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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**

{SWD(2013) 98 final}

{SWD(2013) 99 final}

{SWD(2013) 100 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

The European Police Office (Europol) started as an intergovernmental body regulated by a Convention concluded between the Member States, which entered into force in 1999. By virtue of a Council Decision adopted in 2009, Europol became an EU agency funded by the EU budget.

Europol's role is to provide support to national law enforcement services' action and their mutual cooperation in the prevention of and fight against serious crime and terrorism. Europol facilitates the exchange of information between Member States' law enforcement authorities and provides criminal analysis to help national police forces carry out cross border investigations.

Article 88 of the Treaty on the Functioning of the European Union stipulates that Europol shall be governed by a regulation to be adopted by the ordinary legislative procedure. It also requires the co-legislators to establish procedures for the scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

The European Police College (CEPOL) was established as an EU agency in 2005, in charge of activities related to the training of law enforcement officers. It aims to facilitate cooperation between national police forces by organising courses with a European policing dimension. It defines common curricula on specific topics, disseminates relevant research and best practice, coordinates an exchange programme for senior police officers and trainers, and may act as a partner in EU grants for specific projects.

The European Council, in "the Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens"<sup>1</sup>, called on 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", and called for the establishment of European training schemes and exchange programmes for all relevant law enforcement professionals at national and EU level, with CEPOL playing a key role in ensuring the European dimension.

In its Communication 'The EU Internal Security Strategy in Action: Five steps towards a more secure Europe'<sup>2</sup>, the Commission identified key challenges, principles and guidelines for dealing with security issues within the EU, and suggested a number of actions involving Europol and CEPOL to address the risks that serious crime and terrorism pose to security.

Over the last decade, the EU has seen an increase in serious and organised crime as well as more diverse patterns in crime.<sup>3</sup> Europol's EU Serious and organised crime threat assessment 2013 (SOCTA 2013) found that "serious and organised crime is an increasingly dynamic and complex phenomenon, and remains a significant threat to the safety and prosperity of the EU."<sup>4</sup> The study also notes that "the effects of globalisation in society and business have also facilitated the emergence of significant new variations in criminal activity, in which criminal networks exploit legislative loopholes, the internet, and conditions associated with the economic crisis to generate illicit profits at low risk."<sup>5</sup> The internet is used to organise and execute criminal activities, serving as a communication tool, a marketplace, recruiting ground

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<sup>1</sup> OJ C115, 4.5.2010, p. 1.

<sup>2</sup> COM (2010) 673 final.

<sup>3</sup> Europol (2011). EU organized crime threat assessment.

<sup>4</sup> Europol (2013). Serious and Organised Crime Threat Assessment (SOCTA).

<sup>5</sup> Europol (2013). Serious and Organised Crime Threat Assessment (SOCTA).

and financial service. It also facilitates new forms of cybercrime, payment card fraud as well as the distribution of child sexual abuse material.<sup>6</sup>

Serious crime offences therefore cause increasingly severe harm to victims, inflict economic damage on a large scale and undermine the sense of security without which persons cannot exercise their freedom and individual rights effectively. Crimes like trafficking in human beings,<sup>7</sup> in illicit drugs,<sup>8</sup> and in firearms,<sup>9</sup> financial crimes like corruption,<sup>10</sup> fraud<sup>11</sup> and money laundering,<sup>12</sup> and cybercrime<sup>13</sup> not only pose a threat to personal and economic safety of people living in Europe, they also generate vast criminal profits which strengthen the power of criminal networks and deprive public authorities of much needed revenues. Terrorism remains a major threat to the EU's security, as societies in Europe are still vulnerable to terrorist attacks.<sup>14</sup>

Crime is one of the five main concerns of EU citizens.<sup>15</sup> Asked what issues the EU institutions should focus on, the fight against crime was mentioned in fourth place.<sup>16</sup> In a recent survey most EU internet users expressed high levels of concern about cyber security and cybercrime.<sup>17</sup>

In this context, EU agencies are needed to effectively and efficiently support law enforcement cooperation, information sharing and training.

The Common Approach on EU decentralised agencies endorsed by the European Parliament, Council and Commission in July 2012<sup>18</sup> sets out principles for the governance arrangements of agencies such as Europol and CEPOL. The Common Approach also notes that "*merging agencies should be considered in cases where their respective tasks are overlapping, where*

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<sup>6</sup> Europol (2011). EU Organized Crime Threat Assessment.

<sup>7</sup> UNOCD (2010) estimates "that there are 140 000 trafficking victims in Europe, generating a gross annual income of US\$3 billion for their exploiters. With an average period of exploitation of two years, this would suggest over 70 000 new entries every year. The trend appears to be stable."

<sup>8</sup> According to The European Monitoring Centre for Drugs and Drug Addiction's 2012 annual report on the state of the drugs problem in Europe, drug-induced deaths accounted for 4% of all deaths of Europeans aged 15–39 in 2011 and an estimated 1.4 million Europeans are opioid users.

<sup>9</sup> UNOCD (2010) found that "the value of the documented global authorised trade in firearms has been estimated at approximately US\$1.58 billion in 2006, with unrecorded but licit transactions making up another US\$100 million or so. The most commonly cited estimate for the size of the illicit market is 10%-20% of the licit market, which would be about US\$170 million to US\$320 million per annum."

<sup>10</sup> Corruption is estimated to cost the EU economy 120 billion euros per year, see COM (2011) 308 final.

<sup>11</sup> According to Europol's EU Organized Crime Threat Assessment 2011, organised crime groups derived more than 1.5 billion euros from payment card fraud in 2009.

<sup>12</sup> According to a UNODC estimate, global criminal proceeds (including tax evasion) amounted to 2.1 trillion US Dollars in 2009 of which up to 70% is estimated to have been laundered.

<sup>13</sup> Europol's Serious and Organised Crime Threat Assessment SOCTA (2013) found that all member States are affected by cybercrime. The study refers to research by the European Commission, which states that 8% of internet users in the EU have experienced identity theft and 12% have suffered from some form of online fraud. Additionally, malware affects millions of households and the general volume of banking fraud related to cybercrime has been increasing annually.

<sup>14</sup> The EU Internal Security Strategy in Action: Five steps towards a more secure Europe. COM(2010) 673 final. In 2011 there were 174 terrorist attacks in EU Member States. Te-SAT 2012.

<sup>15</sup> Eurobarometer 77, Spring 2012.

<sup>16</sup> Eurobarometer 77, Spring 2012. 27% of Europeans mentioned that the fight against crime should be emphasized by EU institutions in the coming years.

<sup>17</sup> Special Eurobarometer 390 on Cyber Security, July 2012. 74% of respondents stated that the risk of becoming a victim of cybercrime has increased in the past year.

<sup>18</sup> Joint Statement of the European Parliament, the Council of the EU, and the European Commission on decentralised agencies, 19.7.2012

([http://europa.eu/agencies/documents/joint\\_statement\\_and\\_common\\_approach\\_2012\\_en.pdf](http://europa.eu/agencies/documents/joint_statement_and_common_approach_2012_en.pdf))

*synergies can be contemplated or when agencies would be more efficient if inserted in a bigger structure”.*

Merging Europol and CEPOL into a single agency, situated at the current headquarters of Europol in The Hague would create important synergies and efficiency gains. Combining the operational police cooperation know-how of Europol with the training and education expertise of CEPOL would strengthen the links and create synergies between the two fields. Contacts between the operational and the training staff working within a single agency would help identify training needs, thus increasing the relevance and focus of EU training, to the benefit of EU police cooperation overall. Duplication of support functions in the two agencies would be avoided, and resulting savings could be redeployed and invested in core operational and training functions. This is particularly important in an economic context, where national and EU resources are scarce and where resources to strengthen EU law enforcement training might not otherwise be available.

This proposal for a regulation therefore provides for a legal framework for a new Europol which succeeds and replaces Europol as established by the Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol), and CEPOL as established by Council Decision 2005/681/JHA establishing the European Police College (CEPOL).

The proposal is in line with the requirements of the Lisbon Treaty, the expectations of the Stockholm Programme, the priorities set out in the Internal Security Strategy in Action, and the Common Approach to EU decentralised agencies.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

Dialogues on the preparation of the reform of Europol, CEPOL and of EU law enforcement training took place in 2010 and 2011 between the Commission and representatives of the European Parliament, the Council of the European Union and the Management Board of Europol and Governing Body of CEPOL, as well as with representatives of national Parliaments.

In line with its “Better Regulation” policy, the Commission conducted two impact assessments of policy alternatives concerning Europol and CEPOL.<sup>19</sup>

The impact assessment on Europol was based on the two policy objectives of increasing provision of information to Europol by Member States and of setting a data processing environment that allows Europol to fully assist Member States in preventing and combating serious crime and terrorism. As regards the former objective, two policy options were assessed: (i) clarifying a legal obligation of Member States to provide data to Europol, providing for incentives and a reporting mechanism on the performance of individual Member States, and (ii) granting Europol access to relevant national law enforcement databases on a hit-/no hit basis. As regards the policy objective on a data processing environment, two policy options were assessed: (i) merging the two existing Analyses Work Files into one and (ii) new processing environment setting up procedural safeguards to implement data protection principles with particular emphasis on ‘privacy by design’.

The impact assessment on CEPOL was based on the two policy objectives of (i) ensuring better quality, more joined-up and more consistent training for a wider range of law enforcement officers in cross-border crime issues and (ii) establishing a framework to achieve

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<sup>19</sup> *To insert references to the final versions of the impact assessments on Europol and CEPOL*

this in line with the Common Approach on EU decentralised agencies. In the context of the Commission presenting a Law Enforcement Training Scheme, for the implementation of which additional resources will be needed, the Commission examined different options including strengthening and streamlining CEPOL as a separate agency and merging, partially or fully, the functions of CEPOL and Europol into a new Europol agency.

According to the Commission's established methodology, each policy option was assessed, with the help of an inter-service steering group, against its impact on security, on the costs (including on the budget of the EU institutions) and impact on fundamental rights.

The analysis of the overall impact led to the development of the preferred policy option which is incorporated in the present proposal. According to the assessment, its implementation will lead to further effectiveness of Europol as an agency providing comprehensive support for law enforcement officers in the European Union.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

Article 88 and Article 87(2)(b) of the Treaty on the Functioning of the European Union are the legal bases for the proposal.

#### **Objective and content of the legislative proposal**

This proposal aims to:

- Align Europol with the requirements of the Treaty of Lisbon by setting up the legislative framework of Europol in the regulation and by introducing a mechanism for control of Europol's activities by the European Parliament, together with national Parliaments. In this way democratic legitimacy and accountability of Europol to the European citizen would be enhanced.
- Meet the goals of the Stockholm Programme by making Europol "a hub for information exchange between the law enforcement authorities of the Member States" and establishing European training schemes and exchange programmes for all relevant law enforcement professionals at national and EU level.
- Grant Europol new responsibilities so that it may provide a more comprehensive support for law enforcement authorities in the Member States. This includes Europol taking over the current tasks of CEPOL in the area of training of law enforcement officers and developing a Law Enforcement Training Scheme. This also involves a possibility for Europol to develop the EU centres of specialized expertise for combating certain types of crime falling under Europol's objectives, in particular the European Cybercrime Centre.
- Ensure a robust data protection regime for Europol, in particular to guarantee that the data protection supervisor of Europol has full independence, can act effectively and has sufficient powers of intervention.
- To improve the governance of Europol by seeking increased efficiency and aligning it with the principles laid down in the Common Approach on EU decentralised agencies.

The proposal achieves these aims in the following way:

#### **1. Aligning Europol with the requirements of the Treaty of Lisbon, increasing its accountability**

The regulation ensures that Europol's activities are subject to scrutiny by the democratically elected representatives of the EU citizens. The proposed rules are in line with the Commission's 2010 Communication on the procedures for the scrutiny of Europol's activities by the European Parliament, together with national Parliaments.<sup>20</sup>

In particular, the European Parliament and national Parliaments:

- receive information through annual activity reports and final accounts each year;
- receive for information threat assessments, strategic analyses and general situation reports relating to Europol's objective as well as the results of studies and evaluations commissioned by Europol, and working arrangements agreed with authorities of third countries to implement international agreements concluded by the European Union with this third country;
- receive for information the multi-annual and annual work programme as adopted;
- receive reports on quantity and quality of information provided to Europol by each Member State and on the performance of its National Unit;
- may discuss with the Executive Director and the Chairperson of the Management Board matters relating to Europol- taking into account the obligations of discretion and confidentiality.

In addition, the European Parliament:

- fulfils its functions of the budgetary authority, in particular: receives the statement of estimates, receives the report on the budgetary and financial management for that financial year, may ask for any information required for the discharge procedure and gives a discharge to the Executive Director in respect of the implementation of the budget;
- is consulted on the multi-annual work programme of Europol;
- receives for information the annual work programme of Europol;
- may invite the candidate for the Executive Director of Europol or a Deputy Executive Director selected by the Management Board for a hearing before the competent parliamentary committee;
- may invite the Executive Director to reply to its questions on his/her performance.

In order to allow the European Parliament to exercise the scrutiny but at the same time to guarantee confidentiality of operational information, Europol and the European Parliament need to conclude working arrangement on the access to European Union Classified Information and sensitive non-classified information processed by or through Europol.

## **2. Europol as a hub for information exchange between law enforcement authorities in the Member States**

In order to improve Europol's intelligence picture, so that it can better support Member States and better inform EU policy setting, the proposal seeks to enhance the supply of information by Member States to Europol. This is done by strengthening the obligation for Member States to provide Europol with relevant data. An incentive is offered by extending the possibility for law enforcement services to receive financial support to cross border investigations in areas

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<sup>20</sup> COM (2010) 776 final.

other than euro counterfeiting. A reporting mechanism to monitor Member States' contribution of data to Europol is introduced.

To enable Europol to better establish links between data already in its possession and subsequently analysing them, the agency's processing architecture is re-designed. It no longer pre-defines data bases or systems but instead adopts a 'privacy by design' approach and full transparency towards the Data Protection Officer at Europol and the European Data Protection Supervisor, the EDPS. High data protection and data security standards are achieved by means of procedural safeguards that apply to any specific type of information. The regulation sets out in detail the purposes of data processing activities (cross-checking, strategic analyses or other general nature, operational analyses in specific cases), the sources of information and who may access data. It also lists categories of personal data and data subjects whose data may be collected for each specific information processing activity. This would enable Europol to adapt its IT architecture to future challenges and the needs of the law enforcement authorities in the EU. Once in place, it would allow Europol to link and make analyses of relevant data, reduce delays in identifying trends and patterns and reduce multiple storage of data. At the same time, high data protection standards would be guaranteed. Observance of those standards will be supervised by the European Data Protection Supervisor.

