

**COUNCIL DECISION 2003/170/JHA**

**of 27 February 2003**

**on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 30(1)(a), (b) and (c), Article 30(2)(c) and Article 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Denmark <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Whereas:

- (1) At its meeting of 3 December 1998 the Council of Justice and Home Affairs Ministers adopted the Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice <sup>(3)</sup>, measure 48 of which states that, within five years of the Treaty's entering into force, action should be taken to promote cooperation and joint initiatives in training, the exchange of liaison officers, secondment, the use of equipment and forensic research.
- (2) At its meeting in Vienna on 11 and 12 December 1998 the European Council endorsed, in its conclusion 83, the Council and Commission Action Plan on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice, and in its conclusion 89 it called for a strengthening of action against organised crime in the light of the new possibilities opened up by the Treaty.
- (3) At its meeting in Tampere on 15 and 16 October 1999 the European Council invited the Council and the Commission, in close cooperation with the European Parliament, to promote the full and immediate implementation of the Treaty of Amsterdam, on the basis of the Action Plan adopted on 3 December 1998 by the Council of Home Affairs Ministers and endorsed at the meeting of the European Council in Vienna on 11 and 12 December 1998 and of the political guidelines and concrete objectives involving a deepening of police cooperation for the purpose of combating cross-border crime which were agreed in Tampere.
- (4) At its meeting in Helsinki on 10 and 11 December 1999, the European Council urged the European Union to intensify its efforts at the international level by stepping up cooperation with third countries in reducing the demand for and supply of drugs, and on justice and home affairs. The European Council also noted that there would be a need for combined efforts by all the relevant authorities, with a particular role for Europol.
- (5) At its meeting in Laeken on 14 and 15 December 2001 the European Council confirmed, in its conclusion 37, the guidelines and objectives defined at Tampere and also noted that there was a need for new impetus and guidelines to make good delays in some areas.
- (6) On 14 October 1996 the Council adopted Joint Action 96/602/JHA providing for a common framework for the initiatives of the Member States concerning liaison officers <sup>(4)</sup>.
- (7) In the light of experience in applying the Joint Action and in the light of the provisions of the Treaty of Amsterdam on combating cross-border crime, cooperation amongst Member States on the tasks assigned to, and the posting of liaison officers to third countries and international organisations needs to be strengthened and developed.
- (8) Insofar as is relevant for performing the tasks defined in the Europol Convention <sup>(5)</sup>, Europol will establish and maintain cooperative relations with third countries and international organisations.
- (9) Europol has established and will continue to establish and maintain cooperative relations with a wide range of third countries and international organisations.
- (10) Europol needs to be given the necessary support and means to function effectively as the focal point of European police cooperation. The European Council has stressed that Europol plays a central role in cooperation between the authorities of the Member States in investigating cross-border crime by supporting the prevention, analysis and investigation of crime at Union level.

<sup>(1)</sup> OJ C 176, 24.7.2002, p. 8.

<sup>(2)</sup> Opinion of the European Parliament of 20 November 2002 (not yet published in the Official Journal).

<sup>(3)</sup> OJ C 19, 23.1.1999, p. 1.

<sup>(4)</sup> OJ L 268, 19.10.1996, p. 2.

<sup>(5)</sup> OJ C 316, 27.11.1995, p. 2.

- (11) Europol needs to be given the opportunity to make use to some extent of Member States' liaison officers in third countries, so as to strengthen Europol's operative support function in relation to national police authorities.
- (12) Member States recognise that extensive cooperation is already taking place between liaison officers posted by Member States in view of their national needs to third countries and international organisations. However, there is a need to strengthen some aspects of cooperation between those liaison officers, to make the best possible use of Member States' resources.
- (13) Cooperation between Member States in this area needs to be strengthened so as to facilitate the exchange of information with a view to combating serious cross-border crime.
- (14) Member States attach particular weight to cooperation in combating cross-border crime, as they believe that strengthening cooperation regarding the exchange of information will enhance the national authorities' capabilities to combat crime effectively. Member States believe that Europol should play a central role in this.
- (15) The aim of this Decision is to regulate questions relating to the fight against serious cross-border crime.
- (16) The provisions in the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders <sup>(1)</sup> (hereinafter 'Convention implementing the Schengen Agreement') which relates to the common use of liaison officers should be developed further, with a view to strengthening cooperation between Member States in the fight against cross-border crime.
- (17) As regards Iceland and Norway, this Decision constitutes, with the exception of Article 8, a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* <sup>(2)</sup>, which fall within the area referred to in Article 1(H) of Council Decision 1999/437/EC <sup>(3)</sup> on certain arrangements for the application of that Agreement.
- (18) The United Kingdom is taking part in this Decision in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* <sup>(4)</sup>.
- (19) Ireland is taking part in this Decision in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 6(2) of Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* <sup>(5)</sup>.
- (20) Council Joint Action 96/602/JHA and the provision of Article 47(4) of the Convention implementing the Schengen Agreement should accordingly be repealed,

HAS DECIDED AS FOLLOWS:

#### Article 1

#### Definition

1. In this Decision, 'liaison officer' means a representative of one of the Member States, posted abroad by a law enforcement agency to one or more third countries or to international organisations to establish and maintain contacts with the authorities in those countries or organisations with a view to contributing to preventing or investigating criminal offences.
2. This Decision is without prejudice to Member States' liaison officers' tasks within the framework of their responsibilities and in compliance with national law, national needs, and any more favourable agreements concluded with the host State or the international organisation.

#### Article 2

#### Tasks of liaison officers

1. Each Member State shall ensure that its liaison officers establish and maintain direct contacts with competent authorities in the host State or the international organisation, with a view to facilitating and expediting the collection and exchange of information.

