



EUROPEAN COMMISSION

*Brussels, 02.04.2014  
C(2014) 2217 final*

*Ms Laura BOLDRINI  
President of the  
Camera dei Deputati  
Piazza Montecitorio  
IT – 00100 ROMA*

*Dear President,*

*The Commission would like to thank the Camera dei Deputati for its Opinion concerning the proposal for a Regulation on the European Agency for Law Enforcement Cooperation and Training {COM(2013) 173 final} and the Communication Establishing a European Law Enforcement Training Scheme {COM(2013) 172 final} and apologises for the delay in replying.*

*The Commission welcomes the support expressed by the Camera dei Deputati and would like to reply as follows to the comments made.*

*Involvement of national parliaments in the scrutiny of Europol's activities*

*During the consultations on the Communication on the procedures for the scrutiny of Europol's activities by the European Parliament, together with national Parliaments<sup>1</sup> and the debates that followed, several solutions regarding the involvement of the national Parliaments were discussed in the different fora where the stakeholders met. The Commission expressed support for the setting up of an interparliamentary forum in order to establish a formal mechanism for information exchange and coordination between national Parliaments and the European Parliament. Nonetheless, the Commission considers that it lies within the power of both the European Parliament and the national Parliaments to coordinate their work and enhance their cooperation, and that they should be encouraged to take that initiative as well as ownership of their own procedures<sup>2</sup>, in full respect of the independence of national Parliaments and of the European Parliament as well as their freedom to organise themselves.*

*The efficiency gains deriving from the merger with CEPOL*

*The concern raised by the Camera dei Deputati in relation with the proposed merger between CEPOL and Europol relates to the risk that, instead of benefits and efficiency gains, the merger would result in weakened training activities.*

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<sup>1</sup> COM (2010) 776

<sup>2</sup> COM (2010) 776 final, p. 15

*The Commission notes that, in view of avoiding such situation, the proposal includes some specific arrangements for training.*

*A new department of Europol – called the Europol Academy – would take responsibility for supporting, developing, delivering and coordinating training. The scope for the training would be law enforcement officers at all levels, not only for senior police officers as is the case under the current CEPOL Decision.*

*The idea behind is to develop further the EU dimension of police training in the directions set out in the Law Enforcement Training Scheme Communication.<sup>3</sup> It would strengthen links between training and operational cooperation and confer a basic knowledge of the EU law enforcement instruments to all law enforcement officials, including Europol.*

*Likewise, as the Commission has stressed in different occasions, the savings that would be achieved by merging the support functions of the agencies would enable resources, notably staff posts, to be reallocated in order to fund the implementation of the Law Enforcement Training Scheme (12 full-time staff equivalents).*

*The Commission considers that, far from having negative effects, the merger would likely to reinforce training in practice. It would allow CEPOL's so far decentralised networking-based organisation to benefit from Europol's expertise and operational cooperation with Member States. Europol could at the same time benefit from proximity to training expertise.*

*Moreover, increased contacts between the operational and the training staff would help identify training needs, thus increasing the relevance and focus of EU training.*

*Finally, the Commission would like to note that a merger would be fully in line with the Common Approach on agencies agreed by Council, Parliament and the Commission in July 2012. The Common Approach envisages merging agencies not only where their tasks overlap, but also when synergies and/or efficiencies can be found.*

*The Commission's aim in proposing to merge Europol and CEPOL is indeed to create synergies and efficiency gains.*

### Governance

*The Commission points out that the proposed governance architecture stems from the Common Approach on EU Decentralised Agencies, which has been endorsed by the Council, the Commission and the European Parliament in 2012.*

*The rationale behind the possibility provided by the proposal to establish an Executive Board and other advisory bodies is to boost the agency's efficiency and to produce savings. As it is stressed in the Common Approach, a two-level governance structure would contribute, thanks to its closer involvement in the running of the agency, to enhanced efficiency. This is true in particular when considering the large size of the Management Board, and the costs for the organisation of its meetings. Setting up an Executive Board would lead to fewer Management Board meetings – since it would not have to focus anymore on non-strategic administrative and budgetary issues – with the result of substantial savings. Likewise, the Management Board would be able to focus on the general orientations of the agency's activities.*