In this way Europol analysts would gain a broader picture on serious criminality and terrorism in the EU. They would be able to quickly identify trends and patterns across all criminal areas and build more comprehensive and relevant intelligence reports to support Member States' law enforcement authorities.

### **3. New responsibilities: training and developing EU centres to fight specific crimes**

To ensure synergies in EU support for policing, and to allow full implementation of the EU Law Enforcement Training Scheme proposed in parallel with this regulation,<sup>21</sup> Europol will take over and build on the tasks formerly carried out by CEPOL. Closer links between training and operational work will lead to more targeted and relevant training for law enforcement officers.

Europol, through a new department known as the Europol Academy will assume responsibility for supporting, developing, delivering and coordinating training for law enforcement officers at the strategic level, and not only (as is the case under the current CEPOL Decision) senior police officers. These activities will address needs for awareness and knowledge of international and Union instruments, encouragement of cross-border cooperation, specialized knowledge in specific criminal or policing thematic areas and preparation for participation in EU civilian police missions in third countries. It will be responsible for developing and evaluating educational tools, linked to requirements identified in regular training needs assessments. It will contribute to research and seek to establish partnerships with Union bodies and private academic institutions as appropriate.

The composition, functions and procedures of the Management Board reflect Europol's new responsibilities for law enforcement training, as well as the best practice set out in the Common Approach on EU decentralised agencies.

A Scientific Committee for Training will advise the Management Board in order to guarantee and guide the scientific quality of Europol's training activities.

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<sup>21</sup> COM (2013) 172 final.

To enhance the EU's capacity to confront specific crime phenomena, which particularly call for a common effort, Europol is given a possibility to develop centres to fight specific forms of crime, for example the European Cybercrime Centre.

Such EU centres integrating various approaches towards fighting the specific form of crime would add value to the Member States actions. They could, for instance, be information focal points, pool expertise to support Member States in capacity building, support Member States' investigations or become the collective voice of the European investigators across law enforcement in the specific area.

#### **4. Robust data protection regime**

The proposal reinforces the data protection regime applicable to Europol's activities. In particular, the following measures are taken:

- The existing autonomous Europol data protection regime is further strengthened by drawing to a large extent on the principles underpinning Regulation (EC) No 45/2001 on the protection of individual with regard to processing of personal data by the Community institutions and bodies and on the free movement of such data.<sup>22</sup> As Declaration 21 attached to the Treaty recognizes the specificity of personal data processing in the law enforcement context, the data protection rules of Europol have however been aligned with other data protection instruments applicable in the area of police and judicial cooperation. These are in particular the Convention No. 108<sup>23</sup> and Recommendation No R (87) of the Council of Europe<sup>24</sup> and Council Framework Decision 2008/977 on the protection of personal data processed in the framework of police and judicial cooperation.<sup>25</sup> This will ensure a high level of protection of individuals with regard to processing of personal data, while taking into due account the specificity of law enforcement.
- Access by Member States to personal data held by Europol and relating to operational analyses, is made indirect based on a hit/no hit system: an automated comparison produces an anonymous 'hit' if the data held by the requesting Member State match data held by Europol. The related personal or case data are only provided in response to a separate follow-up request.
- The processing of personal data on victims, witnesses, persons different from suspects, and minors is prohibited unless strictly necessary. This limitation also applies to data revealing racial or ethnic origin, political opinions, religions or beliefs, trade-union membership and of data concerning health or sex life (sensitive personal data). Furthermore, sensitive personal data can only be processed where they supplement other personal data already processed by Europol. Europol is obliged to provide every six months an overview of all sensitive personal data to the EDPS. Finally, no decision which produces legal effects concerning a data subject can be taken solely on the basis of automated processing of sensitive personal data, unless it is authorised by EU or national law or by the EDPS.

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<sup>22</sup> OJ L 8, 12.1.2001, p. 1-22.

<sup>23</sup> Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, Strasbourg, 28.1.1981.

<sup>24</sup> Council of Europe Committee of Ministers Recommendation No. R(87) 15 to the Member States on regulating the use of personal data in the police sector, 17.9.1987.

<sup>25</sup> OJ L 350, 30.12.2008, p. 60. The Commission has proposed to replace this instrument by a Directive, COM (2012) 10 final.



- To increase transparency, individuals' right of access to personal data held by Europol is reinforced. The information that Europol must provide to an individual requesting access to his/her data is listed in the Regulation.
- The proposal sets clear rules on the division of responsibility in data protection matters, in particular it makes Europol responsible for reviewing the continued need to store personal data at regular intervals.
- The obligation of logging and documentation is extended from covering access to a wider range of data processing activities: collection, alteration, access, disclosure, combination and erasure. To ensure better control over the use of data and clarity on who has been processing it, the regulation prohibits modification of the logs.
- Any individual can turn to Europol for compensation for unlawful data processing or an action incompatible with the provisions of this Regulation. In such a case Europol and a Member State in which damage has occurred are jointly and severally liable (Europol on the basis of Article 340 of the Treaty and the Member State on the basis of its national law).
- The role of Europol's external data protection supervisory authority is strengthened. The European Data Protection Supervisor will be competent for the supervision of processing of personal data by Europol. This ensures full compliance with the criteria of independence established in the case-law of the Court of Justice and, due to the EDPS' enforcement powers, effectiveness of data protection supervision.
- The national data protection authorities remain however competent for supervision of input, the retrieval and any communication to Europol of personal data by the Member State concerned. They also remain responsible for examining whether such input, retrieval or communication violates the rights of the data subject.
- The Regulation introduces elements of "joint supervision" on data transferred to and processed at Europol. In specific issues requiring national involvement and in order to ensure coherent application of this regulation throughout the European Union, the European Data Protection Supervisor and national supervisory authorities, each acting within its competences, should co-operate with each other.

## **5. Improved governance**

The proposal improves the governance of Europol by seeking efficiency gains, streamlining procedures, notably with respect to the Management Board and the Executive Director, and by aligning Europol with the principles laid down in the Common Approach on EU decentralised agencies.

The Commission and the Member States are represented on the Management Board of Europol in order to effectively control its workings. In order to reflect the dual mandate of the new Agency – operational support and training for law enforcement – the full members of the Management Board are appointed on the basis of their knowledge of law enforcement cooperation, whereas alternate members are appointed on the basis of their knowledge of training for law enforcement officers. The alternate members will act as full members whenever training is discussed or decided. The Management Board will be advised by a scientific committee on technical training issues (Scientific Committee for Training).

The Management Board is given the necessary powers, in particular to establish the budget, verify its execution, adopt the appropriate financial rules and planning documents, establish transparent working procedures for decision-making by the Executive Director of Europol, adopt the annual activity report, and appoint an Executive Director.

To streamline the decision making process, the Management Board may also decide to establish an Executive Board. Such a small-sized Executive Board, with the presence of a Commission representative, could be more closely involved in the monitoring of Europol's activities with a view to reinforcing supervision of administrative and budgetary management, in particular on audit matters.

In order to ensure efficient day-to-day functioning of Europol, the Executive Director is its legal representative and manager. The Executive Director is completely independent in the performance of his/her tasks and ensures that Europol carries out the tasks foreseen in this Regulation. In particular, the Executive Director is responsible for preparing budgetary and planning documents submitted for the decision of the Management Board, implementing the annual and multiannual work programmes of Europol and other planning documents.

#### **4. BUDGETARY IMPLICATION**

The full merger of CEPOL and EUROPOL will lead to synergies and efficiency gains. The savings achieved are assessed at the level of €17.2 million over the period 2015-2020 and 14 full time staff equivalent (FTE).

Although this proposal will take advantage of these savings and build on existing resources, additional resources will be required for Europol to implement the new tasks related to training of law enforcement officials, and to process and analyse the expected increase in information flows, including through the European Cybercrime Centre. The operation and further development of the European Cybercrime Centre has by far the most significant impact on resources. In parallel to these needs for new resources, CEPOL and Europol also participate in the current 5% reduction in staff numbers across all EU agencies, as well as contributing staff posts to a pool for redeployment in EU agencies in favour of new tasks and start-up phase agencies.

An additional 12 FTE will be needed to implement the new tasks related to training of law enforcement officials, i.e. the activities needed to implement the European Law Enforcement Training Scheme proposed in parallel with this Regulation. The human resources for the new training activities will be obtained as a result of the merger of CEPOL into Europol, which will result in savings amounting to 14 posts, representing €10.1m over the period 2015-2020. By discontinuing 14 posts, CEPOL should comply with the request to cut staff by 5% and to contribute to the redeployment pool. In addition, an estimated €7.1m will be saved as a result of lower costs of building, equipment and management board expenses over the same period. The relocation of around 40 staff from CEPOL's current site in Bramshill, UK, to the Europol site in The Hague, the Netherlands, is expected to result in limited one-off costs, estimated at €30 000. However, the UK has announced its intention to close the Bramshill site, CEPOL will therefore in any event have to be relocated.

An additional 3 FTE will be needed for increased information processing requirements that will result from the expected rise in the quantity of information supplied to Europol as a result of this proposal (which combines a strengthened obligation upon Member States to provide relevant data to Europol, financial support to individual investigations and monitoring reports). These will be gradually recruited between 2015 and 2017 resulting in an estimated €1.8m in staffing costs over the period 2015-2020. However, approximately two thirds of these costs will be offset by the savings resulting from the merger of CEPOL: two (2) FTE will be secured from the remaining 2 posts out of the 14 saved as a result of the CEPOL merger.

For the European Cybercrime Centre, an additional 41 FTE will be recruited over the period 2015-2020. The tasks for which that staff is needed are identified in an accompanying

Commission Staff Working Document. The non-staff costs for the European Cybercrime Centre have been estimated at €16.6m over the same period. In 2013, 44 FTE had already been assigned to the European Cybercrime Centre through internal redeployment within Europol and an additional 17 FTE were requested by Europol as a part of the Draft Budget 2014.

In order to comply with the request to cut staff by 5% and to contribute to the redeployment pool, 34 FTE should be discontinued within Europol between 2015 and 2018 on top of the 12 FTE to be discontinued already in 2014.

Finally, this proposal will require additional resources for the European Data Protection Supervisor estimated at the equivalent of 1 FTE. The change in data protection supervision arrangements will create savings of €3m for Europol between 2015 and 2020, no longer needing to provide support to the current Joint Supervisory Body, and additional costs of €1.5m for EDPS over the same period.

In total, therefore, the budgetary impact of the legislative proposal amounts to €623m for the merged agency over the period 2015-2020, as well as the €1.5m needed for the EDPS.<sup>26</sup>

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<sup>26</sup> The final number of posts and the overall budget are subject to the outcome of both an internal Commission review of the resource needs of decentralised agencies for the period 2014-2020 and the MFF negotiations with especial regard to an assessment of 'real needs' in the context of competing demands for very limited budget resources and in view of respecting the 5% staff cut in Agencies.

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**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 88 and Article 87(2)(b) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

After having consulted the European Data Protection Supervisor,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Europol was set up by Decision 2009/371/JHA<sup>27</sup> as an entity of the Union funded from the general budget of the Union to support and strengthen action by competent authorities of the Member States and their mutual cooperation in preventing and combating organised crime, terrorism and other forms of serious crime affecting two or more Member States. Decision 2009/371/JHA replaced the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention).<sup>28</sup>
- (2) Article 88 of the Treaty provides for Europol to be governed by a regulation to be adopted in accordance with the ordinary legislative procedure. It also requires the establishment of procedures for the scrutiny of Europol's activities by the European Parliament, together with national Parliaments. Therefore, it is necessary to replace the Decision 2009/371/JHA by a regulation laying down rules on parliamentary scrutiny.
- (3) The European Police College ('CEPOL') was established by Decision 2005/681/JHA<sup>29</sup> to facilitate cooperation between national police forces by organising and coordinating training activities with a European policing dimension.
- (4) The 'Stockholm Programme – An open and secure Europe serving and protecting citizens'<sup>30</sup> 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." On the basis of an assessment of Europol's functioning, further enhancement of its operational effectiveness is needed to meet this objective. The Stockholm

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<sup>27</sup> OJ L 121, 15.05.2009, p. 37.

<sup>28</sup> OJ C 316, 27.11.1995, p. 1.

<sup>29</sup> OJ L 256, 1.10.2005, p. 63.

<sup>30</sup> OJ C 115, 4.5.2010, p. 1.

Programme also sets the aim of creating a genuine European law enforcement culture by setting up European training schemes and exchange programmes for all relevant law enforcement professionals at national and Union level.

- (5) Large-scale criminal and terrorist networks pose a significant threat to the internal security of the Union and to the safety and livelihood of its citizens. Available threat assessments show that criminal groups are becoming increasingly poly-criminal and cross-border in their activities. National law enforcement authorities therefore need to cooperate more closely with their counterparts in other Member States. In this context, it is necessary to equip Europol to support Member States more in Union-wide crime prevention, analyses and investigations. This has also been confirmed in the evaluations of Decisions 2009/371/JHA and 2005/681/JHA.
- (6) Given the links between the tasks of Europol and CEPOL, integrating and rationalising the functions of the two agencies would enhance the effectiveness of operational activity, the relevance of training and the efficiency of Union police cooperation.
- (7) Decisions 2009/371/JHA and 2005/681/JHA should therefore be repealed and replaced by this regulation, which draws on the lessons learnt from the implementation of both Decisions. Europol as established by this regulation should replace and assume the functions of Europol and CEPOL as established by the two repealed Decisions.
- (8) As crime often occurs across internal borders, Europol should support and strengthen Member State actions and their cooperation in preventing and combating serious crime affecting two or more Member States. As terrorism is one of the most important threats for the security of the Union, Europol should assist Member States in facing common challenges in this regard. As the EU law enforcement agency, Europol should also support and strengthen actions and cooperation on tackling forms of crime that affect the interests of the EU. It should also offer support in preventing and combating related criminal offences which are committed in order to procure the means, to facilitate, to carry out or to ensure the impunity of acts in respect of which Europol is competent.
- (9) Europol should ensure better quality, coherent and consistent training for law enforcement officers of all ranks within a clear framework in accordance with identified training needs.
- (10) Europol should be able to request Member States to initiate, conduct or coordinate criminal investigations in specific cases where cross-border cooperation would add value. Europol should inform Eurojust of such requests.
- (11) To increase the effectiveness of Europol as a hub for information exchange in the Union, clear obligations for Member States to provide Europol with the data necessary for it to fulfil its objectives should be laid down. While implementing such obligations, Member States should pay particular attention to providing data relevant for the fight against crimes considered to be strategic and operational priorities within relevant policy instruments of the Union. Member States should also provide Europol with a copy of bilateral and multilateral exchanges of information with other Member States on crime falling under Europol's objectives. At the same time, Europol should increase the level of its support to Member States, so as to enhance mutual cooperation and sharing of information. Europol should submit an annual report to all Union institutions and to national Parliaments on the extent to which individual Member States provide it with information.
- (12) To ensure effective cooperation between Europol and Member States, a national unit should be set up in each Member State. It should be the principal liaison between national law enforcement authorities and training institutes and Europol. To ensure continuous, effective

exchange of information between Europol and national units and to facilitate their cooperation, each national unit should second at least one liaison officer to Europol.

