

Europol, staff: jurisdictional immunities (amend. Regulation (Euratom, ECSC, EEC) No 549/69)

2008/0102(CNS) - 27/11/2008 - Final act

PURPOSE: to clarify that immunity from legal proceedings does not apply to EUROPOL staff participating in joint investigation teams and amend Regulation (Euratom, ECSC, EEC) No 549/69.

LEGISLATIVE ACT: Council Regulation (EC) No 371/2009 amending Regulation (Euratom, ECSC, EEC) No 549/69 determining the categories of officials and other servants of the European Communities to whom the provisions of Article 12, the second paragraph of Article 13 and Article 14 of the Protocol on the Privileges and Immunities of the Communities apply

CONTENT: this Regulation provides that Article 12(a) of the Protocol on the Privileges and Immunities of the Communities shall not apply to Europol staff placed at the disposal of a joint investigation team in respect of official acts required to be undertaken in fulfilment of the tasks set out in Article 6 of Council Decision 2009/371/JHA establishing Europol. According to the latter Council Decision establishing Europol, Europol staff may participate in a support capacity in joint investigation teams created by and at the initiative of two or more Member States provided those teams are investigating criminal offences for which Europol is competent. These joint investigation teams are headed by a team leader representing the competent national authority participating in criminal investigations from the Member State in which the team operates.

During the operation of a joint investigation team, Europol staff shall, with respect to offences committed against or by them, be subject to the national law of the Member State of operation applicable to persons with comparable functions. When the possibility for Europol officials to participate in joint investigation teams was introduced by the Protocol amending the Europol Convention, it was considered that, given the specificities of the participation of Europol officials in joint investigation teams created by Member States in the context of criminal investigations falling under the competence of Europol, Europol officials should not enjoy immunity from legal proceedings in respect of official acts undertaken when participating in those teams.

Given that Decision 2009/371/JHA does not change the specificities of the participation of Europol staff in joint investigation teams, its adoption should not extend immunity from jurisdiction to Europol staff participating in such teams. Therefore Regulation (Euratom, ECSC, EEC) No 549/69 is amended in order to clarify, in the context of that Decision, and exclusively for the purpose of its application, the scope of immunity of Europol staff placed at the disposal of a joint investigation team.

The privileges and immunities that the Protocol on the Privileges and Immunities of the European Communities grants, solely in the interests of the Communities, to their officials and agents, have a purely functional character, in that they are intended to avoid any interference with the functioning and independence of the Communities.

ENTRY INTO FORCE: 04/06/2009.

APPLICATION: from 01/01/2010.