*Beyond the savings that its establishment would entail, the Executive Board's function is to improve the supervision over how the agency is implementing the work programme and to*

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<sup>3</sup> COM(2013) 172 final

*assist the Executive Director in following up on the different audit and evaluation recommendations. The Commission does not share the concern of the Camera dei Deputati on the risk of overlapping of tasks between the bodies: this thanks to the fact that, on the one hand, the Executive Board has a support and advice function, not a strategic one. On the other hand its formal mandate would be established by the Management Board, which would avoid overlaps with its own functions or with those of the Executive Director.*

*Tackling administrative and budgetary issues in the name of the Management Board would allow the former to strengthen the supervision of administrative management, while the latter could focus on more political issues.*

*The argument of efficiency also applies to advisory bodies. These are to be established for dealing with a wide range of specific domains for which the involvement of interested parties is needed. These bodies have often been a key tool to ensuring valuable cooperation between agencies and competent national authorities, especially concerning the implementation of EU law. In light of a very positive past track, the Commission strongly believes that the Management Board will be able to establish advisory bodies only in cases where they are needed, and that the possibility of overloading the organisational structure is not likely to materialise.*

*The composition of the Management Board has also raised concerns. In particular, the Camera dei Deputati queries whether the presence of two members from the Commission could disrupt the balance with the representatives of the Member States.*

*The presence of two members of the Commission reflects its double role in the Management Board, from the point of view of policy knowledge of the area (the Commission has the political responsibility of informing the other institutions in case of misconduct of the agency) and a technical one (for example on budgetary rules). However, the presence of two full members does not imply that the Commission would overweight the other members of the Management Board. It is true in fact that each Member State has one representative, but in an absolute majority vote system this is diluted and is unlikely to disrupt the internal balance of the Management Board.*

*This leads to the question of the implications of the changed voting system. In accordance with the suggestions of the Common Approach, the proposal envisages a system where the Management Board would vote on the basis of the majority of the members for current business, while two-third majority would be used for the most important decisions, such as the appointment of the Executive Director, the adoption of the annual and multi-annual work programmes and of the annual budget. While reassessing the principle of consensus as the preferred way to take decisions, the Commission has introduced this double system in order to speed up decision making for what concerns daily business while maintaining the current system for more strategic and sensitive matters.*

#### *Relations with private parties*

*As in the current framework, according to Article 23(1)(c) of the proposed regulation Europol could process strategic, non-personal data received directly from the private sector – such as companies and non-governmental organisations. As regards personal data, the proposed legal framework provides that, for private parties established under the law of a third country or international organisations, these data could be processed by Europol only on condition that an agreement exists with such a third party and that they are received via contact points or competent authorities. Finally, also in those cases where information would come from a private party established under the law of a Member State, personal data could only be received (and transmitted where necessary) via national units (Article 32).*

*As identified in the Europol Strategy 2010-2014 and in the EU Organised Crime Threat Assessment 2011 (OCTA), Europol needs an effective and stronger cooperation with the private parties: "The emergence of new illicit commodities including previously unseen synthetic drugs and the introduction of counterfeit medicines into EU supplies, and the exploitation of newly established business sectors such as emissions trading for carbon credit fraud make the proactive identification of markets and sectors liable to criminal exploitation crucial to combatting the acceleration of organised crime. Accordingly, strong and effective partnerships must now be established with the private sector for the purposes of information gathering, crime prevention and awareness raising are now desirable. Priority areas include, but are not confined to, the transport, financial, real estate, legal, pharmaceutical and communications sector".<sup>4</sup>*

*The proposed Regulation has the ambition to enhance such cooperation, while putting in place a strengthened regime for the protection of personal data.*

*The Commission hopes that these clarifications address the issues raised by the Camera dei Deputati and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*

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<sup>4</sup> See Europol, EU Organised Crime Threat Assessment - OCTA 2011, p. 36