- (13) Taking into account the decentralised structure of some Member States and the need to ensure in certain cases rapid exchanges of information, Europol should be allowed to cooperate directly with law enforcement authorities in Member States in individual investigations, while keeping Europol national units informed.
- (14) To ensure that Union-level law enforcement training is of high quality, coherent and consistent, Europol should act in line with Union law enforcement training policy. Union-level training should be available to law enforcement officers of all ranks. Europol should ensure that training is evaluated and that conclusions from training needs assessments are part of planning to reduce duplication. Europol should promote the recognition in Member States of training provided at Union level.
- (15) It is also necessary to improve the governance of Europol, by seeking efficiency gains and streamlining procedures.
- (16) The Commission and the Member States should be represented on the Management Board of Europol to effectively supervise its work. To reflect the dual mandate of the new agency, operational support and training for law enforcement, the full members of the Management Board should be appointed on the basis of their knowledge of law enforcement cooperation, whereas alternate members should be appointed on the basis of their knowledge of training for law enforcement officers. Alternate members should act as full members in the absence of the full member and in any case when training is discussed or decided. The Management Board should be advised by a scientific committee on technical training issues.
- (17) The Management Board should be given the necessary powers, in particular to set the budget, verify its execution, adopt the appropriate financial rules and planning documents, establish transparent working procedures for decision-making by the Executive Director of Europol, and adopt the annual activity report. It should exercise the powers of appointing authority towards staff of the agency including the Executive Director. To streamline the decision making process, and to reinforce supervision of administrative and budgetary management, the Management Board should be also entitled to establish an Executive Board.
- (18) To ensure the efficient day-to-day functioning of Europol, the Executive Director should be its legal representative and manager, acting in complete independence in the performance of all tasks and ensuring that Europol carries out the tasks provided for by this Regulation. In particular, the Executive Director should be responsible for preparing budgetary and planning documents submitted for the decision of the Management Board, implementing the annual and multiannual work programmes of Europol and other planning documents.
- (19) For the purposes of preventing and combating crime falling under its objectives, it is necessary for Europol to have the fullest and most up-to-date information possible. Therefore, Europol should be able to process data provided to it by Member States, third countries, international organisations and Union bodies as well as coming from publicly available sources to develop an understanding of criminal phenomena and trends, to gather information about criminal networks, and to detect links between different offences.
- (20) To improve Europol's effectiveness in providing accurate crime analyses to the Member States' law enforcement authorities, it should use new technologies to process data. Europol should be able to swiftly detect links between investigations and common *modi operandi* across different criminal groups, to check cross-matches of data and to have a clear overview of trends, while

maintaining high level of protection of personal data for individuals. Therefore, Europol databases should not be pre-defined, allowing Europol to choose the most efficient IT structure. To ensure a high level of data protection, the purpose of processing operations and access rights as well as specific additional safeguards should be laid down.

- (21) To respect ownership of data and protection of information, Member States and authorities in third countries and international organisations should be able to determine the purpose for which Europol may process the data they provide and to restrict access rights.
- (22) To ensure that data are accessed only by those for whom access is necessary to perform their tasks, this Regulation should lay down detailed rules on different degrees of right of access to data processed by Europol. Such rules should be without prejudice to restrictions on access imposed by data providers, as the principle of ownership of data should be respected. In order to increase efficiency of preventing and combating crime falling under Europol's objectives, Europol should notify Member States of information which concerns them.
- (23) To enhance operational cooperation between the agencies, and particularly to establish links between data already in possession of the different agencies, Europol should enable Eurojust and the European Anti-Fraud Office (OLAF) to have access to and be able to search against data available at Europol.
- (24) Europol should maintain cooperative relations with other Union bodies, law enforcement authorities and law enforcement training institutes of third countries, international organisations, and private parties to the extent required for the accomplishment of its tasks.
- (25) To ensure operational effectiveness, Europol should be able to exchange all information, with the exception of personal data, with other Union bodies, law enforcement authorities and law enforcement training institutes of third countries, and international organisations to the extent necessary for the performance of its tasks. Since companies, firms, business associations, non-governmental organisations and other private parties hold expertise and data of direct relevance to the prevention and combating of serious crime and terrorism, Europol should also be able to exchange such data with private parties. To prevent and combat cybercrime, as related to network and information security incidents, Europol should, pursuant to Directive [name of adopted Directive] of the European Parliament and of the Council concerning measures to ensure a high common level of network and information security across the Union,<sup>31</sup> cooperate and exchange information, with the exception of personal data, with national authorities competent for the security of network and information systems.
- (26) Europol should be able to exchange personal data with other Union bodies to the extent necessary for the accomplishment of its tasks.
- (27) Serious crime and terrorism often have links beyond the territory of the EU. Europol should therefore be able to exchange personal data with law enforcement authorities of third countries and with international organisations such as Interpol to the extent necessary for the accomplishment of its tasks.
- (28) Europol should be able to transfer personal data to an authority of a third country or an international organisation on the basis of a Commission decision finding that the country or international organisation in question ensures an adequate level of data protection, or, in the absence of an adequacy decision, an international agreement concluded by the Union pursuant

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<sup>31</sup> *To insert reference to the adopted Directive (Proposal: COM (2013) 48 final).*

to Article 218 of the Treaty, or a cooperation agreement concluded between Europol and this third country prior to the entry into force of this Regulation. In view of Article 9 of Protocol 36 on transitional provisions attached to the Treaty, legal effects of such agreements should be preserved until those agreements are repealed, annulled or amended in the implementation of the Treaty.

- (29) Where a transfer of personal data cannot be based on an adequacy decision taken by the Commission, or, an international agreement concluded by the Union, or an existing cooperation agreement, the Management Board and the European Data Protection Supervisor should be allowed to authorise a transfer or a set of transfers, provided adequate safeguards are ensured. Where none of the above applies, the Executive Director should be allowed to authorise the transfer of data in exceptional cases on a case-by-case basis, if it is necessary to safeguard the essential interests of a Member State, to prevent an imminent danger associated with crime or terrorism, if the transfer is otherwise necessary or legally required on important public grounds, if the data subject has consented, or if vital interests of the data subject are at stake.
- (30) Europol should be able to process personal data originating from private parties and private persons only if transferred to Europol by a Europol national unit of a Member State in accordance with its national law or, by a contact point in a third country with which there is established cooperation through a cooperation agreement concluded in accordance with Article 23 of Decision 2009/371/JHA prior to the entry into force of this Regulation or an authority of a third country or an international organisation with which the Union has concluded an international agreement pursuant to Article 218 of the Treaty.
- (31) Any information which has clearly been obtained by a third country or international organisation in violation of human rights shall not be processed.
- (32) Data protection rules at Europol should be strengthened and draw on the principles underpinning Regulation (EC) No 45/2001<sup>32</sup> to ensure a high level of protection of individuals with regard to processing of personal data. As Declaration 21 attached to the Treaty recognizes the specificity of personal data processing in the law enforcement context, the data protection rules of Europol should be autonomous and aligned with other relevant data protection instruments applicable in the area of police cooperation in the Union, in particular Convention No. 108<sup>33</sup> and Recommendation No R(87) of the Council of Europe<sup>34</sup> and Council Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters<sup>35</sup> [*to be replaced by the relevant Directive in force at the moment of adoption*].
- (33) As far as possible personal data should be distinguished according to the degree of their accuracy and reliability. Facts should be distinguished from personal assessments, in order to ensure both the protection of individuals and the quality and reliability of the information processed by Europol.
- (34) Personal data relating to different categories of data subjects are processed in the area of police co-operation. Europol should make distinctions between personal data of different categories of

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<sup>32</sup> OJ L 8, 12.1.2001, p. 1.

<sup>33</sup> Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, Strasbourg, 28.1.1981.

<sup>34</sup> Council of Europe Committee of Ministers Recommendation No. R(87) 15 to the Member States on regulating the use of personal data in the police sector, 17.9.1987.

<sup>35</sup> OJ L 350, 30.12.2008, p. 60.



data subjects as clear as possible. Personal data of persons such as victims, witnesses, persons possessing relevant information as well as personal data of minors should in particular be protected. Therefore, Europol should not process them unless it is strictly necessary for preventing and combating crime within its objectives, and if those data supplement other personal data already processed by Europol.

- (35) In the light of fundamental rights to protection of personal data, Europol should not store personal data longer than necessary for the performance of its tasks.
- (36) To guarantee the security of personal data, Europol should implement appropriate technical and organisational measures.
- (37) Any person should have a right of access to personal data concerning them, to have inaccurate data concerning them rectified and to erase or block data concerning them, if the data is no longer required. The rights of the data subject and the exercise thereof should not affect the obligations placed on Europol and should be subject to the restrictions laid down in this Regulation.
- (38) The protection of the rights and freedoms of data subjects requires a clear attribution of the responsibilities under this Regulation. In particular, Member States should be responsible for accuracy and keeping up to date the data they have transferred to Europol and for the legality of such transfer. Europol should be responsible for accuracy and for keeping the data provided by other data suppliers up to date. Europol should also ensure that data are processed fairly and lawfully, are collected and processed for a specific purpose, that they are adequate, relevant, not excessive in relation to the purposes for which they are processed, and stored no longer than is necessary for that purpose.
- (39) Europol should keep records of collection, alteration, access, disclosure, combination or erasure of personal data for the purposes of verification of the lawfulness of the data processing, self-monitoring and ensuring proper data integrity and security. Europol should be obliged to cooperate with the European Data Protection Supervisor and make the logs or documentation available upon request, so that they can be used for monitoring processing operations.
- (40) Europol should designate a data protection officer to assist it in monitoring compliance with the provisions of this Regulation. The data protection officer should be in a position to perform his/her duties and tasks independently and effectively.
- (41) National competent authorities for the supervision of the processing of personal data should monitor the lawfulness of the processing of personal data by Member States. The European Data Protection Supervisor should monitor the lawfulness of data processing by Europol exercising its functions with complete independence.
- (42) The European Data Protection Supervisor and national supervisory authorities should cooperate with each other on specific issues requiring national involvement and to ensure coherent application of this Regulation throughout the Union.
- (43) As Europol is processing also non-operational personal data, not related to any criminal investigations, processing of such data should be subject to Regulation (EC) No 45/2001.
- (44) The European Data Protection Supervisor should hear and investigate complaints lodged by data subjects. The investigation following a complaint should be carried out, subject to judicial review, to the extent that is appropriate in the specific case. The supervisory authority should inform the data subject of progress and the outcome of the complaint within a reasonable period.

- (45) Any individual should have the right to a judicial remedy against decisions of the European Data Protection Supervisor concerning him/her.
- (46) Europol should be subject to general rules on contractual and non-contractual liability applicable to Union institutions, agencies and bodies, with the exception of liability for unlawful data processing.
- (47) It may be unclear for the individual concerned whether damage suffered as a result of unlawful data processing is a consequence of action by Europol or by a Member State. Europol and the Member State in which the event that gave rise to the damage occurred should therefore be jointly and severally liable.
- (48) To ensure that Europol is a fully accountable and transparent internal organisation, it is necessary, in the light of Article 88 of the Treaty on the Functioning of the European Union, to lay down procedures for scrutiny of Europol activities by the European Parliament together with national Parliaments, taking into due account the need to safeguard confidentiality of operational information.
- (49) The Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities laid down in Regulation (EEC, Euratom, ECSC) No 259/68<sup>36</sup> should apply to Europol staff. Europol should be able to employ staff engaged from the competent authorities of the Member States as temporary agents whose period of service should be limited in order to maintain the principle of rotation, as the subsequent reintegration of staff members into the service of their competent authority facilitates close cooperation between Europol and the competent authorities of the Member States. Member States should take any measure necessary to ensure that staff engaged at Europol as temporary agents may, at the end of this service at Europol, return to the national civil service to which they belong.
- (50) Given the nature of the duties of Europol and the role of the Executive Director, the Executive Director may be invited to make a statement to and to answer questions from the competent committee of the European Parliament before his appointment, as well as before any extension of his term of office. The Executive Director should also present the annual report to the European Parliament and to the Council. Furthermore, the European Parliament should be able to invite the Executive Director to report on the performance of his duties.
- (51) To guarantee the full autonomy and independence of Europol, it should be granted an autonomous budget, with revenue coming essentially from a contribution from the budget of the Union. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.
- (52) Regulation (EU, EURATOM) No 966/2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (the Financial Regulation)<sup>37</sup> should apply to Europol.
- (53) Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)<sup>38</sup> should apply to Europol.

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<sup>36</sup> OJ L 56, 4.3.1968, p. 1.

<sup>37</sup> OJ L 298, 26.10.2012, p. 1.

- (54) Europol processes data that require particular protection as they include EU classified information and sensitive non-classified information. Europol should therefore draw up rules on confidentiality and processing of such information, taking into account the basic principles and minimum standards laid down in Decision 2011/292/EU on the security rules for protecting EU classified information.<sup>39</sup>
- (55) It is appropriate to evaluate the application of this Regulation regularly.
- (56) The necessary provisions regarding accommodation for Europol in the Member State in which it has its headquarters, in the Netherlands, and the specific rules applicable to all Europol's staff and members of their families should be laid down in a headquarters agreement. Furthermore, the host Member State should provide the best possible conditions to ensure the proper functioning of Europol, including schools for children and transport, so as to attract high-quality human resources from as wide a geographical area as possible.
- (57) Europol, as set up by this Regulation replaces and succeeds Europol as established by Decision 2009/371/JHA and CEPOL as established by Decision 2005/681/JHA. It should therefore be a legal successor of all their contracts, including employment contracts, liabilities and properties acquired. International agreements concluded by Europol as established on the basis of Decision 2009/371/JHA and CEPOL as established on the basis of Decision 2005/681/JHA should remain in force, with the exception of the headquarters agreement concluded by CEPOL.
- (58) To enable Europol to continue to fulfil the tasks of Europol as established on the basis of Decision 2009/371/JHA and CEPOL as established by Decision 2005/681/JHA to the best of its abilities, transitional measures should be laid down, in particular with regard to the Management Board, the Executive Director and ring-fencing part of Europol's budget for training for three years following the entry into force of this Regulation.
- (59) Since the objective of this Regulation, namely the establishment of an entity responsible for law-enforcement cooperation and training at Union level, cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.
- (60) [In accordance with Article 3 of the Protocol (No 21) on the position of United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, those Member States have notified their wish to participate in the adoption and application of this Regulation] OR [Without prejudice to Article 4 of the Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, those Member States will not participate in the adoption of this Regulation and will not be bound by or be subject to its application].
- (61) In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European

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<sup>38</sup> OJ L 136, 31.5.1999, p. 1.

