliana chuig an gComhairle. Cuirfidh an Chomhairle an plean maoinithe cúig bliana chuig Parlaimint na hEorpa freisin mar eolas.”

20) In Airteagal 39(4) in ionad na habairte dar tús “Choinbhinsiún na Bruiséile” cuirtear an méid seo a leanas:

“Rialachán (CE) Uimh. 44/2001 ón gComhairle an 22 Nollaig 2001 maidir le dlínse agus le haithint agus forghníomhú breithiúnas in ábhair shibhialta agus tráchtála.”

21) Cuirtear an mhír seo a leanas le hAirteagal 42:

“3. Déanfaidh Europol dlúthchomhar a bhunú agus a chothabháil le hEurojust, a mhéad is ábhartha chun feidhmeanna Europol a chomhall agus chun a chuspóirí a ghnóthú, ag cur san áireamh go gcaithfear dúbailt saothair a sheachaint. Déanfar eilimintí fíorriachtanacha an dlúthchomhair sin a chinneadh le comhaontú atá le bunú i gcomhréir leis an gCoinbhinsiún seo agus lena bhearta cur chun feidhme.”

22) Leasaítear Airteagal 43 mar a leanas:

(a) I mír 1, cuirtear “an Chonartha” in ionad “phointe 9 d’Airteagal K.1 den Chonradh”.

(b) Cuirtear an méid seo a leanas in ionad mhír 3:

“3. Ar a shon sin, féadfaidh an Chomhairle, ag gníomhú di d’aon toil, a chinneadh, tar éis don Bhord Bainistíochta an cheist a phlé, leasú a dhéanamh ar an Iarscríbhinn a ghabhann leis an gCoinbhinsiún seo trí shaghsanna eile coirpeachta tromchúisí idirnáisiúnta a chur léi nó trí na sainmhínte atá inti a mhodhnú.”

23) Leasaítear an Iarscríbhinn mar a leanas:

(a) Cuirtear an méid seo a leanas in ionad an teidil:

“IARSCRÍBHINN dá dtagraítear in Airteagal 2

Liosta de shaghsanna eile coirpeachta tromchúisí idirnáisiúnta a bhfuil Europol inniúil chun déileáil leo de bhreis orthu siúd dá bhforáiltear cheana in Airteagal 2(1) agus ag urramú chuspóir Europol mar atá sé sonraithe in Airteagal 2(1):”

(b) Scriostar an mhír dar tosach “Ina theannta sin, i gcomhréir le hAirteagal 2(2)”.

(c) Sa mhír dar tús “Maidir leis na saghsanna coirpeachta atá liostaithe in Airteagal 2(2)”, cuirtear “Airteagal 2(1)” in ionad “Airteagal 2(2)”.

- (d) Cuirtear an fhleasc seo a leanas i ndiaidh na bhfocal “a síníodh in Strasbourg ar an 8 Samhain 1990.”:

“— 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 Sícea-trópacha agus sna forálacha ag leasú an Choinbhinsiúin sin nó ag gabháil a ionaid.”

- 24) In Airteagal 10(1) agus (4), Airteagal 18(2), Airteagal 29(1), Airteagal 29(6), Airteagal 30(3), Airteagal 31(1), Airteagal 35(5) agus (9), Airteagal 36(3), Airteagal 40(1), Airteagal 41(3), Airteagal 42(2) agus Airteagal 43(1), scriostar “i gcomhréir leis an nós imeachta atá leagtha síos i dTeideal VI den Chonradh ar an Aontas Eorpach”.

AIRTEAGAL 2

1. Déanfaidh na Ballstáit an Prótacal seo a ghlacadh i gcomhréir lena rialacha bunreachtúla faoi seach.
2. Cuirfidh na Ballstáit in iúl d’Ardrúnaí Chomhairle an Aontais Eorpaigh go bhfuil na nósanna imeachta chun an Prótacal seo a ghlacadh comhlánaithe acu.
3. Tíocfaidh an Prótacal seo i bhfeidhm nócha lá tar éis don fhógra dá dtagraítear i mír 2 a bheith tugtha ag an Stát sin ar Bhallstát den Aontas Eorpach é ar dháta na Comhairle do ghlacadh an Ghnímh ag bunú an Phrótacaíl seo arb é Stát is déanaí é chun an fógra sin a thabhairt.

AIRTEAGAL 3

Má thagann an Prótacal seo i bhfeidhm i gcomhréir le hAirteagal 2(3) roimh theacht i bhfeidhm don Phrótacal arna tharraingt suas ar bhonn Airteagal 43(1) den Choinbhinsiún maidir le hOifig Eorpach Póilíní a bhunú (Coinbhinsiún Europol), a leasaíonn Airteagal 2 agus an Iarscríbhinn a ghabhann leis an gCoinbhinsiún sin¹, i gcomhréir le hAirteagal 2(3) de, measfar go bhfuil an Prótacal deireanach sin aisghairthe.

AIRTEAGAL 4

1. Beidh aontachas leis an bPrótacal seo ar oscailt d’aon Stát a thagann chun bheith ina Bhallstát den Aontas Eorpach más rud é nach bhfuil sé tagtha i bhfeidhm ar dháta na hionstraimí aontachais do Choinbhinsiún Europol de bhun Airteagal 46 de Choinbhinsiún Europol a thaisceadh.
2. Taiscfear na hionstraimí aontachais don Phrótacal seo go comhuaineach leis na hionstraimí aontachais do Choinbhinsiún Europol de bhun Airteagal 46 den Choinbhinsiún sin.
3. Is téacs údarásach téacs an Phrótacaíl seo i dteanga an Bhallstáit aontaigh, arna tharraingt suas ag Comhairle an Aontais Eorpaigh.
4. Mura mbeidh an Prótacal seo tagtha i bhfeidhm fós ar an tréimhse dá dtagraítear in Airteagal 46(4) de Choinbhinsiún Europol a dhul in éag, tíocfaidh sé i bhfeidhm don Bhallstát

¹IO C 358, 13.12.2000, lch. 2.

aontach ar dháta an Prótacal seo a theacht i bhfeidhm i gcomhréir le hAirteagal 2(3).

5. Má thagann an Prótacal seo i bhfeidhm i gcomhréir le hAirteagal 2(3) roimh an tréimhse dá dtagraítear in Airteagal 46(4) de Choinbhinsiún Europol a dhul in éag ach tar éis an ionstraim aontachais a thaisceadh dá dtagraítear i mír 2, aontóidh an Ballstát aontach do Choinbhinsiún Europol mar atá arna leasú leis an bPrótacal seo, i gcomhréir le hAirteagal 46 de Choinbhinsiún Europol.

AIRTEAGAL 5

1. Is é Ardrúnaí Chomhairle an Aontais Eorpaigh taiscí an Phrótacail seo.
2. Foilseoidh an taiscí in *Iris Oifigiúil an Aontais Eorpaigh* 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 seachtú lá is fiche de Shamhain sa bhliain dhá mhíle is a trí, 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 in ngach ceann de na teangacha sin; déanfar an scríbhinn bhunaidh sin a thaisceadh i gcartlann Ardrúnaíocht Chomhairle an Aontais Eorpaigh.

(Sínithe na Lánchumhachtach)

- 5.—This Act may be cited as the Europol (Amendment) Act 2006. Short title.