<sup>(1)</sup> OJ L 239, 22.9.2000, p. 19.

<sup>(2)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(3)</sup> OJ L 176, 10.7.1999, p. 31.

<sup>(4)</sup> OJ L 131, 1.6.2000, p. 43.

<sup>(5)</sup> OJ L 64, 7.3.2002, p. 20.

2. Each Member State's liaison officer shall also contribute to the collection and exchange of information which may be used to combat serious cross-border crime, including information providing a readier knowledge of the legal systems and operational methods available in the States or international organisations concerned.

3. Liaison officers shall carry out their tasks within the framework of their responsibilities and in compliance with the provisions, including those on the protection of personal data, laid down in their national laws and in any agreements concluded with host States or international organisations.

#### Article 3

### Notification of the posting of liaison officers

1. Member States shall inform one another of their intentions as regards the secondment of liaison officers to third States and international organisations and the General Secretariat of the Council of the European Union (the General Secretariat) each year of the posting of liaison officers, including their duties and any cooperative agreements between the Member States on the posting of liaison officers.

2. The General Secretariat shall draw up an annual summary to be sent to Member States and to Europol concerning Member States' postings of liaison officers, including their duties and any cooperative agreements between the Member States on the posting of liaison officers.

#### Article 4

### Liaison officer networks in third countries

1. Member States shall ensure that Member States' liaison officers posted to the same third country or international organisation meet regularly or when necessary to exchange relevant information. The Member State holding the Presidency of the Council of the European Union shall ensure that its liaison officers take the initiative to hold such meetings. If the Member State holding the Presidency is not represented in the third country or international organisation concerned, then the representative of the incoming or next incoming Presidency shall take the initiative to hold the meeting. The Commission and Europol shall, where appropriate, be invited to such meetings.

2. Member States shall ensure that its liaison officers posted to the same third country or international organisation provide one another with assistance in contacts with the authorities of the host State. Where relevant, Member States may agree that their liaison officers shall share tasks among themselves.

3. Member States may bilaterally or multilaterally agree that liaison officers who are posted to a third country or international organisation by a Member State shall also look after the interests of one or more other Member States.

#### Article 5

### Cooperation between Member States regarding the exchange of information via liaison officers in third countries

1. Member States shall ensure that their liaison officers in third countries and international organisations shall, in accordance with national law and relevant international instruments and subject to compliance with applicable provisions governing the protection of personal data, provide its respective national authorities with information relating to serious criminal threats to other Member States not represented by their own liaison officers in the third country or international organisation concerned. National authorities shall assess, in accordance with national law and according to the seriousness of the threat, whether the Member States concerned should be informed.

2. Member States' liaison officers in third countries or international organisations may, in accordance with national law and relevant international instruments and subject to compliance with applicable provisions governing the protection of personal data, provide information relating to serious criminal threats to other Member States directly to the liaison officers of the Member State in question, if that Member State is represented in the third country or international organisation concerned.

3. In accordance with national law and relevant international instruments, Member States which do not have liaison officers in a third country or international organisation may make a request to another Member State which does have liaison officers in the third country or international organisation concerned, with a view to the exchange of relevant information.

4. Member States shall deal with any request as described in paragraph 3 in accordance with their respective national law and relevant international instruments, and shall state as speedily as possible whether such a request may be met.

5. Member States may consent to information being exchanged directly between liaison officers in third countries and international organisations and the authorities of other Member States, subject to compliance with applicable provisions governing the protection of personal data.

6. The performance of the tasks described in paragraph 1 and 2 must not hinder liaison officers in the performance of their original duties.

*Article 6***Joint seminars for liaison officers**

1. To enhance cooperation between liaison officers in one or more third countries and international organisations, where there are specific needs for knowledge of and intervention in the third countries and international organisations concerned, Member States may hold joint seminars on crime trends and on the most effective methods of combating cross-border crime taking due account of the EU *acquis*. The Commission and Europol shall be invited to such seminars.
2. Participation in the seminars described in paragraph 1 must not hinder liaison officers in the performance of their original duties.

*Article 7***Competent national authorities**

1. Member States shall designate contact points within their competent authorities to facilitate the tasks referred to in this Decision and ensure that the national contact points are able to carry out their duties efficiently and speedily.
2. Member States shall inform the General Secretariat in writing of its contact points within their competent authorities and of any subsequent changes pursuant to this Decision. The General Secretariat shall publish the information in the *Official Journal of the European Union*.
3. This Decision applies without prejudice to existing national provisions, particularly as regards the division of competence between the various authorities and services in the Member States concerned.

*Article 8***Europol**

1. Member States shall facilitate, in accordance with national law and the Europol Convention, the processing of requests made by Europol to obtain information from Member States' liaison officers in third countries or international organisations where Europol is not represented. Europol's requests shall be addressed to the Member States' National Units, which, in accordance with national law and the Europol Convention,

shall take a decision on the request. Information from Member States' liaison officers in third countries or international organisations shall be transmitted to Europol in accordance with national law and the Europol Convention.

2. When establishing the duties of their liaison officers, Member States shall where appropriate pay attention to the tasks, which under the Europol Convention are to be carried out by Europol.

*Article 9***Application to Gibraltar**

This Decision shall apply to Gibraltar.

*Article 10***Evaluation**

The Council shall evaluate the implementation of this Decision within two years of its adoption.

*Article 11***Repeal**

1. Joint Action 96/602/JHA is hereby repealed.
2. The provision of Article 47(4) of the Convention implementing the Schengen Agreement is hereby repealed.

*Article 12***Entry into force**

This Decision shall enter into force 14 days after its publication in the *Official Journal of the European Union*.

Done at Brussels, 27 February 2003.

*For the Council*

*The President*

M. CHRISOCHOÏDIS