<sup>39</sup> OJ L 141, 27.05.2011, p. 17.

Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

- (62) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, in particular the right to the protection of personal data and the right to privacy as protected by Articles 8 and 7 of the Charter, as well as by Article 16 of the Treaty.

HAVE ADOPTED THIS REGULATION:

## **Chapter I**

### **GENERAL PROVISIONS AND OBJECTIVES OF EUROPOL**

#### *Article 1*

##### **Establishment of the European Union Agency for Law Enforcement Cooperation and Training**

1. A European Union Agency for Law Enforcement Cooperation and Training (Europol) is hereby established to improve mutual cooperation among law enforcement authorities in the European Union, to strengthen and support their actions as well as to deliver a coherent European training policy.
2. Europol, as established by this Regulation, shall replace and succeed Europol as established by Decision 2009/371/JHA, and CEPOL as established by Decision 2005/681/JHA.

#### *Article 2*

##### **Definitions**

For the purposes of this Regulation:

- (a) ‘the competent authorities of the Member States’ means all police authorities and other law enforcement services existing in the Member States which are responsible under national law for preventing and combating criminal offences;
- (b) ‘analysis’ means the assembly, processing or use of data with the aim of assisting criminal investigations;
- (c) ‘Union bodies’ means institutions, entities, missions, offices and agencies set up by, or on the basis of the Treaty on European Union and the Treaty on the Functioning of the European Union;
- (d) ‘law enforcement officers’ means officers of police, customs and of other relevant services, including Union bodies, responsible for preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime that affect a common interest covered by a Union policy and for civilian crisis management and international policing of major events;
- (e) ‘third countries’ means countries that are not Member States of the European Union;
- (f) ‘international organisations’ means international organisations and their subordinate bodies governed by public law or other bodies which are set up by, or on the basis of, an agreement between two or more countries;

- (g) ‘private parties’ means entities and bodies established under the law of a Member State or a third country, in particular companies and firms, business associations, non-profit organizations and other legal persons that do not fall under point (f);
- (h) ‘private persons’ means all natural persons;
- (i) ‘personal data’ means any information relating to an identified or identifiable natural person hereinafter referred to as “data subject”; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his/her physical, physiological, mental, economic, cultural or social identity;
- (j) ‘processing of personal data’ hereinafter referred to as ‘processing’ means any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;
- (k) ‘recipient’ means a natural or legal person, public authority, agency or any other body to whom data are disclosed, whether a third party or not; however, authorities which may receive data in the framework of a particular inquiry shall not be regarded as recipients;
- (l) ‘transfer of personal data’ means the communication of personal data, actively made available, between a limited number of identified parties, with the knowledge or intention of the sender to give the recipient access to the personal data;
- (m) ‘personal data filing system’ hereinafter referred to as ‘filing system’ means any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis;
- (n) ‘the data subject’s consent’ means any freely given specific and informed indication of his/her wishes by which the data subject signifies his/her agreement to personal data relating to him/her being processed;
- (o) ‘administrative personal data’ means all personal data processed by Europol apart from those that are processed to meet the objectives laid down in Article 3(1) and (2).

### *Article 3*

#### **Objectives**

1. Europol shall support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy, as specified in Annex 1.
2. Europol shall also support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combating criminal offences related to the offences referred to under point (a). The following offences shall be regarded as related criminal offences:
  - (a) criminal offences committed in order to procure the means of perpetrating acts in respect of which Europol is competent;
  - (b) criminal offences committed in order to facilitate or carry out acts in respect of which Europol is competent;

- (c) criminal offences committed in order to ensure the impunity of acts in respect of which Europol is competent.
3. Europol shall support, develop, deliver and coordinate training activities for law enforcement officers.

## **Chapter II**

### **TASKS RELATED TO LAW ENFORCEMENT COOPERATION**

#### *Article 4*

##### **Tasks**

1. Europol is the European Union agency that shall perform the following tasks in accordance with this Regulation:
  - (a) to collect, store, process, analyse and exchange information;
  - (b) to notify the Member States without delay of information concerning them and of any connections between criminal offences;
  - (c) to coordinate, organise and implement investigative and operational action
    - (i) carried out jointly with the Member States' competent authorities; or
    - (ii) in the context of joint investigative teams, in accordance with Article 5, where appropriate in liaison with Eurojust;
  - (d) to participate in joint investigative teams as well as to propose that they are set up in accordance with Article 5;
  - (e) to provide information and analytical support to Member States in connection with major international events;
  - (f) to prepare threat assessments, strategic and operational analyses and general situation reports;
  - (g) to develop, share and promote specialist knowledge of crime prevention methods, investigative procedures and technical and forensic methods, and to provide advice to Member States;
  - (h) to provide technical and financial support to Member States' cross-border operations and investigations, including joint investigative teams;
  - (i) to support, develop, deliver, coordinate and implement training for law enforcement officers in cooperation with the network of training institutes in Member States as set out in Chapter III;
  - (j) to provide the Union bodies established on the basis of Title V of the Treaty and the European Anti-Fraud Office (OLAF) with criminal intelligence and analytical support in the areas that fall under their competence;
  - (k) to provide information and support to EU crisis management structures, and to EU crisis management missions established on the basis of the Treaty on European Union;

- (l) to develop Union centres of specialised expertise for combating certain types of crime falling under Europol's objectives, in particular the European Cybercrime Centre.
2. Europol shall provide strategic analyses and threats assessments to assist the Council and the Commission in laying down strategic and operational priorities of the Union for fighting crime. Europol shall also assist in operational implementation of those priorities.
3. Europol shall provide strategic intelligence to assist the efficient and effective use of the resources available at national and Union level for operational activities and the support of those activities.
4. Europol shall act as the Central Office for combating euro counterfeiting in accordance with Decision 2005/511/JHA of 12 July 2005 on protecting the euro against counterfeiting.<sup>40</sup> Europol shall also encourage the coordination of measures carried out to fight euro counterfeiting by the competent authorities of the Member States or in the context of joint investigation teams, where appropriate in liaison with Union bodies and the authorities of third countries.

#### *Article 5*

#### **Participation in joint investigation teams**

1. Europol may participate in the activities of joint investigation teams dealing with crime that falls under Europol's objectives.
2. Europol may, within the limits provided by the law of the Member States in which joint investigative team is operating, assist in all activities and exchange of information with all members of the joint investigative team.
3. Where Europol has reasons to believe that setting up a joint investigation team would add value to an investigation, it may propose this to the Member States concerned and take measures to assist them in setting up the joint investigation team.
4. Europol shall not apply coercive measures.

#### *Article 6*

#### **Requests by Europol for the initiation of criminal investigations**

1. In specific cases where Europol considers that a criminal investigation should be initiated into a crime that falls under its objectives, it shall inform Eurojust.
2. At the same time, Europol shall request the National Units of the Member States concerned established on the basis of Article 7(2) to initiate, conduct or coordinate a criminal investigation.
3. The National Units shall inform Europol without delay of the initiation of the investigation.
4. If the competent authorities of the Member States concerned decide not to comply with the request made by Europol, they shall provide Europol with the reasons for the decision, within one month of the request. The reasons may be withheld if giving them would:
  - (a) harm essential national security interests; or

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<sup>40</sup> OJ L 185, 16.07.2005, p. 35.

- (b) jeopardise the success of investigations under way or the safety of individuals.
5. Europol shall inform Eurojust of the decision of a competent authority of a Member State to initiate or refuse to initiate an investigation.

#### *Article 7*

### **Member States' cooperation with Europol**

1. Member States shall cooperate with Europol in the fulfilment of its tasks.
2. Each Member State shall establish or designate a National Unit which shall be the liaison body between Europol and the competent authorities in Member States as well as with training institutes for law enforcement officers. Each Member State shall appoint an official as the head of the National Unit.
3. Member States shall ensure that their National Units are able to fulfil their tasks as set out in this Regulation, in particular that they have access to national law enforcement databases.
4. Europol may directly cooperate with competent authorities of the Member States in respect of individual investigations. In that case, Europol shall inform the National Unit without delay and provide a copy of any information exchanged in the course of direct contacts between Europol and the respective competent authorities.
5. Member States shall, via their National Unit or a competent authority of a Member State, in particular:
  - (a) supply Europol with the information necessary for it to fulfil its objectives. This includes providing Europol without delay with information relating to crime areas that are considered a priority by the Union. It also includes providing a copy of bilateral or multilateral exchanges with another Member State or Member States in so far as the exchange refers to crime that falls under Europol's objectives;
  - (b) ensure effective communication and cooperation of all relevant competent authorities of the Member States and training institutes for law enforcement officers within the Member States, with Europol;
  - (c) raise awareness of Europol's activities.
6. The heads of National Units shall meet on a regular basis, particularly to discuss and solve problems that occur in the context of their operational cooperation with Europol.
7. Each Member State shall define the organisation and the staff of the National Unit according to its national legislation.
8. The costs incurred by National Units and of the competent authorities in Member States in communications with Europol shall be borne by the Member States and, apart from the costs of connection, shall not be charged to Europol.
9. Member States shall ensure a minimum level of security of all systems used to connect to Europol.
10. Each year Europol shall draw up a report on the quantity and quality of information provided by each Member State pursuant to paragraph 5(a) and on the performance of its National Unit. The annual report shall be sent to the European Parliament, the Council, the Commission and national parliaments.



## *Article 8*

### **Liaison officers**

1. Each National Unit shall designate at least one liaison officer to Europol. Except as otherwise laid down in this Regulation, liaison officers shall be subject to the national law of the designating Member State.
2. Liaison officers shall constitute the national liaison bureaux at Europol and shall be instructed by their National Units within Europol in accordance with the national law of the designating Member State and the provisions applicable to the administration of Europol.
3. Liaison officers shall assist in the exchange of information between Europol and their Member States.
4. Liaison officers shall assist in the exchange of information between their Member States and the liaison officers of other Member States in accordance with national law. Europol's infrastructure may be used, in line with national law, for such bilateral exchanges also to cover crimes outside the objectives of Europol. The Management Board shall determine the rights and obligations of liaison officers in relation to Europol.
5. Liaison officers shall enjoy the privileges and immunities necessary for the performance of their tasks in accordance with Article 65.
6. Europol shall ensure that liaison officers are fully informed of and associated with all of its activities, insofar as this is necessary for the performance of their tasks.
7. Europol shall cover the costs of providing Member States with the necessary premises in the Europol building and adequate support for liaison officers to carry out their duties. All other costs that arise in connection with the designation of liaison officers shall be borne by the designating Member State, including the costs of equipment for liaison officers, unless the budgetary authority decides otherwise on the recommendation of the Management Board.

## **Chapter III**

### **TASKS RELATED TO TRAINING FOR LAW ENFORCEMENT OFFICERS**

## *Article 9*

### **Europol Academy**

1. A department within Europol, called the Europol Academy, as set up by this Regulation, shall support, develop, deliver and coordinate training for law enforcement officers in particular in the areas of the fight against serious crime affecting two or more Member States and terrorism, management of high-risk public order and sports events, strategic planning and command of non-military Union missions, as well as law enforcement leadership and language skills and in particular to:
  - (a) raise awareness and knowledge of:
    - (i) international and Union instruments on law enforcement cooperation;
    - (ii) Union bodies, in particular Europol, Eurojust and Frontex, their functioning and role;

- (iii) judicial aspects of law enforcement cooperation and practical knowledge about access to information channels;
  - (b) encourage the development of regional and bilateral cooperation among Member States and between Member States and third countries;
  - (c) address specific criminal or policing thematic areas where training at Union level can add value;
  - (d) devise specific common curricula for law enforcement officers to train them for participation in Union civilian missions;
  - (e) support Member States in bilateral law enforcement capacity-building activities in third countries;
  - (f) train trainers and assist in improving and exchanging good learning practices.
2. The Europol Academy shall develop and regularly update learning tools and methodologies and apply these in a lifelong learning perspective to strengthen the skills of law enforcement officers. The Europol Academy shall evaluate the results of these actions with a view to enhancing the quality, coherence and efficacy of future actions.

#### *Article 10*

#### **Tasks of the Europol Academy**

1. The Europol Academy shall prepare multi-annual strategic training needs analyses and multi-annual learning programmes.
2. The Europol Academy shall develop and implement training activities and learning products, which may include:
  - (a) courses, seminars, conferences, web-based and e-learning activities;
  - (b) common curricula to raise awareness, address gaps and/or facilitate a common approach in relation to cross-border criminal phenomena;
  - (c) training modules graduated according to progressive stages or levels of complexity of skills needed by the relevant target group, and focused either on a defined geographical region, a specific thematic area of criminal activity or on a specific set of professional skills;
  - (d) exchange and secondment programmes of law enforcement officers in the context of an operational based training approach.
3. To ensure a coherent European training policy to support civilian missions and capacity-building in third countries the Europol Academy shall:
  - (a) assess the impact of existing Union-related law enforcement training policies and initiatives;
  - (b) develop and provide training to prepare Member States' law enforcement officers for participation in civilian missions, including to enable them to acquire relevant language skills;
  - (c) develop and provide training for law enforcement officers from third countries, in particular from the countries that are candidates for accession to the Union;

- (d) manage dedicated Union External Assistance funds to assist third countries in building their capacity in relevant policy areas, in line with the established priorities of the Union.
4. The Europol Academy shall promote the mutual recognition of law enforcement training in Member States and related existing European quality standards.

*Article 11*

**Research relevant for training**

1. The Europol Academy shall contribute to development of research relevant for training activities covered by this Chapter.
2. The Europol Academy shall promote and establish a partnership with Union bodies as well as with public and private academic institutions and shall encourage the creation of stronger partnerships between universities and law enforcement training institutes in Member States.

**Chapter IV**

**ORGANISATION OF EUROPOL**

*Article 12*

**Administrative and management structure of Europol**

The administrative and management structure of Europol shall comprise:

- (a) a Management Board, which shall exercise the functions set out in Article 14;
- (b) an Executive Director, who shall exercise the responsibilities set out in Article 19;
- (c) a Scientific Committee for Training in accordance with Article 20;
- (d) if appropriate, any other advisory body established by the Management Board in accordance with Article 14(1)(p);
- (e) if appropriate, an Executive Board in accordance with Articles 21 and 22.

