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from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

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Subject: Commission Staff Working Document
Executive summary of the Impact Assessment on merging the European Police
College (Cepol) and the European Police Office (Europol) and implementing a
European police training scheme for law enforcement officials
Accompanying the document
Proposal for a European Parliament and Council Regulation on the European
Union Agency for Law Enforcement Cooperation and Training (Europol) and
repealing Council Decisions 2009/371/JHA and 2005/681/JHA

Delegations will find attached Commission document SWD(2013) 99 final Part 2.

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Part 2

COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT on merging the European Police College (Cepol) and the European Police Office (Europol) and implementing a European police training scheme for law enforcement officials

Accompanying the document

Proposal for a EUROPEAN PARLIAMENT and COUNCIL REGULATION

ON THE EUROPEAN UNION AGENCY FOR LAW ENFORCEMENT COOPERATION AND TRAINING (EUROPOL) AND REPEALING COUNCIL DECISIONS 2009/371/JHA AND 2005/681/JHA

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1. Introduction

This impact assessment is also an *ex ante* evaluation.

2. Consultation and expertise

2.1. Evaluation and preparatory studies

A **five-year evaluation** of CEPOL was carried out in 2010-2011 as required by the CEPOL Decision¹. The final report was submitted to CEPOL's Governing Board on 31.1.2011². An **external study** was commissioned to support the preparation of this impact assessment³.

2.2. Consultations

The future role of CEPOL was discussed at several workshops to prepare the European Law Enforcement Training Scheme organised by the Commission in 2011-2012.

2.3. Scrutiny by the Commission's Impact Assessment Board

The Commission's Impact Assessment Board assessed draft versions of this impact assessment and issued opinions on 20.7.2012, 10.10.2012 and 15.1.2013. The recommendations made by the IAB are reflected in this impact assessment.

¹ Study on Five Years evaluation of CEPOL activity 21.1.2011. Consortium Blomeyer & Sanz, Centre for Strategy and Evaluation Studies LLP and Evalutility Ltd.

² www.cepol.europa.eu.

³ Study on the amendment of the Council Decision 2005/681/JHA setting up CEPOL activity. Final Report 24.4.2012 — GHK Consultants.

3. Problem definition

3.1. Context and external drivers

There are two main drivers behind the problems identified below: one relates to CEPOL's structure and governance, the other to law enforcement training.

3.1.1. Overview of the existing police training system in the EU

Law enforcement authorities in Member States have broadly comparable structures. Altogether 21 Member States have a single police agency and the other six have more than one. As many as 12 EU agencies and international organisations, including CEPOL, Europol and Frontex, report some involvement in law enforcement training.

CEPOL organises courses and develops common curricula on the EU dimension of policing, both in the national academies and at CEPOL itself, and disseminates best practice and research findings. CEPOL training is delivered by national experts, rather than CEPOL staff. Each year there are around 2 000 participants in CEPOL on-site training and about 100 to 200 participants in exchange programmes and (since 2011) e-learning activities. CEPOL is one of the smallest EU agencies in terms of budget (€8.3 million in 2011).

3.1.2. Driver 1: Increased political awareness of EU priorities for tackling cross-border crime

The EU Internal Security Strategy adopted in 2010 identified challenges, principles and guidelines for dealing with security issues in the EU, including actions now being implemented and underpinned by appropriate training. In June 2011 Council endorsed eight priorities for the fight against organised crime.

3.1.3. Driver 2: Legal and political developments in police cooperation and police learning

Under the Lisbon Treaty, operational cooperation on internal security is to be promoted and strengthened, with a particular focus on specific forms of serious and organised crime. The EU has put in place a system for setting priorities through the Internal Security Strategy, to be supported by mutual trust and capacity building. The European Council in 2009 stressed the need to create a genuine European law enforcement culture through setting up European law enforcement training schemes and exchange programmes for all relevant law enforcement professionals at national and EU level by 2015, and stated that CEPOL should play a key role in ensuring the European dimension. The European Parliament also called in 2009 for a coherent approach to the delivery of training for law enforcement officers across the EU.

The European Parliament, the Council and the Commission have jointly set out a Common Approach on EU agencies, including their management structure and governance, operations and funding and budget-setting⁴.

⁴ Joint Statement, 12 June 2012;
<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/604&format=HTML&aged=0&language=EN&guiLanguage=en>.

3.2. Defining the problem

3.2.1. *Problem 1: Lack of knowledge about the EU dimension of policing*

Most law enforcement officers in the EU do not have the knowledge necessary for cooperating effectively in the fight against priority cross-border criminal activities.

