



The Parliament of Romania
The Chamber of Deputies

03.07.2013
No. 1/2395/vz

OPINION

**on the Proposal for a Regulation of the European Parliament and of the Council
on the European Union Agency for Law Enforcement Cooperation and Training
(Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA
COM (2013) 173**

THE CHAMBER OF DEPUTIES,

Having regard to the Treaty of Lisbon, and in particular Articles 5 and 12 thereof and Protocols No 1 and 2 annexed thereto,

Having regard to the Constitution of Romania, republished, and in particular Article 148,

Having regard to the Decision of the Chamber of Deputies No 11/2011,

Considering the minutes drafted by the Committee for Legal Matters, Discipline and Immunities at its session of 27 May 2013,

Considering the minutes drafted by the Committee for Defence, Public Order and National Security at its session of 3 June 2013,

Considering the note of the Ministry of Foreign Affairs issued on 13 May 2013,

Considering the final opinion of the Committee for European Affairs adopted at its sessions of 18 and 19 June 2013,

Having regard to the approval granted by the Standing Committee of the Chamber of Deputies on 26 June 2013,

Pursuant to Article 40 of the Decision of the Chamber of Deputies No 11 of 27 April 2011,

HAS ADOPTED THIS OPINION:

The Chamber of Deputies

1. Reminds that on 22 March 2011 the Committee for European Affairs of the Romanian Parliament adopted an Opinion on the Communication from The Commission to The European Parliament and the Council on the procedures for the scrutiny of Europol's activities by

the European Parliament, together with national Parliaments – COM (2010) 776 – and recommended:

- the setting up of a permanent interparliamentary forum for enhancing the scrutiny by national Parliaments; however, stating that although this represents a supplementary institutional link, the risk of excessive complication can be diminished through formulating by the European Commission of a clear procedure by which this interparliamentary forum should express itself;

- to bestow upon the abovementioned interparliamentary forum the right to hear members of the Management Board of Europol or its operational leadership, both for the scrutiny and strategic oversight of its annual and multiannual work programmes as well as for ensuring the scrutiny of its ongoing activities;

- the elaboration by the European Commission of a specific document to be disseminated among the general public in order to ensure both the real transparency towards the Union's citizens as well as the obligations of discretion and confidentiality imposed by Europol regulations, since national Parliaments are accountable to citizens and should have the practical possibility of informing them in these matters;

- to include the relationship with national Parliaments in the communication strategy and in Europol's external cooperation strategy, too.

2. Understands and accepts the arguments presented by the Committee for Defence, Public Order and National Security, which found that the objectives could be better achieved by joint action at the European level, especially because efficient law enforcement cooperation cannot exist without an effective exchange of information and intelligence on crime between national law enforcement authorities and other relevant entities within the EU; and also that Europol is ideally placed to support the cooperation in this area and guarantee coordination at the EU level.

3. Understands and accepts the arguments presented by the Committee for Legal Matters, Discipline and Immunities, which admitted that the proposal respects the principle of subsidiarity since establishing an entity in charge with law enforcement cooperation and training at Union level cannot be carried out in an adequate manner by Member States.

4. Believes that the initiative to regulate the matter is justified by the necessity to abrogate the previous legislative framework governing Europol, which was set up initially as the 'European Police Office' pursuant to a decision adopted prior to signing the Treaty of Lisbon and as part of the former third pillar of the Union as well as the necessity to observe the provisions of the Treaty of Lisbon and to rename the entity as 'European Union Agency for Law Enforcement Cooperation and Training'. As in the case of the 'European Police College' (CEPOL) it is necessary to abrogate the previous legislative framework and adjust the entity to the new provisions contained in EU treaties.

5. Recognises that in the context of expansion of cross-border criminal phenomena, national law enforcement forces cannot work in isolation but need to cooperate with each other and with Europol, designed to be the criminal intelligence hub of the EU in matters of penal law and for the purposes of preventing and combating serious cross-border crime and terrorism.

6. Reminds that Article 88 of the TFUE stipulates that Europol shall be subject to a regulation adopted by the codecision procedure and that a mechanism and procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments, shall be laid down. Reminds also that The Stockholm Programme calls for Europol to evolve and 'become a

hub for information exchange between the law enforcement authorities of the Member States, a service provider and a platform for law enforcement services’.

7. Reminds that by reforming Europol, the Commission promises to apply the governance and scrutiny standards established by the European Parliament and the Council in July 2012 in the Common Approach on EU decentralised agencies.