SECTION 1

MANAGEMENT BOARD

*Article 13*

**Composition of the Management Board**

1. The Management Board shall be composed of one representative from each Member State and two representatives of the Commission, all with voting rights.
2. The members of the Management Board shall be appointed on the basis of their experience in the management of public or private sector organisations and knowledge of law enforcement cooperation.

3. Each member of the Management Board shall be represented by an alternate member who shall be appointed on the basis of his/her experience in the management of public and private sector organisations and knowledge of national policy on training for law enforcement officers. The alternate member shall act as a member on any issues related to training of law enforcement officers. The alternate member shall represent the member in his/her absence. The member shall represent the alternate on any issues related to training of law enforcement officers in his/her absence.
4. All parties represented in the Management Board shall make efforts to limit the turnover of their representatives, to ensure continuity of the Management Board's work. All parties shall aim to achieve a balanced representation between men and women on the Management Board.
5. The term of office for members and alternate members shall be four years. That term shall be extendable. Upon expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced.

#### *Article 14*

#### **Functions of the Management Board**

1. The Management Board shall:
  - (a) adopt each year Europol's work programme for the following year by a majority of two-thirds of members and in accordance with Article 15;
  - (b) adopt a multi-annual work programme, by a majority of two-thirds of members in accordance with Article 15;
  - (c) adopt, by a majority of two thirds of its members, the annual budget of Europol and exercise other functions in respect of Europol's budget pursuant to Chapter XI;
  - (d) adopt a consolidated annual activity report on Europol's activities and send it, by 1 July of the following year, to the European Parliament, the Council, the Commission, the Court of Auditors and national Parliaments. The consolidated annual activity report shall be made public;
  - (e) adopt the financial rules applicable to Europol in accordance with Article 63;
  - (f) by 31 January adopt, after taking into account the opinion of the Commission, the multiannual staff policy plan;
  - (g) adopt an anti-fraud strategy, proportionate to fraud risks, taking into account the costs and benefits of the measures to be implemented;
  - (h) adopt rules for the prevention and management of conflicts of interest in respect of its members, as well as members of the Scientific Committee for Training;
  - (i) in accordance with paragraph 2, exercise, with respect to the staff of Europol, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment ('the appointing authority powers');
  - (j) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;

- (k) appoint the Executive Director and Deputy Executive Directors and where relevant extend their term of office or remove them from the office in accordance with Articles 56 and 57;
  - (l) establish performance indicators and oversee the Executive Director's performance including the implementation of Management Board decisions;
  - (m) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be functionally independent in the performance of his/her duties;
  - (n) appoint the members of the Scientific Committee for Training;
  - (o) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office (OLAF);
  - (p) take all decisions on the establishment of Europol's internal structures and, where necessary, their modification;
  - (q) adopt its rules of procedure.
2. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants delegating the relevant appointing authority powers to the Executive Director and defining the conditions under which this delegations of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Management Board may, by way of a decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate those powers to one of its members or to a staff member other than the Executive Director.

#### *Article 15*

#### **Annual work programme and multi-annual work programme**

1. The Management Board shall adopt the annual work programme the latest by 30 November each year, based on a draft put forward by the Executive Director, taking into account the opinion of the Commission. It shall forward it to the European Parliament, the Council, the Commission and national parliaments.
2. The annual work programme shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 4. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year.
3. The Management Board shall amend the adopted annual work programme if a new task is given to Europol.

Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Management Board may delegate the

power to make non-substantial amendments to the annual work programme to the Executive Director.

4. The Management Board shall also adopt the multi-annual work programme and update it by 30 November each year, taking into account the opinion of the Commission and after consulting the European Parliament and national parliaments.

The adopted multi-annual work programme shall be forwarded to the European Parliament, the Council, the Commission and national Parliaments.

The multi-annual work programme shall set out strategic objectives and expected results including performance indicators. It shall also contain an indication of the amount and staff allocated to each objective, in line with the multiannual financial framework and the multi-annual staff policy plan. It shall include the strategy for relations with third countries or international organisations referred to in Article 29.

The multi-annual programme shall be implemented through annual work programmes and shall, where appropriate, be updated following the outcome of external and internal evaluations. The conclusion of these evaluations shall also be reflected, where appropriate, in the annual work programme for the following year.

#### *Article 16*

### **Chairperson of the Management Board**

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among members. The Chairperson and the Deputy Chairperson shall be elected by a majority of two-thirds of the members of the Management Boards.

The Deputy Chairperson shall automatically replace the Chairperson if he/she is prevented from attending to his/her duties.

2. The terms of office of the Chairperson and of the Deputy Chairperson shall be four years. Their term of office may be renewed once. If, however, their membership of the Management Board ends at any time during their term of office as Chairperson or Deputy Chairperson, their term of office shall automatically expire on that date.

#### *Article 17*

### **Meetings of the Management Board**

1. The Chairperson shall convene the meetings of the Management Board.
2. The Executive Director of Europol shall take part in the deliberations.
3. The Management Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission or at the request of at least one-third of its members.
4. The Management Board may invite any person whose opinion may be relevant for the discussion to attend its meeting as a non-voting observer.
5. Advisers or experts may assist the members of the Management Board, subject to the provisions of its Rules of Procedure.
6. Europol shall provide the secretariat for the Management Board.

*Article 18*

**Voting rules**

1. Without prejudice to Articles 14(1)(a), (b) and (c), Article 16(1) and Article 56(8), the Management Board shall take decisions by a majority of members.
2. Each member shall have one vote. In the absence of a voting member, his/her alternate shall be entitled to exercise his/her right to vote.
3. The Chairperson shall take part in voting.
4. The Executive Director shall not take part in voting.
5. The Management Board's rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member, and any quorum requirements, where necessary.

SECTION 2

EXECUTIVE DIRECTOR

*Article 19*

**Responsibilities of the Executive Director**

1. The Executive Director shall manage Europol. He/she shall be accountable to the Management Board.
2. Without prejudice to the powers of the Commission, the Management Board or the Executive Board, the Executive Director shall be independent in the performance of his/her duties and shall neither seek nor take instructions from any government, nor from any other body.
3. The Executive Director shall report to the European Parliament on the performance of his/her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his/her duties.
4. The Executive Director shall be the legal representative of Europol.
5. The Executive Director shall be responsible for the implementation of the tasks assigned to Europol by this Regulation. In particular, the Executive Director shall be responsible for:
  - (a) the day-to-day administration of Europol;
  - (b) implementing decisions adopted by the Management Board;
  - (c) preparing the annual work programme and the multi-annual work programme and submitting them to the Management Board after consulting the Commission
  - (d) implementing the annual work programme and the multi-annual work programme and reporting to the Management Board on their implementation;
  - (e) preparing the consolidated annual report on Europol's activities and presenting it to the Management Board for approval;
  - (f) preparing an action plan following up conclusions of internal or external audit reports and evaluations, as well as investigation reports and recommendations from

- investigations by the (OLAF) and reporting on progress twice a year to the Commission and regularly to the Management Board;
- (g) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities and, without prejudice to the investigative competence of OLAF, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties;
  - (h) preparing an anti-fraud strategy for Europol and presenting it to the Management Board for approval;
  - (i) preparing draft financial rules applicable to Europol;
  - (j) preparing Europol's draft statement of estimates of revenue and expenditure and implementing its budget;
  - (k) preparing a draft multi-annual staff policy plan and submitting it to the Management Board after consultation of the Commission;
  - (l) supporting the Chair of the Management Board in preparing Management Board meetings;
  - (m) informing the Management Board on a regular basis regarding the implementation of Union strategic and operational priorities for fighting crime.

### SECTION 3

#### SCIENTIFIC COMMITTEE FOR TRAINING

##### *Article 20*

##### **The Scientific Committee for Training**

1. The Scientific Committee for Training shall be an independent advisory body guaranteeing and guiding the scientific quality of Europol's work on training. For that purpose, the Executive Director shall involve the Scientific Committee for Training early on in the preparation of all documents referred to in Article 14 as far as they concern training.
2. The Scientific Committee for Training shall be composed of 11 persons of the highest academic or professional standing in the subjects covered by Chapter III of this Regulation. The Management Board shall appoint the members following a transparent call for applications and selection procedure to be published in the Official Journal of the European Union. The members of the Management Board shall not be members of the Scientific Committee for Training. The members of the Scientific Committee for Training shall be independent. They shall neither seek nor take instructions from any government, nor from any other body.
3. The list of members of the Scientific Committee for Training shall be made public and shall be updated by Europol on its website.
4. The term of office of the members of the Scientific Committee for Training shall be five years. It shall not be renewable and its members can be removed from office if they do not meet the criteria of independence.



5. The Scientific Committee for Training shall elect its Chairperson and Deputy Chairperson for a term of office of five years. It shall adopt positions by simple majority. It shall be convened by its Chairperson up to four times per year. If necessary, the Chairperson shall convene extraordinary meetings on his/her own initiative or at the request of at least four members of the Committee.
6. The Executive Director, Deputy Executive Director for Training or their respective representative shall be invited to the meetings as a non-voting observer.
7. The Scientific Committee for Training shall be assisted by a secretary who shall be a Europol staff member designated by the Committee and appointed by the Executive Director.
8. The Scientific Committee for Training shall, in particular:
  - (a) advise the Executive Director and the Deputy Executive Director for Training in drafting the annual work programme and other strategic documents, to ensure their scientific quality and their coherence with relevant Union sector policies and priorities;
  - (b) provide independent opinion and advice to the Management Board on matters pertaining to its remit;
  - (c) provide independent opinion and advice on the quality of curricula, applied learning methods, learning options and scientific developments;
  - (d) perform any other advisory task pertaining to the scientific aspects of Europol's work relating to training at the request of the Management Board or by the Executive Director or the Deputy Executive Director for Training.
9. The annual budget of the Scientific Committee for Training shall be allocated to an individual budget line of Europol.

## SECTION 4

### EXECUTIVE BOARD

#### *Article 21*

#### **Establishment**

The Management Board may establish an Executive Board.

#### *Article 22*

#### **Functions and organisation**

1. The Executive Board shall assist the Management Board.
2. The Executive Board shall have the following functions:
  - (a) preparing decisions to be adopted by the Management Board;
  - (b) ensuring, together with the Management Board, adequate follow-up to the findings and recommendations stemming from the internal or external audit reports and evaluations, as well as on the investigation reports and recommendations from investigations of the European Anti-Fraud Office (OLAF);

- (c) without prejudice to the functions of the Executive Director, as set out in Article 19, assisting and advising the Executive Director in the implementation of the decisions of the Management Board, with a view to reinforcing supervision of administrative management.
- 3. When necessary, because of urgency, the Executive Board may take certain provisional decisions on behalf of the Management Board, in particular on administrative management matters, including the suspension of the delegation of the appointing authority powers.
- 4. The Executive Board shall be composed of the Chairperson of the Management Board, one representative of the Commission to the Management Board and three other members appointed by the Management Board from among its members. The Chairperson of the Management Board shall also be the Chairperson of the Executive Board. The Executive Director shall take part in the meetings of the Executive Board, but shall not have the right to vote.
- 5. The term of office of members of the Executive Board shall be four years. The term of office of members of the Executive Board shall end when their membership of the Management Board ends.
- 6. The Executive Board shall hold at least one ordinary meeting every three months. In addition, it shall meet on the initiative of its Chairperson or at the request of its members.
- 7. The Executive Board shall comply with the rules of procedure laid down by the Management Board.

## **Chapter V**

### **PROCESSING OF INFORMATION**

#### *Article 23*

##### **Sources of information**

- 1. Europol shall only process information that has been provided to it:
  - (a) by Member States in accordance with their national law;
  - (b) by Union bodies, third countries and international organisations in accordance with Chapter VI;
  - (c) by private parties in accordance with Article 29(2).
- 2. Europol may directly retrieve and process information, including personal data, from publicly available sources, such as the media, including the internet and public data.
- 3. Europol may retrieve and process information, including personal data, from information systems, of a national, Union or international nature, including by means of computerised direct access, in so far as authorised by Union, international or national legal instruments. The applicable provisions of such Union, international or national legal instruments shall govern the access to and use of that information by Europol insofar as they provide for stricter rules on access and use than those of this Regulation. The access to such information systems shall be granted only to duly authorised staff of Europol as far as this is necessary for the performance of their tasks.

## *Article 24*

### **Purposes of information processing activities**

1. In so far as necessary for the achievement of its objectives as laid down in Article 3(1) and (2), Europol shall process information, including personal data only for the purposes of:
  - (a) cross-checking aimed at identifying connections between information;
  - (b) analyses of a strategic or thematic nature;
  - (c) operational analyses in specific cases.
2. Categories of personal data and categories of data subjects whose data may be collected for each specific purpose referred to under paragraph 1 are listed in Annex 2.

## *Article 25*

### **Determination of the purpose of information processing activities**

1. A Member State, a Union body, a third country or an international organisation providing information to Europol determines the purpose for which it shall be processed as referred to in Article 24. If it has not done so, Europol shall determine relevance of such information as well as the purpose for which it shall be processed. Europol may process information for a different purpose than the one for which information has been provided only if authorised by the data provider.
2. Member States, Union bodies, third countries and international organisations may indicate, at the moment of transferring information, any restriction on access or use, in general or specific terms, including as regards erasure or destruction. Where the need for such restrictions becomes apparent after the transfer, they shall inform Europol accordingly. Europol shall comply with such restrictions.
3. Europol may assign any restriction to access or use by Member States, Union bodies, third countries and international organisations of information retrieved from publicly-available sources.

## *Article 26*

### **Access by Member States' and Europol's staff to information stored by Europol**

1. Member States shall have access to and be able to search all information which has been provided for the purposes of Article 24(1)(a) and (b), without prejudice to the right for Member States, Union bodies and third countries and international organisations to indicate restrictions on access and use of such data. Member States shall designate these competent authorities allowed to perform such a search.
2. Member States shall have indirect access on the basis of a hit/no hit system to information provided for the purposes of Article 24(1)(c), without prejudice to any restrictions indicated by the Member States, Union bodies and third countries or international organisations providing the information, in accordance with Article 25(2). In the case of a hit, Europol shall initiate the procedure by which the information that generated the hit may be shared, in accordance with the decision of the Member State that provided the information to Europol.
3. Europol staff duly empowered by the Executive Director shall have access to information processed by Europol to the extent required for the performance of their duties.

