



**A MOTION FOR REJECTION OF THE
EUROPEAN PARLIAMENT TO DENOUNCE
THE DENIAL OF DEMOCRACY IN THE
SETTING UP OF THE NEW EUROPEAN
POLICE OFFICE EUROPOL**

Brussels, 2 December 2009

On the eve of the entry into force of the Lisbon Treaty, the Council of the European Union adopted on November 30, 2009, four draft decisions on the setting up of the European Police Office Europol on January 1, 2010¹. This haste has led the European Parliament to vote a motion for rejection of those draft decisions² in order to denounce the denial of democracy. The ordinary legislative co decision procedure established by the Lisbon Treaty should have been the obvious solution since the new Treaty was about to enter into force, but Member States disregarded it and imposed their choice against the MEPs' opinion.

AEDH expresses its deep concern in view of the lack of respect shown by the Council towards the MEPs, towards the citizens of the European Union, towards democracy. A few hours before its implementation, the Member States diverted the rules of a Treaty they have imposed themselves.

Is the Council so worried about the guarantees that the MEPs legitimately required, concerning the activities, the files elaboration and processing, and the monitoring of Europol? Is it respectful towards the democratic process to lodge four draft decisions³ on July, 24th 2009 when the new Parliament was just elected, knowing that the LIBE Committee could only be seized in October, leading to the bypass of the Lisbon Treaty? Nevertheless, the MEPs were not hostile to the creation of the new Europol Office, they only showed concerns and emphasized the draft Council decisions' serious deficiencies in content and rules.

AEDH shares those concerns particularly regarding: the procedures governing the personal database and their contents, the access to work files that is being granted to other European or international bodies and to third countries, the files interconnection and interoperability, the lack in the data protection legal framework as well as of monitoring measures. Moreover, AEDH deplors that individuals have a restricted access to their own personal data. AEDH is surprised that the Commission and the Council have shown so little consideration to the opinion⁴ of the European Personal Data Supervisor.

AEDH can only assess the vagueness maintained regarding the aims of the Office, the definition of persons "suspected of having committed or having taken part in a criminal offence". AEDH can only condemn, even for the purposes of analysis, "the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade-union membership and the processing of data concerning health or sex life"⁵ which "shall not be permitted unless strictly necessary for the purposes of the file concerned", without defining what is strictly necessary.

AEDH has no doubt about the integrity, the professionalism, and the willing of the staff and the director of Europol to work ethically, in the respect of individual liberties and Human rights. But this does not imply to free the new agency from genuine independent controls. We can only be surprised by the little independence the Europol's data protection officer will be granted, as well as by the fact that no procedure has been clearly established in order to appoint the national supervisory bodies and the joint supervisory body. How is it that the European data protection supervisor is not in charge of the control and the evaluation? How is it that the control by the Parliament is restricted to the budget and the hearing of an activity report?

AEDH is outraged by the fact that the most elementary democratic principles are not respected, and that such a negative message is being sent to European citizens. AEDH reminds that according to article 10 of the Treaty establishing the European Community⁶, the institutions are supposed to work together and practice mutual and sincere cooperation. AEDH calls on the Council and the Commission to amend their decision and to establish a genuine democratic debate on the missions of Europol and its monitoring. AEDH calls on the European citizens and their elected representatives to point the Council the right direction.

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The **European Association for the Defense of Human rights (AEDH)** is an umbrella organisation that brings together leagues and associations defending human rights in EU countries. It is an associate member of the International Federation for Human Rights (FIDH). For further information: www.aedh.eu

¹ Council Décision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol), available for consultation at this address:

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/dv/europol_decision2009/europol_decision2009e_n.pdf

² European Parliament legislative resolution on the Draft Council decision adopting the implementing rules for Europol analysis work files, 24 November 2009

³ Those decisions are about:

Implementing rules for Europol analysis work files, available for consultation at this address

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2009-0068+0+DOC+PDF+V0//EN>

List of third States and organisations with which Europol shall conclude agreements, available for consultation at the address

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2009-0069+0+DOC+PDF+V0//EN>

Implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2009-0064+0+DOC+PDF+V0//EN>

Rules on the confidentiality of Europol information, available for consultation at this address

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2009-0065+0+DOC+PDF+V0//EN>

⁴ Opinion of the European Data Protection Supervisor on the proposal for a Council Decision establishing the European Police Office (Europol), 16 February 2007 – COM(2006) 817 final available for consultation at this address :

http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2007/07-02-16_Europol_EN.pdf

⁵ Article 14 § 1e, Council Decision of 6 April 2009 establishing the European Police Office (Europol)

⁶ Article 10 TEC: “Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks.”

New reference: article 13 of the Treaty on European Union (consolidated version) “The institutions shall practice mutual sincere cooperation.”