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NOTE

From:	Presidency
To:	Council
Subject:	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 = <i>Discussion paper</i>

At its meeting on 6-7 June 2013, the Council held its first orientation debate on the proposed 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.

On the basis of the discussion paper set out in document 10213/13 JAI 436 CATS 26 ENFOPOL 167 CODEC 1254, one of the main issues discussed by the Council was the merger of Europol¹ and CEPOL², i.e. the proposal of the Commission that Europol would take over and build on the tasks carried out by CEPOL and thus a single European law enforcement agency would be created.

¹ The European Police Office, established by Council Decision 2009/371/JHA of 6 April 2009 (OJ L 121, 15.5.2009, p. 37).

² The European Police College, established by Council Decision 2005/681/JHA of 20 September 2005 (OJ L 256, 1.10.2005, p. 63).

The aforementioned orientation debate showed that a very large majority of delegations opposed the merger essentially because it would not be beneficial for either agency and they were not convinced that savings could be made through a merger. A few delegations suggested that solutions could be examined which would guarantee the independence of both agencies while sharing some services.

The Presidency concluded that given the majority view, experts would start examining the text focusing on issues not related to the merger or training. The Commission was invited to re-consider its position in this matter and search for another solution regarding CEPOL and training issues.

In this context it is important to note that, in the meantime, following the UK decision to no longer host CEPOL as from March 2014 on its current premises in Bramshill (UK), the Council had to urgently find a new location for CEPOL. Seven Member States, namely Ireland, Greece, Spain, Italy, Hungary, the Netherlands and Finland, submitted applications to host CEPOL. One of the options proposed by the Netherlands was a co-location of CEPOL and Europol in the latter's headquarters in the Hague. After having considered the applications, on 8 October 2013, the Member States reached a common accord that as soon as CEPOL needs to move out from Bramshill, it should be hosted in Budapest (Hungary).

In order for CEPOL to relocate to a new seat, Article 4 of the CEPOL Decision which expressly says that CEPOL seat is in Bramshill (UK), has to be amended. Against this background a Member States' initiative for a Regulation of the European Parliament and of the Council amending Decision 2005/681/JHA establishing CEPOL was submitted to the Council on 13 November 2013 as set out in document 17043/13 ENFOPOL 395 CODEC 2773 PARLNAT 307 +ADD 1 +ADD 2. It was forwarded to the European Parliament and the national Parliaments and is currently under discussion in line with the ordinary legislative procedure both at the Council and the European Parliament with the aim to adopting this legislative act within the current term of the European Parliament. This would enable CEPOL to relocate to Budapest by September 2014, the date until which CEPOL's lease at Bramshill was extended by the UK.

On 16 January 2014, the Commission submitted its opinion on the aforementioned Member States' initiative as set out in document 5522/14 ENFOPOL 12 CODEC 140, encouraging the European Parliament and the Council to build on the constructive progress that is being made on its proposal to reform Europol's legal framework while reflecting on an alternative solution to co-locate CEPOL and Europol that, according to the Commission, would match the goals of rationalisation and operational improvement for both agencies.

On 30 January 2014, at the Civil Liberties, Justice and Home Affairs Committee of the European Parliament (LIBE), the draft report on the Member States' initiative on CEPOL was presented by the rapporteur MEP Ms Gal (HU, EPP). The Rapporteur recalled that the EP's position had been against the merging of Europol and CEPOL³. In addition, an amendment was inserted inviting the Commission to issue legislative proposals to review and update the existing CEPOL Decision in order to put it in line with the Treaty rules post-Lisbon (i.e. to "lisbonise" the CEPOL Decision) and to include the new tasks envisaged for CEPOL in the Commission Communication establishing a European Law Enforcement Training Scheme⁴. This suggestion was favourably received by the Commission representative present at that meeting.

It should be noted that at expert level, namely in the Law Enforcement Working Party, substantial progress was made in examining the draft Europol Regulation, and it is expected that the JHA Council in June 2014 could reach a general approach on this Regulation, which would allow the launching of the discussions with the European Parliament. In order to finalise the discussions on the text at expert level, it is important that the position of the Council as regards the future of both Europol and CEPOL is clearly established.

³ See the summary of the LIBE Committee meeting in set out doc. 6131/14. See also the draft Report in LIBE on the proposed Europol Regulation where all references to CEPOL and the future training role within Europol have been deleted from the text of the Regulation (2013/0091(COD)).

⁴ 8230/13 ENFOPOL 99 (COM(2013) 172 final)

Questions for the Council

In view of the above-mentioned position of the Member States expressed at the Council meetings of 6-7 June 2013 and 8 October 2013, all the references to CEPOL and Europol Academy which are linked to the idea of merging Europol and CEPOL will be removed from the draft Europol Regulation. In addition the Council is invited to indicate:

- (a) whether it wishes to update the existing CEPOL Decision, notably along the lines of the updated tasks as currently proposed by the Commission in Chapter III of the draft Europol Regulation;
- (b) and if so, whether it wishes to do so by:
 - (i) splitting the draft Europol Regulation, so as to insert the updated tasks of CEPOL into a separate parallel Regulation; or
 - (ii) inviting the Commission to submit it with a separate legislative proposal to amend or replace the existing CEPOL Decision so as to update its tasks.