## *Article 27*

### **Access to Europol information for Eurojust and OLAF**

1. Europol shall take all appropriate measures to enable Eurojust and the European Anti-Fraud Office (OLAF) within their respective mandates, to have access to and be able to search all information that has been provided for the purposes of Article 24(1)(a) and (b), without prejudice to the right for Member States, Union bodies and third countries and international organisations to indicate restrictions to the access and use of such data. Europol shall be informed where a search by Eurojust or OLAF reveals the existence of a match with information processed by Europol.
2. Europol shall take all appropriate measures to enable Eurojust and OLAF, within their respective mandates, to have indirect access on the basis of a hit/no hit system to information provided for the purposes under Article 24(1)(c), without prejudice to any restrictions indicated by the providing Member States, Union bodies and third countries or international organisations, in accordance with Article 25(2). In case of a hit, Europol shall initiate the procedure by which the information that generated the hit may be shared, in accordance with the decision of the Member State, Union body, third country or international organisation that provided the information to Europol.
3. Searches of information in accordance with paragraphs 1 and 2 shall be made only for the purpose of identifying whether information available at Eurojust or OLAF, respectively, matches with information processed at Europol.
4. Europol shall allow searches in accordance with paragraphs 1 and 2 only after obtaining from Eurojust information about which National Members, Deputies, Assistants, as well as Eurojust staff members, and from OLAF information about which staff members, have been designated as authorised to perform such searches.
5. If during Europol's information processing activities in respect of an individual investigation, Europol or a Member State identifies the necessity for coordination, cooperation or support in accordance with the mandate of Eurojust or OLAF, Europol shall notify them thereof and shall initiate the procedure for sharing the information, in accordance with the decision of the Member State providing the information. In such a case Eurojust or OLAF shall consult with Europol.
6. Eurojust, including the College, the National Members, Deputies, Assistants, as well as Eurojust staff members, and OLAF, shall respect any restriction to access or use, in general or specific terms, indicated by Member States, Union bodies, third countries and international organisations in accordance with Article 25(2).

## *Article 28*

### **Duty to notify Member States**

1. If Europol, in accordance with its task pursuant to Article 4(1)(b), needs to inform a Member State about information concerning it, and that information is subject to access restrictions pursuant to Article 25(2), that would prohibit sharing it, Europol shall consult with the data provider stipulating the access restriction and seek its authorisation for sharing.

Without such an authorisation, the information shall not be shared.

2. Irrespective of any access restrictions, Europol shall inform a Member State about information concerning it if:
  - (a) this is absolutely necessary in the interest of preventing imminent danger associated with serious crime or terrorist offences; or
  - (b) this is essential for the prevention of an immediate and serious threat to public security of that Member State.

In such a case, Europol shall inform the data provider of sharing this information as soon as possible and justify its analysis of the situation.

## **Chapter VI**

### **RELATION WITH PARTNERS**

#### SECTION 1

#### COMMON PROVISIONS

##### *Article 29*

##### **Common provisions**

1. In so far as necessary for the performance of its tasks, Europol may establish and maintain cooperative relations with the Union bodies in accordance with the objectives of those bodies, the law enforcement authorities of third countries, law enforcement training institutes of third countries, international organisations and private parties.
2. In so far as relevant to the performance of its tasks and subject to any restriction stipulated pursuant to Article 25(2), Europol may directly exchange all information, with the exception of personal data, with entities referred to in paragraph 1.
3. Europol may receive and process personal data from entities referred to in paragraph 1 except from private parties, in so far as necessary for the performance of its tasks and subject to the provisions of this Chapter.
4. Without prejudice to Article 36(4), personal data shall only be transferred by Europol to Union bodies, third countries and international organisations, if this is necessary for preventing and combating crime that falls under Europol's objectives and in accordance with this Chapter. If the data to be transferred have been provided by a Member State, Europol shall seek that Member State's consent, unless:
  - (a) the authorisation can be assumed as the Member State has not expressly limited the possibility of onward transfers; or
  - (b) the Member State has granted its prior authorisation to such onward transfer, either in general terms or subject to specific conditions. Such consent may be withdrawn any moment.
5. Onward transfers of personal data by Member States, Union bodies, third countries and international organizations shall be prohibited unless Europol has given its explicit consent.

## SECTION 2

### EXCHANGES/TRANFERS OF PERSONAL DATA

#### *Article 30*

##### **Transfer of personal data to Union bodies**

Subject to any possible restrictions stipulated pursuant to Article 25(2) or (3) Europol may directly transfer personal data to Union bodies in so far as it is necessary for the performance of its tasks or those of the recipient Union body.

#### *Article 31*

##### **Transfer of personal data to third countries and international organisations**

1. Europol may transfer personal data to an authority of a third country or to an international organisation, in so far as this is necessary for it to perform its tasks, on the basis of:
  - (a) a decision of the Commission adopted in accordance with [Articles 25 and 31 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data] that that country or international organisation, or a processing sector within that third country or an international organisation ensures an adequate level of protection (adequacy decision); or
  - (b) an international agreement concluded between the Union and that third country or international organisation pursuant to Article 218 of the Treaty adducing adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals; or
  - (c) a cooperation agreement concluded between Europol and that third country or international organisation in accordance with Article 23 of Decision 2009/371/JHA prior to the date of application of this Regulation.

Such transfers do not require any further authorisation.

Europol may conclude working arrangements to implement such agreements or adequacy decisions.

2. By way of derogation from paragraph 1, the Executive Director may authorise the transfer of personal data to third countries or international organisations on a case-by-case basis if:
  - (a) the transfer of the data is absolutely necessary to safeguard the essential interests of one or more Member States within the scope of Europol's objectives;
  - (b) the transfer of the data is absolutely necessary in the interests of preventing imminent danger associated with crime or terrorist offences;
  - (c) the transfer is otherwise necessary or legally required on important public interest grounds, or for the establishment, exercise or defence of legal claims; or
  - (d) the transfer is necessary to protect the vital interests of the data subject or another person.

Moreover the Management Board may, in agreement with the European Data Protection Supervisor, authorise a set of transfers in conformity with points (a) to (d) above, taking into account of the existence of safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals, for a period not exceeding one year, renewable.

3. The Executive Director shall inform the Management Board and the European Data Protection Supervisor of cases where he/she applied paragraph 2.

#### *Article 32*

#### **Personal data from private parties**

1. In so far as necessary for Europol to perform its tasks, Europol may process personal data originating from private parties on condition that are received via:
  - (a) a national unit of a Member State in accordance with national law;
  - (b) the contact point of a third country with which Europol has concluded a cooperation agreement in accordance with Article 23 of the Decision 2009/371/JHA prior to date of application of this Regulation; or
  - (c) an authority of a third country or an international organisation with which the Union has concluded an international agreement pursuant to Article 218 of the Treaty.
2. If the data received affect the interests of a Member State, Europol shall immediately inform the National Unit of the Member State concerned.
3. Europol shall not contact private parties directly to retrieve personal data.
4. The Commission shall evaluate the necessity and possible impact of direct exchanges of personal data with private parties within three years after this Regulation is applicable. Such an evaluation shall specify among others the reasons whether the exchanges of personal data with private parties is necessary for Europol.

#### *Article 33*

#### **Information from private persons**

1. Information, including personal data, originating from private persons may be processed by Europol on condition that that it is received via:
  - (a) a National Unit of a Member State in accordance with national law;
  - (b) the contact point of a third country with which Europol has concluded a cooperation agreement in accordance with Article 23 of the Decision 2009/371/JHA prior to the date of application of this Regulation; or
  - (c) an authority of a third country or an international organisation with which the European Union has concluded an international agreement pursuant to Article 218 of the Treaty.
2. If Europol receives information, including personal data, from a private person residing in a third country with which there is no international agreement, either concluded on the basis of Article 23 of Decision 2009/371/JHA or on the basis of Article 218 of the Treaty, Europol may only forward that information to a Member State or a third country concerned with which such international agreements have been concluded.

3. Europol shall not contact private persons directly to retrieve information.

## **Chapter VII**

### **DATA PROTECTION SAFEGUARDS**

#### *Article 34*

#### **General data protection principles**

Personal data shall be:

- (a) processed fairly and lawfully;
- (b) collected for specified, explicit and legitimate purposes and not further processed in a manner incompatible with those purposes. Further processing of personal data for historical, statistical or scientific purposes shall not be considered incompatible provided that Europol provides appropriate safeguards, in particular to ensure that data are not processed for any other purposes;
- (c) adequate, relevant, and not excessive in relation to the purposes for which they are processed;
- (d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- (e) kept in a form which permits identification of data subjects and for no longer than necessary for the purposes for which the personal data are processed.

#### *Article 35*

#### **Different degrees of accuracy and reliability of personal data**

1. The source of information originating from a Member State shall be assessed as far as possible by the providing Member State using the following source evaluation codes:
  - (A): where there is no doubt as to the authenticity, trustworthiness and competence of the source, or if the information is provided by a source which has proved to be reliable in all instances;
  - (B): where the information is provided by a source which has in most instances proved to be reliable;
  - (C): where the information is provided by a source which has in most instances proved to be unreliable;
  - (X): where the reliability of the source cannot be assessed.
2. Information originating from a Member State shall be assessed as far as possible by the Member State providing information on the basis of its reliability using the following information evaluation codes:
  - (1): information the accuracy of which is not in doubt;



- (2): information known personally to the source but not known personally to the official passing it on;
- (3): information not known personally to the source but corroborated by other information already recorded;
- (4): information not known personally to the source and cannot be corroborated.
3. Where Europol, on the basis of information already in its possession, comes to the conclusion that the assessment needs to be corrected, it shall inform the Member State concerned and seek to agree on an amendment to the assessment. Europol shall not change the assessment without such agreement.
  4. Where Europol receives information from a Member State without an assessment, Europol shall attempt as far as possible to assess the reliability of the source or the information on the basis of information already in its possession. The assessment of specific data and information shall take place in agreement with the supplying Member State. A Member State may also agree with Europol in general terms on the assessment of specified types of data and specified sources. If no agreement is reached in a specific case, or no agreement in general terms exists, Europol shall evaluate the information or data and shall attribute to such information or data the evaluation codes (X) and (4), referred to in paragraphs 1 and 2.
  5. Where Europol receives data or information from a third country or international organisation, or Union body, this Article shall apply accordingly.
  6. Information from publicly-available sources shall be assessed by Europol using the evaluation codes set out in paragraphs 1 and 2.

#### *Article 36*

#### **Processing of special categories of personal data and of different categories of data subjects**

1. Processing of personal data on victims of a criminal offence, witnesses or other persons who can provide information on criminal offences, or on persons under the age of 18 shall be prohibited unless it is strictly necessary for preventing or combating crime that falls under Europol's objectives.
2. Processing of personal data, by automated or other means, revealing racial or ethnic origin, political opinions, religion or beliefs, trade-union membership and of data concerning health or sex life shall be prohibited, unless it is strictly necessary for preventing or combating crime that falls under Europol's objectives and if those data supplement other personal data already processed by Europol.
3. Only Europol shall have access to personal data referred to in paragraphs 1 and 2. The Executive Director shall duly authorise a limited number of officials who would have such access, if this is necessary for the performance of their tasks.
4. No decision which produces legal effects concerning a data subject shall be based solely on automated processing of data referred to in paragraph 2, unless the decision is expressly authorised pursuant to national or Union legislation or, if necessary, by the European Data Protection Supervisor.
5. Personal data referred to in paragraphs 1 and 2 shall not be transmitted to Member States, Union bodies, third countries or international organisations unless strictly necessary in individual cases concerning crime that falls under Europol's objectives.

6. Every six months Europol shall provide an overview of all personal data referred to in paragraph 2 processed by it to the European Data Protection Supervisor.

#### *Article 37*

#### **Time-limits for the storage and erasure of personal data**

1. Personal data processed by Europol shall be stored by Europol only as long as necessary for the achievement of its objectives.
2. Europol shall in any case review the need for continued storage no later than three years after the start of initial processing of personal data. Europol may decide on the continued storage of personal data until the following review, which shall take place after another period of three years, if continued storage is still necessary for the performance of Europol's tasks. The reasons for the continued storage shall be justified and recorded. If no decision is taken on the continued storage of personal data, that data shall be erased automatically after three years.
3. If data concerning persons referred to in Article 36(1) and (2) are stored for a period exceeding five years, the European Data Protection Supervisor shall be informed accordingly.
4. Where a Member State, an Union body, a third country or an international organisation has indicated any restriction as regards the earlier erasure or destruction of the personal data at the moment of transfer in accordance with Article 25(2), Europol shall erase the personal data in accordance with those restrictions. If continued storage of the data is deemed necessary for Europol to perform its tasks, based on information that is more extensive than that possessed by the data provider, Europol shall request the authorisation of the data provider to continue storing the data and present a justification for such a request.
5. Where a Member State, a Union body, a third country or an international organisation erases from its national data files data provided to Europol, it shall inform Europol accordingly. Europol shall erase the data unless the continued storage of the data is deemed necessary for Europol to achieve its objectives, based on information that is more extensive than that possessed by the data provider. Europol shall inform the data provider of the continued storage of such data and present a justification of such continued storage.
6. Personal data shall not be erased if:
  - (a) this would damage the interests of a data subject who requires protection. In such cases, the data shall be used only with the consent of the data subject.
  - (b) their accuracy is contested by the data subject, for a period enabling Member States or Europol, where appropriate, to verify the accuracy of the data;
  - (c) the personal data have to be maintained for purposes of proof;
  - (d) the data subject opposes their erasure and requests the restriction of their use instead.

#### *Article 38*

#### **Security of processing**

1. Europol shall implement appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction, accidental loss or unauthorised disclosure, alteration and access or any other unauthorised form of processing.
2. In respect of automated data processing, Europol shall implement measures designed to:

- (a) deny unauthorised persons access to data-processing equipment used for processing personal data (equipment access control);
  - (b) prevent the unauthorised reading, copying, modification or removal of data media (data media control);
  - (c) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data (storage control);
  - (d) prevent the use of automated data-processing systems by unauthorised persons using data-communication equipment (user control);
  - (e) ensure that persons authorised to use an automated data-processing system have access only to data covered by their access authorisation (data access control);
  - (f) ensure that it is possible to verify and establish to which bodies personal data may be or have been transmitted using data communication equipment (communication control);
  - (g) ensure that it is possible to verify and establish which personal data have been input into automated data-processing systems and when and by whom the data were input (input control);
  - (h) prevent the unauthorised reading, copying, modification or deletion of personal data during transfers of personal data or during the transportation of data media (transport control);
  - (i) ensure that installed systems may, in the event of interruption, be restored immediately (recovery);
  - (j) ensure that the functions of the system perform without fault, that the occurrence of faults in the functions is immediately reported (reliability) and that stored data cannot be corrupted by system malfunctions (integrity).
3. Europol and Member States shall define mechanisms to ensure that security needs are taken on board across information system boundaries.