Problem 1a European training does not reach all officers who need it

CEPOL training is targeted, in line with the CEPOL Decision, at senior or mid-ranking officers, with little emphasis on thematic training for other officers who may need it. By the end of 2009, only 1.6% of senior police officers in the EU had received CEPOL training. In 2010 only 13 to 15 Member States sent officers to receive training. Courses fail to achieve full attendance. This may be because attendance is not formally recognised or certified as a qualification. Member States do not usually have a specific budget to send officers to receive training. In some Member States authorisation procedures for attending are complex and time-consuming. While some Member States have developed plans for cascading knowledge acquired through CEPOL training, dissemination tends to be informal and inadequate. Language can also be an obstacle: most training is in English, which can deter many officers.

Problem 1b Insufficient coordination between CEPOL, Member States and other agencies

Despite cooperation agreements between justice and home affairs agencies, there is a lack of systematic coordination on training in line with the recent EU strategic objectives. Training programmes are insufficiently focused and joined-up: 27% of national academies reported overlaps between CEPOL training activities and training delivered nationally. Agency business plans are rarely aligned and duplication is common. There are also logistical overlaps, e.g. training provided by different agencies on the same dates.

3.2.2. *Problem 2: CEPOL's current governance and structure reduce the effectiveness of training*

CEPOL's governance and structure inhibit its ability to be fully effective as an instrument of EU policy.

Problem 2a Governing Board lacks appropriate focus

Following the five-year evaluation decision-making has improved, but the governance and structure of CEPOL remains out of date. The Governing Board tends to focus on minor, administrative matters and not enough on strategy. The CEPOL Decision does not focus the Board's tasks on strategic matters. The Board's size — typically 45-50 Member State participants at each meeting — hampers swift decision-making and creates disproportionate costs. A high turnover of participants creates a constant need for new members to take time to gain familiarity with the work. The Board has no clear representative of the EU interest, as the Commission is a non-voting observer; this contradicts the Common Approach for agencies.

Problem 2b Member States' engagement with CEPOL's activities is inconsistent

The role of national contact points is to 'ensure effective cooperation between CEPOL and the [national] training institutes'. Despite several attempts by the Board to address this, responsibilities of the contact points remain unclear. Some Member States do not have sufficient full-time officers in their contact points, which can weaken CEPOL's ability to coordinate training and hinders cooperation between CEPOL and Member States.

Problem 2c Poor financial planning for training activities by Member States

Operational expenditure — mainly for training activities — constitutes over half of planned expenditure. Member States tend to submit their plans too late in the year, meaning that courses have to be compressed into the remaining months of that year, and increasing the likelihood of under-attendance. Between 2006 and 2010, Member States (responsible for delivery of CEPOL training) cancelled or postponed 13% of courses, despite a target of only 5%.

The current system to ensure that training activities correspond to the actual needs for spreading knowledge on EU tools and policies remains suboptimal. There is no definition of needs assessment at EU level against which national assessments can be considered. The results and impact of activities are not systematically fed back to improve planning of future activities.

3.3. The EU's right to act and subsidiarity

Article 87(2)(b) TFEU provides a framework for replacing the CEPOL Decision. The strengthening of CEPOL's legal basis is supported by several important EU policy documents.

As regards subsidiarity, the issues to be addressed relate to training of police officers across the EU, the provision of common competences and the strengthening of an EU police culture. The proposal would be without prejudice to national initiatives taken by the Member States in the field of training for law enforcement officials.

4. Policy objectives

4.1. General objective

Improve policing in the EU by establishing a learning system for law enforcement officers consistent with evolving strategic priorities for police cooperation.

4.2. Specific objectives

Specific objective 1

Ensure better-quality, more joined-up and more consistent training in cross-border crime issues for a wider range of law enforcement officers.

Specific objective 2

Establish a clear framework for training police in accordance with EU training needs, in line with the Common Approach to EU agencies.

5. Policy options

5.1. European Law Enforcement Training Scheme

Alongside its proposal for reforming CEPOL, the Commission is presenting a European Law Enforcement Training Scheme (LETS) for law enforcement officials. This will set out how training should be implemented in a coordinated manner to build up the EU's capacity to face common challenges. The LETS will specify the content of training, who should be trained on what, and who in the EU or at national level will provide the training.

5.2. Policy options

Option 1 (status quo): Promote LETS without amending CEPOL's legal basis

Certain Member States have opposed amending the current CEPOL framework, which in their view provides sufficient training. Most Member States consulted consider, however, that the legal basis needs to be recast to develop and update training policy. Under its current legal basis, CEPOL could only partially implement the LETS because its competence is restricted to senior officers.

Option 2: Member State-based training as part of an EU network

CEPOL would be disbanded as an agency. Coordination and liaison would continue on an intergovernmental basis with a small secretariat provided by the Commission, as was the case prior to the CEPOL Decision. Some posts would be transferred to other EU agencies to take over some CEPOL activities. This option would follow the model of the European judicial training network, and would result in immediate direct cost savings. It is opposed by all Member States.

