



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 28 February 2012

6752/12

ENFOPOL 40

"I/A" ITEM NOTE

From: General Secretariat
To: COREPER/Council
Subject: Draft Council Act extending the term of office of the Director of Europol

1. Article 56(1) of the Council Decision establishing the European Police Office (Europol)¹ reads as follows:

"The Director and Deputy Directors appointed on the basis of Article 29 of the Europol Convention shall, for the remaining periods of their terms of office, be the Director and Deputy Directors within the meaning of Article 38 of this Decision. (...)."

¹ OJ L 121, 15.5.2009, p. 37.

2. Mr Wainwright was appointed on the basis of Article 29 of the Europol Convention for a four-year period from 16 April 2009 to 15 April 2013. He can therefore be considered as the Director within the meaning of Article 38 of the aforementioned Council Decision, which reads as follows:

1. *Europol shall be headed by a Director appointed by the Council, acting by qualified majority, from a list of at least three candidates presented by the Management Board, for a four-year period. The Council, acting on a proposal from the Management Board, which shall have evaluated the Director's performance, may extend the term of office of the Director once for not more than four years.*

(...)

3. *The Management Board shall establish rules concerning the selection of candidates for the position of Director or Deputy Director, including the extension of their terms of office. Such rules shall be approved by the Council, acting by qualified majority, before their entry into force.*

3. The rules on the selection, extension of the term of office and dismissal of the Director and Deputy Directors of Europol are set out in a decision of the Management Board of 4 June 2009, which was approved by Council on 30 November 2009². Article 12 of this Decision describes the procedure for the extension of the term of office and its paragraph 1 reads as follows:

"Where the terms of office of the Director or a Deputy Director appointed under Article 38 of the Europol Decision can be extended in accordance with Articles 38(1) or 38(2) of the Europol Decision, the Management Board may decide to derogate from the procedure established in Chapter 2. In such cases the Management Board shall draw up, at the latest twelve months before the term of office ends, an opinion advising the Council to extend the term of office. The opinion of the Management Board shall notably take into account the results achieved by the Director or Deputy Director concerned during the first term, the annual performance appraisal reports drawn up in accordance with Article 15(2) of the Conditions of employment and the mission and needs of Europol in the coming years."

² OJ L 348, 29.12.2009, p. 3.

4. The Chairperson of the Management Board of Europol sent the opinion of the Management Board set out in annex 2 to the Council by a letter dated 1 February 2012.

 5. Considering the opinion of the Management Board of Europol to extend the term of office of Mr Wainwright, COREPER is requested to invite the Council to adopt the draft Council Act extending the term of office of Mr Wainwright as set out in annex 1, and to order its publication in the Official Journal of the European Union.
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DRAFT COUNCIL ACT
of 2012

extending the term of office of the Director of Europol

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Articles 56(1) and 38 of the Council Decision establishing the European Police Office (Europol)¹,

Having regard to the Decision of the Management Board of Europol of 4 June 2009 establishing the rules on the selection, extension of the term of office and dismissal of the Director and Deputy Directors of Europol², and in particular Article 12(1) thereof,

Acting as the authority vested with the power to appoint the Director and Deputy Directors of Europol,

Having regard to the opinion of the Management Board of Europol,

Bearing in mind that the grading of the Director of Europol is subject to the approval of the Europol's multi-annual Staff Policy Plan 2013 - 2015 by the budgetary authority,

WHEREAS:

- (1) The term of office of the Director of Europol appointed by Council Act of 6 April 2009³ is due to expire on 15 April 2013.

¹ OJ L 121, 15.5.2009, p. 37.

² OJ L 348, 29.12.2009, p. 3.

³ OJ C 111, 15.5.2009, p. 4.

- (2) The Director of Europol is appointed for a four-year period which may be extended once for not more than four years in accordance with Article 38(1) of the Council Decision establishing the European Police Office (Europol).
- (3) The Management Board of Europol presented the Council with an opinion proposing that the term of office of the Director of Europol Mr Robert WAINWRIGHT be extended for a four-year term.
- (4) On the basis of the opinion provided by the Management Board of Europol, the Council wishes to extend the term of office of Mr Robert WAINWRIGHT as the Director of Europol.

HAS DECIDED AS FOLLOWS:

Article 1

The term of office of Mr Robert WAINWRIGHT is hereby extended from 16 April 2013 to 15 April 2017.