8. Admits that an effective Europol will be in a better position to assist in reaching the goals of the Commission’s Communication on the Internal Security Strategy in Action and to reinforce in general police cooperation in the EU.

9. Admits that the proposed model of governance and scrutiny for Europol contributes to the overall coherence of the governance model of the EU agencies envisaged in the Joint Statement on the EU Regulatory Agencies.

10. Finds that the arguments set forth in support of the proposals are simultaneously valid and sufficient from the perspectives of both criteria, that is, the insufficiency of national level action and the added value.

11. Notices in particular the added value of EU involvement in terms of: limiting the competence of Europol, to avoid duplications with the other JHA agencies and to streamline their cooperation with Europol; granting the possibility to submit data originating from private parties to Europol by Europol National Units, which would diminish the risk of delays or non-transmission and enable the formulation of a better coordinated global response to crime phenomena; stipulating Europol’s obligation of hosting the European Cybercrime Centre and bolstering in this manner the Union’s capacity to address the challenges raised by cybercrime.

12. Signals that certain restrictions imposed upon Europol – such as the ones related to processing personal data originating from private parties (Article 32, paragraph [1]); the limitation of the possibility to forward information, including personal data, originating from a private person residing in a third country with which there is no international agreement, to a Member State or a third country concerned with which a relevant international agreement has been concluded (Article 33, paragraph [2]) or the condition that such actions be in accordance with the national law of the Member State concerned (Annex 2) – diminish the Agency’s operational capacity, and this fact exerts a negative effect on the added value of this newly established organisational framework.

13. Accepts the assessment of the European Commission that Europol would bring enhanced benefits if it received a dual mandate – operational support and training for law enforcement – and were merged with CEPOL; furthermore, believes that ensuring a coordinated approach in developing and implementing law enforcement training represents the added value of EU involvement.

14. Signals that by conditioning certain actions on the observance of the national law of the Member State concerned (Annex 2), multiple standards are allowed; for instance, persons who committed or are suspected of having committed identical criminal offences might or might not be on the lists.

15. Notices that the regulation contains several provisions limiting the possibility to infringe the principle of subsidiarity, and recalls the following:

- the fact that Europol has neither autonomous capacities to conduct inquiries, nor competencies of coercion;

- the fact that Europol may conduct operative actions only in cooperation with the authorities of the Member State or Member States whose territory is concerned and with their permission;

- the fact that Europol may process information for other purposes than the one for which they have been forwarded only with permission from the data provider;
- the fact that Europol may process personal data originating from private parties on condition that these are received via: a National Unit of a Member State, a contact point of a third country with which Europol has concluded a cooperation agreement, an authority of a third country or an international organisation with which the European Union has concluded an international agreement;
- the fact that if Europol received information, including personal data, from a private person residing in a third country with which there is no international agreement, Europol may only forward that information to a Member State or a third country concerned with which a relevant international agreement has been concluded.

16. Believes that the goal of maintaining high levels of mutual trust among the Member States belonging to a space with no controls on its internal borders may be supported by consolidating Europol as well.

Expresses hope that, in the spirit of the same principle of mutual trust, the United Kingdom and Ireland will chose to adopt the regulation and regrets that Denmark did not chose to adopt the regulation.

17. Notices that the exclusion of national Parliaments from access to classified information processed by or through Europol, while the European Parliament is granted access thereto (Article 54, paragraph [1]), is contrary to the treaty's provisions, which did not distinguish between the rights of scrutiny of the European Parliament and the similar rights of national Parliaments; and fails to be in accordance with the provisions of Article 53, paragraph (1) stipulating that the European Parliament, jointly with national Parliaments, organise hearings with the Chairperson of the Management Board and the Executive Director of Europol.

18. In what concerns Europol's obligations to submit evaluation reports on its activities (Article 70, paragraph [2]), recommends the creation of a interactive mechanism of information exchange including questions, clarifications, proposals and recommendations between Europol, on the one hand, and the national Parliaments as well as the European Parliament, on the other hand.

19. Rejects the assessment of the European Commission that Europol would bring enhanced benefits if it received a dual mandate – operational support and training for law enforcement – and were merged with CEPOL; and, conversely, believes that the merger would drastically diminish CEPOL's capacities to attain its own goals, while failing to enhance Europol's capacities in this respect.

This opinion is addressed to the presidents of the European Parliament, of the Council and of the European Commission, and to the Romanian Government.

SPEAKER

Valeriu Ștefan ZGONEA