### *Article 39*

#### **Right of access for the data subject**

1. Any data subject shall have the right, at reasonable intervals, to obtain information on whether personal data relating to him/her are processed by Europol. Where such personal data are being processed, Europol shall provide the following information to the data subject:
  - (a) confirmation as to whether or not data related to him/her are being processed;
  - (b) information at least as to the purposes of the processing operation, the categories of data concerned, and the recipients to whom the data are disclosed;
  - (c) communication in an intelligible form of the data undergoing processing and of any available information as to their sources.
2. Any data subject wishing to exercise the right of access to personal data may make a request to that effect without excessive costs to the authority appointed for this purpose in the Member State of his/her choice. That authority shall refer the request to Europol without delay and in any case within one month of receipt.

3. Europol shall answer the request without undue delay and in any case within three months of its receipt.
4. Europol shall consult the competent authorities of the Member States concerned on a decision to be taken. A decision on access to data shall be conditional on close cooperation between Europol and the Member States directly concerned by the access of the data subject to such data. If a Member State objects to Europol's proposed response, it shall notify Europol of the reasons for its objection.
5. Access to personal data shall be refused or restricted, if it constitutes a necessary measure to:
  - (a) enable Europol to fulfil its tasks properly;
  - (b) protect security and public order in the Member States or to prevent crime;
  - (c) guarantee that any national investigation will not be jeopardised;
  - (d) protect the rights and freedoms of third parties.
6. Europol shall inform the data subject in writing on any refusal or restriction of access, on the reasons for such a decision and of his right to lodge a complaint to the European Data Protection Supervisor. Information on the factual and legal reasons on which the decision is based may be omitted where the provision of such information would deprive the restriction imposed by paragraph 5 of its effect.

#### *Article 40*

#### **Right to rectification, erasure and blocking**

1. Any data subject shall have the right to ask Europol to rectify personal data relating to him/her if they are incorrect and, where this is possible and necessary, to complete or update them.
2. Any data subject shall have the right to ask Europol to erase personal data relating to him/her, if they are no longer required for the purposes for which they are lawfully collected or are lawfully further processed.
3. Personal data shall be blocked rather than erased if there are reasonable grounds to believe that erasure could affect the legitimate interests of the data subject. Blocked data shall be processed only for the purpose that prevented their erasure.
4. If data as described in paragraphs 1, 2 and 3 held by Europol have been provided to it by third countries, international organisations, or are the results of Europol's own analyses, Europol shall rectify, erase or block such data.
5. If data as described in paragraphs 1 and 2 held by Europol have been provided directly to Europol by Member States, the Member States concerned shall rectify, erase or block such data in collaboration with Europol.
6. If incorrect data were transferred by another appropriate means or if the errors in the data provided by Member States are due to faulty transfer or were transferred in breach of this Regulation or if they result from their being input, taken over or stored in an incorrect manner or in breach of this Regulation by Europol, Europol shall rectify or erase the data in collaboration with the Member States concerned.
7. In the cases referred to in paragraphs 4, 5 and 6 all addressees of such data shall be notified forthwith. In accordance with rules applicable to them, the addressees, shall then rectify, erase or block these data in their systems.

8. Europol shall inform the data subject in writing without undue delay and in any case within three months that data concerning him/her have been rectified, erased or blocked.
9. Europol shall inform the data subject in writing on any refusal of rectification, of erasure or blocking, and of the possibility of lodging a complaint with the European Data Protection Supervisor and seeking a judicial remedy.

#### *Article 41*

#### **Responsibility in data protection matters**

1. Europol shall store personal data in a way that ensures its source according to Article 23 can be established.
2. The responsibility for the quality of personal data as referred to in Article 34(d) shall lie with the Member State which provided the personal data to Europol and with Europol for personal data provided by Union bodies, third countries or international organisations, as well for personal data retrieved by Europol from publicly-available sources.
3. The responsibility for compliance with the principles as specified in Article 34(a), (b), (c) and (e) shall lie with Europol.
4. The responsibility for the legality of transfer shall lie:
  - (a) with the Member State which provided the data in the case of personal data provided by the Member States to Europol; and
  - (b) with Europol in the cases of personal data provided by Europol to Member States, and third countries or international organisations.
5. In case of a transfer between Europol and a Union body, the responsibility for the legality of the transfer shall lie with Europol. Without prejudice to the preceding sentence, where the data are transferred by Europol following a request from the recipient, both Europol and recipient shall bear the responsibility for the legality of this transfer. In addition, Europol shall be responsible for all data processing operations carried out by it.

#### *Article 42*

#### **Prior checking**

1. The processing of personal data which will form part of a new filing system to be created shall be subject to prior checking where:
  - (a) special categories of data referred to in Article 36(2) are to be processed;
  - (b) the type of processing, in particular using new technologies, mechanisms or procedures, holds otherwise specific risks for the fundamental rights and freedoms, and in particular the protection of personal data, of data subjects.
2. The prior checks shall be carried out by the European Data Protection Supervisor following receipt of a notification from the Data Protection Officer who, in case of doubt as to the need for prior checking, shall consult the European Data Protection Supervisor.
3. The European Data Protection Supervisor shall deliver his/her opinion within two months following receipt of the notification. This period may be suspended until the European Data Protection Supervisor has obtained any further information that he/she may have requested.

When the complexity of the matter so requires, this period may also be extended for a further two months, by decision of the European Data Protection Supervisor. This decision shall be notified to Europol prior to expiry of the initial two-month period.

If the opinion has not been delivered by the end of the two-month period, or any extension thereof, it shall be deemed to be favourable.

If the opinion of the European Data Protection Supervisor is that the notified processing may involve a breach of any provision of this Regulation, he/she shall where appropriate make proposals to avoid such breach. Where Europol does not modify the processing operation accordingly, the European Data Protection Supervisor may exercise the powers granted to him/her under Article 46(3).

4. The European Data Protection Supervisor shall keep a register of all processing operations have been notified to him/her pursuant to paragraph 1. Such a register shall be integrated into the register referred to in Article 27(5) of Regulation (EC) No 45/2001.

#### *Article 43*

#### **Logging and documentation**

1. For the purposes of verifying the lawfulness of data processing, self-monitoring and ensuring proper data integrity and security Europol shall keep records of collection, alteration, access, disclosure, combination or erasure of personal data. Such logs or documentation shall be deleted after three years, unless the data are further required for on-going control. There shall be no possibility to modify the logs.
2. Logs or documentation prepared under paragraph 1 shall be communicated on request to the European Data Protection Supervisor for the control of data protection. The European Data Protection Supervisor shall use that information only for the control of data protection and ensuring proper data processing as well as data integrity and security.

#### *Article 44*

#### **Data Protection Officer**

1. The Management Board shall appoint a Data Protection Officer who shall be a member of the staff. In the performance of his/her duties, he/she shall act independently.
2. The Data Protection Officer shall be selected on the basis of his/her personal and professional qualities and, in particular, the expert knowledge of data protection.
3. The selection of the Data Protection Officer shall not be liable to result in a conflict of interests between his/her duty as Data Protection Officer and any other official duties, in particular in relation to the application of the provisions of this Regulation.
4. The Data Protection Officer shall be appointed for a term of between two and five years. He/she shall be eligible for reappointment up to a maximum total term of ten years. He/she may be dismissed from the post of Data Protection Officer by the Community institution or body which appointed him/her only with the consent of the European Data Protection Supervisor, if he/she no longer fulfills the conditions required for the performance of his/her duties.
5. After his/her appointment the Data Protection Officer shall be registered with the European Data Protection Supervisor by the institution or body which appointed him/her.

6. With respect to the performance of his/her duties, the Data Protection Officer may not receive any instructions.
7. The Data Protection Officer shall in particular have the following tasks with regard to personal data, with the exception of personal data of Europol staff members as well as administrative personal data:
  - (a) ensuring, in an independent manner, lawfulness and compliance with the provisions of this Regulation concerning the processing of personal data;
  - (b) ensuring that a record of the transfer and receipt of personal data is kept in accordance with this Regulation;
  - (c) ensuring that data subjects are informed of their rights under this Regulation at their request;
  - (d) cooperating with Europol staff responsible for procedures, training and advice on data processing;
  - (e) cooperating with the European Data Protection Supervisor;
  - (f) preparing an annual report and communicating that report to the Management Board and to the European Data Protection Supervisor.
8. Moreover, the Data Protection Officer shall carry out the functions foreseen by Regulation (EC) No 45/2001 with regard to personal data of Europol staff members as well as administrative personal data.
9. In the performance of his/her tasks, the Data Protection Officer shall have access to all the data processed by Europol and to all Europol premises.
10. If the Data Protection Officer considers that the provisions of this Regulation concerning the processing of personal data have not been complied with, he/she shall inform the Executive Director, requiring him/her to resolve the non-compliance within a specified time. If the Executive Director does not resolve the non-compliance of the processing within the time specified, the Data Protection Officer shall inform the Management Board and they shall agree a specified time for a response. If the Management Board does not resolve the non-compliance of the processing within the time specified, the Data Protection Officer shall refer the matter to the European Data Protection Supervisor.
11. The Management Board shall adopt implementing rules concerning the Data Protection Officer. Those implementing rules shall in particular concern the selection procedure for the position of the Data Protection Officer and his/her dismissal, tasks, duties and powers and safeguards for independence of the Data Protection Officer. Europol shall provide the Data Protection Officer with the staff and resources necessary for him/her to carry out his/her duties. These staff members shall have access to the personal data processed at Europol and to Europol premises only to the extent necessary for the performance of their tasks.

#### *Article 45*

#### **Supervision by the national supervisory authority**

1. Each Member State shall designate a national supervisory authority with the task of monitoring independently, in accordance with its national law, the permissibility of the transfer, the retrieval and any communication to Europol of personal data by the Member State concerned and to examine whether such transfer, retrieval or communication violates the

rights of the data subject. For this purpose, the national supervisory authority shall have access, at the National Unit or at liaison officers' premises, to data submitted by its Member State to Europol in accordance with the relevant national procedures.

2. For the purpose of exercising their supervisory function, national supervisory authorities shall have access to the offices and documents of their respective liaison officers at Europol.
3. National supervisory authorities shall, in accordance with the relevant national procedures, supervise the activities of National Units and the activities of liaison officers, in so far as such activities are of relevance to the protection of personal data. They shall also keep the European Data Protection Supervisor informed of any actions they take with respect to Europol.
4. Any person shall have the right to request the national supervisory authority to verify that the transfer or communication to Europol of data concerning him/her in any form and the access to the data by the Member State concerned are lawful. This right shall be exercised in accordance with the national law of the Member State in which the request is made.

#### *Article 46*

#### **Supervision by the European Data Protection Supervisor**

1. The European Data Protection Supervisor shall be responsible for monitoring and ensuring the application of the provisions of this Regulation relating to the protection of fundamental rights and freedoms of natural persons with regard to processing personal data by Europol, and for advising Europol and data subjects on all matters concerning the processing of personal data. To this end, he/ she shall fulfil the duties set out in paragraph 2 and shall exercise the powers granted in paragraph 3.
2. The European Data Protection Supervisor shall have the following duties under this Regulation:
  - (a) hear and investigate complaints, and inform the data subject of the outcome within a reasonable period;
  - (b) conduct inquiries either on his/her own initiative or on the basis of a complaint, and inform the data subjects of the outcome within a reasonable period;
  - (c) monitor and ensure the application of the provisions of this Regulation and any other Union act relating to the protection of natural persons with regard to the processing of personal data by Europol;
  - (d) advise Europol, either on his/her own initiative or in response to a consultation, on all matters concerning the processing of personal data, in particular before they draw up internal rules relating to the protection of fundamental rights and freedoms with regard to the processing of personal data;
  - (e) determine, give reasons for and make public the exemptions, safeguards, authorisations and conditions mentioned in Article 36(4).
  - (f) keep a register of processing operations notified to him/her by virtue of Article 42(1) and registered in accordance with 42(4),
  - (g) carry out a prior check of processing notified to him/her.
3. The European Data Protection Supervisor may under this Regulation:
  - (a) give advice to data subjects in the exercise of their rights;



- (b) refer the matter to Europol in the event of an alleged breach of the provisions governing the processing of personal data, and, where appropriate, make proposals for remedying that breach and for improving the protection of the data subjects;
  - (c) order that requests to exercise certain rights in relation to data be complied with where such requests have been refused in breach of Articles 39 and 40;
  - (d) warn or admonish Europol;
  - (e) order the rectification, blocking, erasure or destruction of all data when they have been processed in breach of the provisions governing the processing of personal data and the notification of such actions to third parties to whom the data have been disclosed;
  - (f) impose a temporary or definitive ban on processing;
  - (g) refer the matter to Europol and, if necessary, to the European Parliament, the Council and the Commission;
  - (h) refer the matter to the Court of Justice of the European Union under the conditions provided for in the Treaty;
  - (i) intervene in actions brought before the Court of Justice of the European Union.
4. The European Data Protection Supervisor shall have the power:
- (a) to obtain from Europol access to all personal data and to all information necessary for his/her enquiries;
  - (b) to obtain access to any premises in which Europol carries on its activities when there are reasonable grounds for presuming that an activity covered by this Regulation is being carried out there.
5. The European Data Protection Supervisor shall draw up an annual report on the supervisory activities on Europol. This report shall be part of the annual report of the European Data Protection Supervisor referred to in Article 48 of Regulation (EC) No 45/2001.
6. Members and staff of the European Data Protection Supervisor shall be bound by the obligation of confidentiality in accordance with Article 69.

#### *Article 47*

### **Cooperation between the European Data Protection Supervisor and national data protection authorities**

1. The European Data Protection Supervisor shall act in close cooperation with national supervisory authorities on specific issues requiring national involvement, in particular if the European Data Protection Supervisor or a national supervisory authority finds major discrepancies between the practices of Member States or potentially unlawful transfer in the use of Europol's channels for exchange of information, or in the context of questions raised by one or more national supervisory authorities on the implementation and interpretation of this Regulation.
2. In the cases referred to in paragraph 1, the European Data Protection Supervisor and the national supervisory authorities shall, each acting within the scope of their respective competences, exchange relevant information, assist each other in carrying out audits and inspections, examine difficulties of interpretation or application of this Regulation, study problems relating to the exercise of independent supervision or the exercise of the rights of

data subjects, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.

3. The national supervisory authorities and the European Data Protection Supervisor shall meet, where needed. The costs and servicing of such meetings shall be borne by the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.

#### *Article 48*

### **Administrative personal data and Staff data**

Regulation (EC) No 45/2001 shall apply to all personal data of Europol staff members as well as administrative personal data held by Europol.