Subject to the approval of the Europol's multi-annual Staff Policy Plan 2013 - 2015 by the budgetary authority, Mr Robert WAINWRIGHT is appointed at grade AD 15, step 2 as from 16 April 2013.

Article 2

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

Done at,

For the Council
The President



The Hague, 1 February 2012

MBS 012.2012

MANAGEMENT BOARD OF EUROPOL

Opinion on the extension of the term of office of the Director

THE MANAGEMENT BOARD,

Having regard to:

- (1) The Council Act of 6 April 2009 appointing the Director of Europol;¹
- (2) The Council Decision of 6 April 2009 establishing the European Police Office² (Europol) (hereinafter, “the Europol Decision”), and in particular Articles 38 and 56 thereof;
- (3) The Management Board (MB) Decision of 4 June 2009 establishing the rules on the selection, extension of the term of office and dismissal of the Director and Deputy Directors of Europol³ (hereinafter, “the MB Decision”), and in particular Article 12 thereof.

Whereas:

- (4) Mr Robert Wainwright was appointed by the Council as the Director of Europol from 16 April 2009 to 15 April 2013;
- (5) Article 38(1) of the Europol Decision provides that “The Council, acting on a proposal from the MB, which shall have evaluated the Director’s performance, may extend the term of office of the Director once for not more than four years”;

¹ OJ C 11, 15.05.2009, p. 4.

² OJ L 121, 15.05.2009, p. 37.

³ OJ L 348, 29.12.2009, p. 3.

- (6) Article 56(1) of the Europol Decision provides that “The Director and Deputy Directors appointed on the basis of Article 29 of the Convention shall, for the remaining periods of their terms of office, be the Director and Deputy Directors within the meaning of Article 38 of this Decision”;
- (7) Article 12 (1) of the MB Decision prescribes that “Where the terms of office of the Director or a Deputy Director appointed under Article 38 of the Europol Decision can be extended in accordance with Articles 38(1) or 38(2) of the Europol Decision, the MB may decide to derogate from the procedure established in Chapter 2. In such cases the MB shall draw up, at the latest twelve months before the term of office ends, an opinion advising the Council to extend the term of office”;
- (8) Mr Wainwright expressed his interest to serve a second term of four years as Director of Europol.

Having considered:

- (1) The results achieved during the first three years of Mr Wainwright’s initial term of office, among which the successful:
 - a. Transition from the Europol Convention to the Europol Decision, which included the elaboration and implementation of over seventy legal instruments (i.e. Council acts implementing the Europol Decision; MB decisions giving effect to the EU Staff Regulations; Director’s decisions of an internal, administrative nature);
 - b. Elaboration and implementation of a new strategy 2010-2014 focused on the development of Europol’s key capabilities regarding operational support, information exchange and law enforcement expertise;
 - c. Implementation of a new organisational identity and internal reform that streamlined Europol’s functioning and increased the level and quality of the operational services delivered to the Member States;
 - d. Move to a new headquarters.

- (2) The positive assessment of Mr Wainwright's performance, as confirmed by:
- a. The adoption by the MB and the endorsement by the Council of the general reports on Europol's activities for the years 2009 and 2010;
 - b. The discharge granted by the European Parliament in respect of the implementation of the budget 2009;
 - c. The constructive dialogue maintained with the MB as well as with other stakeholders including Member States, EU bodies, non-EU countries and international organisations;
 - d. His distinctive promotion of a Europol culture based on the values of integrity, accountability, initiative, teamwork and effectiveness;
 - e. The overall positive annual reports issued by the Joint Supervisory Body in respect of Europol's standards of data protection.
- (3) The mission and needs of Europol in the coming years, particularly:
- a. The need to ensure budgetary effectiveness and efficiency in a context of tight expenditure and reduction of human resources, which calls for a consistent, experienced leadership capable of addressing possible new tasks through good governance and redeployment of resources;
 - b. The continued implementation of the 2010-2014 strategy and the preparation of a new one reaching out to challenging objectives that are more responsive to Member States' needs;
 - c. The preparation and implementation of a future Europol Regulation, which calls for a leadership with a robust knowledge of Europol's structure, operation, field of action and tasks, who can contribute decisively to providing Europol with a legal framework that reflects the evolving crime threats and allows it to develop innovative responses.

HAS ADOPTED THIS OPINION:

The Management Board advises the Council to extend the term of office of Mr Wainwright as Director of Europol for a four-year term upon the expiry of the current appointment.

The Hague, 1 February 2012.

For the Management Board



Rafal Lysakowski

Chairperson