



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2012)

Opinion

Title **DG HOME - Impact Assessment on a proposal for the reform of the European Police Office (Europol)**
(draft version of 21 June 2012)*

(A) Context

The Treaty of Lisbon provides for a new legal basis for Europol which will include procedures for the scrutiny of the European Police Office (Europol)'s activities by the European Parliament together with national parliaments. As the Council Decision on Europol has been adopted before the entry into force of the Treaty it needs to be replaced by a regulation reflecting the new requirements. At the same time some shortcomings can be addressed that prevent Europol from fully exploiting its operational potential and its accountability and data protection regimes can be improved. Some recent strategic EU documents have called for an evolution of Europol: the Stockholm Program states that it "should 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". The "EU Internal Security Strategy" of November 2010 identifies five objectives in the area of security. Three of them - disruption of criminal networks, prevention of terrorism and security of cyberspace – fall within the Agency's mandate. Finally, the EU institutions have recently agreed on a common approach on agencies. Against this background this report assesses the impact of options for the reform of Europol.

(B) Overall assessment

The report needs to be significantly improved in a considerable number of important respects. Firstly, the problem definition should provide a more concrete analysis of the core problems and their drivers, based on evidence from the Europol evaluation and stakeholder input. Secondly, the report should better explain how the objectives can or will address the main problems, and how the options will deliver the required results. For example, for the constraints on data processing, the objectives should define the requirements for improvement, and the options should concretely describe different ways to achieve this. Third, the report should provide a comprehensive and balanced assessment of all relevant costs and benefits of the various options, where possible in quantitative terms, and supported by evidence. Fourth, it should present a more transparent comparison of options on the basis of the standard criteria of effectiveness, efficiency and coherence, including tabular formats. Finally, the report should provide a clearer overview of consultations carried out, and refer to stakeholders' different views throughout the report.

Given the nature of these recommendations, the Board asks DG HOME to submit a revised version of the report, on which it will issue a new opinion.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

(C) Main recommendations for improvements

(1) Strengthen the problem definition. The report should provide a more concrete analysis of the core problems and their drivers, supported by evidence from the Europol evaluation and stakeholder input. It should explain why certain problems identified in the evaluation are not discussed in the IA report. It should present the results from the evaluations and consultation more consistently, for instance by providing illustrative examples (credit card abuse) and relevant stakeholder views (Member State resistance against information sharing) to support the problem analysis. The link between the facts and figures on the incidence of serious organised crime and the main problems of Europol should be clarified. Specific aspects of the problem that are briefly mentioned (e.g. "Member States do not comply with their legal obligation", or "do not recognize the existence of an obligation"), should be better analysed to be able to define appropriate options to effectively solve the problem. The report should demonstrate to what extent the original reasoning for legal provisions that block information exchange between Member States and Europol does not hold anymore, and only hinders information exchange. It should also provide a better analysis of the differences between Member States in terms of information provision and use, e.g. the great divergence between Member States' use of the Europol database, or the differences in type and quality of information exchanged. An Annex summarising the main findings of the Europol evaluation should be attached. The baseline scenario should be formulated more clearly, incorporating the changes to the legal basis that are required under the Lisbon Treaty. The report should discuss the aspect of coherence with other Commission policies (e.g. fundamental freedoms) and of complementarity/overlap with other agencies like Interpol.

(2) Better present the intervention logic. The report should formulate the objectives in more concrete terms that more clearly address the main problems and problem drivers identified. It should clarify how the objectives relate to the recently agreed common approach of the EU Institutions on the reform the Agency system. It should also explain the relevance of this initiative for achieving a better and more efficient cooperation with other EU Agencies in the area of Justice and Home Affairs. The presentation of the options needs to be revised in line with the restructured problem definition and intervention logic. For instance, certain elements in the options (e.g. financial assistance) should be more clearly linked to stated objectives (on data provision by Member States) or problems (on lack of cooperation between Member States and the agency). The actual content of the options should be defined in more detail to allow a better assessment of how effectively and efficiently they will address the problems identified. In this context the report should also give a more transparent overview and specification of the envisaged funding arrangements (EU budget, national budgets) for the various options.

(3) Better assess the costs and benefits of options. The report should assess the costs and benefits of the various options in more concrete terms, for instance by analysing explicitly the different cost categories such as required staff and material costs. Other impacts should also be assessed in more quantitative terms (staff levels, instances of request for cooperation, staff involved in joint activities, etc.). Impacts should be presented relative to the baseline scenario. Regarding the possible use of targeted financial assistance to improve data provision by Member States and the different options for data processing, the report should be clearer on the expected costs and their effectiveness. It should present a more transparent and evidence-based analysis of the pros and cons for each of the different options for a future data protection arrangement, and more clearly identify the types of risks associated with more cross-matching of data and access to the different databases.

(4) Present a more transparent comparison of options. The report should compare the options on the basis of a clearly presented overview of expected costs and benefits for each of the options, and by assessing their effectiveness and efficiency in achieving the objectives, and their consistency with related Commission policies. In the context of comparing costs and benefits of options, the political feasibility aspect is not relevant and should at that point not be referred to as a criterion for decision. The scoring table for comparison of the options (currently a matrix with qualitative indicators), should be replaced by a presentation that is more clearly linked to concrete evidence. For costs and other factors for which a quantitative presentation is possible, this should be done in the summary table.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The different sections on 'analysis of options' need to be moved to a separate chapter on impacts. The report should provide a clearer overview of (internal and external) consultations carried out, and refer to stakeholders' views throughout the report. An annex should be provided with more detailed information on stakeholders' positions. In view of the fact that several options are likely to have budgetary impacts that may require additional funding, the report should clearly explain whether or not an ex-ante evaluation will be required. If the report is to serve as an ex ante evaluation, this should be explicitly stated, and the analysis of the cost-effectiveness of the preferred option should be strengthened.

(E) IAB scrutiny process

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| Reference number | 2011/HOME/010 |
| External expertise used | No |
| Date of IAB meeting | 18 July 2012 |