Option 3: Discontinue all EU financial support for training

CEPOL would be disbanded and the EU would cease to allocate any funding for police training, except sector-specific training provided by other agencies. The Commission and Europol could identify training needs which would fall to Member States to address. Withdrawal of all EU support for training involvement is a radical option meriting examination. It is opposed by all Member States as being a return to a previously inefficient situation.

Option 4a: Partial transfer of CEPOL functions to Europol; CEPOL to implement LETS

CEPOL would remain a separate agency but share corporate services and infrastructure with Europol. The existing HQ would be closed and the Governing Board, Director and operational staff would co-locate with Europol. The CEPOL Decision would be amended to address the problems of governance and training quality, and to ensure that the LETS is implemented.

Parliament asked the Commission to explore the possibility of integrating CEPOL with Europol. Such a partial merger would allow governance issues to be addressed, would be in line with the Common Approach on agencies and would enable non-operational functions to be rationalised. Member States' representatives opposed this option, stating that it would be a first step in the disappearance of a training agency with its own identity.

Option 4b: Functions of Europol and CEPOL merged into a single agency; the merged agency (Europol) to implement LETS

CEPOL and Europol would be formally merged. CEPOL's headquarters would be closed and operational posts transferred to Europol. CEPOL's tasks would be added to the functions of Europol. A new Europol deputy director for training would contribute to the draft Europol budget, which would allocate appropriate resources to training in accordance with training needs assessments under the LETS. Alternate members of the Management Board of Europol would be training specialists. A scientific committee would advise on training issues.

For the 2014 budget CEPOL is classed as a 'new tasks' agency, which means that while it is subject to the objective of staff reductions it may also request new posts from a pool for new tasks. The necessary exercise of reprioritisation, reallocation and seeking efficiency gains would be better addressed within a bigger structure. By eliminating administrative overlaps between the two agencies, a bigger share of the staff could be allocated to training activities. This could allow budget-neutral implementation (in terms of staff) of the LETS.

A merger would create difficulties in recruiting new staff until the transfer was effective. It would therefore be necessary for the two agencies, with support from the Commission, to analyse quickly implications for individual staff. Transition would be managed by the CEPOL Director.

A merger is opposed by many Member States on the grounds that, in a single agency, quality and commitment to training activities would be weakened by such close proximity to operational priorities, although certain Member States expressed willingness to consider benefits and costs. Any rationalisation measure would be compatible with the position of the Council in the 2013 EU budget negotiations, which called for a 1% reduction in agencies' budgets, and with that of the European Parliament, which in the multiannual framework negotiations has recommended exploring the scope for pooling resources and cost savings among agencies.

Option 5: Strengthen and streamline CEPOL

CEPOL's role would be clarified and reinforced, requiring some additional staff. The CEPOL Decision would be amended to address the problems of governance and training quality. This would be in line with the Common Approach on agencies and respond to calls from many Member States for a stronger CEPOL and a more coherent training policy.

6. The preferred policy option

For the LETS to be fully implemented (and thus to meet specific objective 1 defined above) it is necessary (i) for an EU agency to be given responsibility to coordinate its implementation; (ii) for the agency's (as compared to CEPOL's) mandate to be extended to training of *all* relevant police officers; and (iii) for the agency to be granted additional resources. Options 2 and 3 (no agency) do not achieve (i). Options 1 (status quo) and 5 (strengthen CEPOL) do achieve (i) and option 5 achieves (ii); but both options 1 and 5 would leave CEPOL dependent on the uncertainties of finding new resources and thus risk not achieving (iii). Options 4a (partial merger) and 4b (full merger) achieve (i) and (ii), but also (iii) by providing for cost savings that can fund (option 4b) or partially fund (option 4a) implementation of the LETS.

Option 4b is therefore the preferred option. It would achieve savings, so posts could be redeployed to implement the LETS. There would be short-term disruption that would have to be minimised, but in the longer term there would be additional flexibility to redeploy according to priorities. Swift decision-making and adequate preparation of the merger by both agencies would mitigate any negative impact for the staff and activities of either agency. Governance would be aligned more closely with the Common Approach on agencies. Ongoing training needs evaluations would ensure that the agency's activities remain relevant to the EU's cross-border police cooperation priorities. It would be easier to improve coordination with other agencies.

Overall, option 4b — merging CEPOL and Europol — would permit effective implementation of the European Law Enforcement Training Scheme for law enforcement officials and thereby reinforce EU police training, making it more efficient and effective, and help close the skills and knowledge gap among law enforcement officers.