## **Chapter VIII**

### **REMEDIES AND LIABILITY**

#### *Article 49*

#### **Right to lodge a complaint with the European Data Protection Supervisor**

1. Any data subject shall have the right to lodge a complaint with the European Data Protection Supervisor, if he/she considers that the processing of personal data relating to him/her does not comply with the provisions of this Regulation.
2. Where a complaint relates to a decision as referred to in Article 39 or 40, the European Data Protection Supervisor shall consult the national supervisory bodies or the competent judicial body in the Member State that was the source of the data or the Member State directly concerned. The decision of the European Data Protection Supervisor, which may extend to a refusal to communicate any information, shall be taken in close cooperation with the national supervisory body or competent judicial body.
3. Where a complaint relates to the processing of data provided by a Member State to Europol, the European Data Protection Supervisor shall ensure that the necessary checks have been carried out correctly in close cooperation with the national supervisory body of the Member State that provided the data.
4. Where a complaint relates to the processing of data provided to Europol by EU entities, third countries or international organisations, the European Data Protection Supervisor shall ensure that Europol has carried out the necessary checks.

#### *Article 50*

#### **Right to a judicial remedy against the European Data Protection Supervisor**

Actions against the decisions of the European Data Protection Supervisor shall be brought before the Court of Justice of the European Union.

## *Article 51*

### **General provisions on liability and the right to compensation**

1. Europol's contractual liability shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause in a contract concluded by Europol.
3. Without prejudice to Article 52, in the case of non-contractual liability, Europol shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.
4. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.
5. The personal liability of Europol staff towards Europol shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

## *Article 52*

### **Liability for incorrect personal data processing and the right to compensation**

1. Any individual who has suffered damage as a result of an unlawful data processing operation shall have the right to receive compensation for damage suffered either from Europol in accordance with Article 340 of the Treaty, or from the Member State in which the event that gave rise to the damage occurred, in accordance with its national law. The individual shall bring an action against Europol to the Court of Justice of the European Union or against the Member State to a competent national court of this Member State.
2. Any dispute between Europol and Member States over the ultimate responsibility for compensation awarded to an individual in accordance with paragraph 1 shall be referred to the Management Board, which shall decide by a majority of two-third of its members, without prejudice of the right to challenge this decision in accordance with article 263 TFEU.

## **Chapter IX**

### **PARLIAMENTARY SCRUTINY**

## *Article 53*

### **Parliamentary scrutiny**

1. The Chairperson of the Management Board and the Executive Director shall appear before the European Parliament, jointly with national Parliaments, at their request to discuss matters relating to Europol, taking into account the obligations of discretion and confidentiality.
2. Parliamentary scrutiny by the European Parliament, together with national Parliaments, of Europol's activities shall be exercised in accordance with this Regulation.
3. In addition to the obligations of information and consultation set out in this Regulation, Europol shall transmit to the European Parliament and to the national parliaments, taking into account the obligations of discretion and confidentiality, for information:

- (a) threat assessments, strategic analyses and general situation reports relating to Europol's objective as well as the results of studies and evaluations commissioned by Europol;
- (b) the working arrangements adopted pursuant to Article 31(1).

#### *Article 54*

#### **Access of the European Parliament to Classified Information processed by or through Europol**

1. For the purpose of enabling it to exercise parliamentary scrutiny of Europol's activities in accordance with Article 53, access to European Union Classified Information and sensitive non-classified information processed by or through Europol may be granted to the European Parliament and its representatives upon request.
2. Access to European Union Classified Information and sensitive non-classified information shall be in compliance with the basic principles and minimum standards as referred to in Article 69. The details shall be governed by a working arrangement concluded between Europol and the European Parliament.

### **Chapter X**

#### **STAFF**

#### *Article 55*

#### **General provisions**

1. The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and the conditions of Employment of other Servants shall apply to the staff of Europol with the exception of staff who at the date of application of this Regulation are under contracts concluded by Europol as established by the Europol Convention.
2. Europol staff shall consist of temporary staff and/or contract staff. The Management Board shall decide which temporary posts provided for in the establishment plan can be filled only by staff engaged from the competent authorities of the Member States. Staff recruited to occupy such posts shall be temporary agents and may be awarded only fixed-term contracts renewable once for a fixed period.

#### *Article 56*

#### **Executive Director**

1. The Executive Director shall be engaged as a temporary agent of Europol under Article 2(a) of the Conditions of Employment of Other servants.
2. The Executive Director shall be appointed by the Management Board, from a list of candidates proposed by the Commission, following an open and transparent selection procedure.

For the purpose of concluding the contract with the Executive Director, Europol shall be represented by the Chairperson of the Management Board.

Before appointment, the candidate selected by the Management Board may be invited to make a statement before the competent committee of the European Parliament and to answer questions put by its members.

3. The term of office of the Executive Director shall be five years. By the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and Europol's future tasks and challenges.
4. The Management Board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for no more than five years.
5. The Management Board shall inform the European Parliament if it intends to extend the Executive Director's term of office. Within the month before any such extension, the Executive Director may be invited to make a statement before the competent committee of the Parliament and answer questions put by its members.
6. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
7. The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission.
8. The Management Board shall reach decisions on appointment, extension of the term of office and removal from office of the Executive Director and/or Deputy Executive Director(s) on the basis of a two-thirds majority of its members with voting rights.

#### *Article 57*

#### **Deputy Executive Directors**

1. Four Deputy Executive Directors, including one responsible for training, shall assist the Executive Director. The Deputy Executive Director for Training shall be responsible for managing the Europol Academy and its activities. The Executive Director shall define the tasks of the others.
2. Article 56 shall apply to the Deputy Executive Directors. The Executive Director shall be consulted prior to their appointment or removal from office.

#### *Article 58*

#### **Seconded national experts and other staff**

1. Europol may make use of seconded national experts or other staff not employed by the agency.
2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to Europol.

### **Chapter XI**

### **FINANCIAL PROVISIONS**

## *Article 59*

### **Budget**

1. Estimates of all revenue and expenditure for Europol shall be prepared each financial year, corresponding to the calendar year, and shall be shown in Europol's budget.
2. Europol's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, Europol's revenue shall comprise a contribution from the Union entered in the general budget of the European Union.
4. Europol may benefit from Union funding in the form of delegation agreements or ad-hoc and exceptional grants in accordance with the provisions of the relevant instruments supporting the policies of the Union.
5. The expenditure of Europol shall include staff remuneration, administrative and infrastructure expenses, and operating costs.

## *Article 60*

### **Establishment of the budget**

1. Each year the Executive Director shall draw up a draft statement of estimates of Europol's revenue and expenditure for the following financial year, including the establishment plan, and send it to the Management Board.
2. The Management Board shall, on the basis of that draft, produce a provisional draft estimate of Europol's revenue and expenditure for the following financial year. The provisional draft estimate of Europol's revenue and expenditure shall be sent to the Commission each year by [date set out in the framework Financial Regulation]. The Management Board shall send a final draft estimate, which shall include a draft establishment plan, to the Commission, the European Parliament and the Council by 31 March.
3. The Commission shall send the statement of estimates to the European Parliament and the Council (the budgetary authority) together with the draft general budget of the European Union.
4. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it considers necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 of the Treaty.
5. The budgetary authority shall authorise the appropriations for Europol's contribution.
6. The budgetary authority shall adopt Europol's establishment plan.
7. Europol's budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the Union. Where necessary, it shall be adjusted accordingly.
8. For any project, in particular building projects, likely to have significant implications for the budget, the provisions of [the framework Financial Regulation] shall apply. .

## *Article 61*

### **Implementation of the budget**

1. The Executive Director shall implement Europol's budget.
2. Each year the Executive Director shall send to the budgetary authority all information relevant to the findings of evaluation procedures.

#### *Article 62*

##### **Presentation of accounts and discharge**

1. By 1 March following each financial year, Europol's accounting officer shall communicate the provisional accounts to the Commission's Accounting Officer and to the Court of Auditors.
2. Europol shall send the report on the budgetary and financial management to the European Parliament, the Council and the Court of Auditors by 31 March of the following financial year.
3. By 31 March following each financial year, the Commission's accounting officer shall send Europol's provisional accounts consolidated with the Commission's accounts to the Court of Auditors.
4. On receipt of the Court of Auditors' observations on Europol's provisional accounts pursuant to Article 148 of the Financial Regulation, the accounting officer shall draw up Europol's final accounts. The Executive Director shall submit them to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on Europol's final accounts.
6. The Executive Director shall, by 1 July following each financial year, send the final accounts to the European Parliament, the Council, the Commission, the Court of Auditors and national Parliaments, together with the Management Board's opinion.
7. The final accounts shall be published.
8. The Executive Director shall send the Court of Auditors a reply to the observations made in its annual report by [date set out in the framework Financial Regulation]. He/she shall also send the reply to the Management Board.
9. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 165(3) of the Financial Regulation.
10. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

#### *Article 63*

##### **Financial rules**

1. The financial rules applicable to Europol shall be adopted by the Management Board after consultation with the Commission. They shall not depart from [the framework Financial Regulation] unless such a departure is specifically required for Europol's operation and the Commission has given its prior consent.
2. Because of the specificity of the Members of the Network of National Training Institutes which are the only bodies with specific characteristics and technical competences to perform relevant training activities, these members may receive grants without a call for proposals in

accordance with Article 190(1)(d) of the Commission Delegated Regulation (EU) No 1268/2012.<sup>41</sup>

## **Chapter XII**

### **MISCELLANEOUS PROVISIONS**

#### *Article 64*

##### **Legal status**

1. Europol shall be a body of the Union. It shall have legal personality.
2. In each of the Member States Europol shall enjoy the most extensive legal capacity accorded to legal persons under their laws. Europol may, in particular, acquire and dispose of movable and immovable property and be a party to legal proceedings.
3. The seat of Europol shall be The Hague, in the Netherlands.

#### *Article 65*

##### **Privileges and immunity**

1. The Protocol on the Privileges and Immunities of the European Union shall apply to Europol and its staff.
2. Privileges and immunities of liaison officers and members of their families shall be subject to an agreement between the Kingdom of Netherlands and the other Member States. That agreement shall provide for such privileges and immunities as are necessary for the proper performance of the tasks of liaison officers.

#### *Article 66*

##### **Language arrangements**

1. The provisions laid down in Regulation No 1<sup>42</sup> shall apply to Europol.
2. The translation services required for the functioning of Europol shall be provided by the Translation Centre of the bodies of the European Union.

#### *Article 67*

##### **Transparency**

1. Regulation (EC) No 1049/2001<sup>43</sup> shall apply to documents held by Europol.

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<sup>41</sup> OJ L 362, 31.12.2012, p. 1.

<sup>42</sup> OJ 17, 6.10.1958, p. 385/58.

<sup>43</sup> OJ L 145, 31.5.2001, p. 43.



2. On the basis of a proposal by the Executive Director, and by six months after the entry into force of this Regulation at the latest, the Management Board shall adopt the detailed rules for applying Regulation (EC) No 1049/2001 with regard to Europol documents.
3. Decisions taken by Europol under Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice of the European Union, under the conditions laid down in Articles 228 and 263 of the Treaty respectively.

#### *Article 68*

#### **Combating fraud**

1. In order to facilitate combating fraud, corruption and other unlawful activities under Regulation (EC) No 1073/1999, within six months from the day Europol becomes operational, it shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-Fraud Office (OLAF)<sup>44</sup> and adopt appropriate provisions applicable to all employees of Europol using the template set out in the Annex to that agreement.
2. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from Europol.
3. OLAF may carry out investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by Europol, in accordance with the provisions and procedures laid down in Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.<sup>45</sup>
4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of Europol shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

#### *Article 69*

#### **Security rules on the protection of classified information**

Europol shall establish its own rules on the obligations of discretion and confidentiality, and on the protection of European Union classified information and sensitive non-classified information, taking into account the basic principles and minimum standards of Decision 2011/292/EU. This shall cover, inter alia, provisions for the exchange, processing and storage of such information.

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<sup>44</sup> OJ L 136, 31.5.1999, p. 15.

<sup>45</sup> OJ L 292, 15.11.1996, p. 2.

## *Article 70*

### **Evaluation and review**

1. No later than five years after [the date of application of this Regulation,] and every five years thereafter, the Commission shall commission an evaluation to assess particularly the impact, effectiveness and efficiency of Europol and its working practices. The evaluation shall, in particular, address the possible need to modify the objectives of Europol, and the financial implications of any such modification.
2. The Commission shall forward the evaluation report together with its conclusions on the report to the European Parliament, the Council, the national parliaments and the Management Board.
3. On the occasion of every second evaluation, the Commission shall also assess the results achieved by Europol having regard to its objective, mandate and tasks. If the Commission considers that the continuation of Europol is no longer justified with regard to its assigned objectives and tasks, it may propose that this Regulation be amended accordingly or repealed.

## *Article 71*

### **Administrative inquiries**

The activities of Europol shall be subject to the controls of the European Ombudsman in accordance with Article 228 of the Treaty.

## *Article 72*

### **Headquarter**

1. The necessary arrangements concerning the accommodation to be provided for Europol in the host Member State and the facilities to be made available by that Member State together with the specific rules applicable in the host Member State to the Executive Director, members of the Management Board, Europol's staff and members of their families shall be laid down in a Headquarters Agreement between Europol and Member State where the seat is located, concluded after obtaining the approval of the Management Board and no later than [2 years after the entry into force of this Regulation].
2. Europol's host Member State shall provide the best possible conditions to ensure the functioning of Europol, including multilingual, European-oriented schooling and appropriate transport connections.

## **Chapter XIII**

### **TRANSITIONAL PROVISIONS**

## *Article 73*

### **General legal succession**

1. Europol, as established by this Regulation, shall be the general legal successor in respect of all contracts concluded by, liabilities incumbent on, and properties acquired by Europol, as

established by Decision 2009/371/JHA, and CEPOL, as established under Decision 2005/681/JHA.

2. This Regulation shall not affect the legal force of agreements concluded by Europol as established by Decision 2009/371/JHA before the date of entry into force of this Regulation.
3. This Regulation shall not affect the legal force of agreements concluded by CEPOL as established by Decision 2005/681/JHA before the date of entry into force of this Regulation.
4. By way of derogation from paragraph 3, the Headquarters Agreement concluded on the basis of the Decision 2005/681/JHA shall be terminated from the date of entry into application of this Regulation.

#### *Article 74*

#### **Transitional arrangements concerning the Management Board**

1. The term of office of the members of the Governing Board of CEPOL as established on the basis of Article 10 of Decision 2005/681/JHA shall terminate on [date of entry into force of this Regulation].
2. The term of office of the members of the Management Board of Europol as established on the basis of Article 37 of Decision 2009/371/JHA shall terminate on [date of entry into application of this Regulation].
3. The Management Board as established on the basis of Article 37 of Decision 2009/371/JHA shall within the period between the date of entry into force and the date of entry into application:
  - (a) exercise the functions of the Management Board as referred to in Article 14 of this Regulation;
  - (b) prepare the adoption of the rules on the obligations of confidentiality and discretion, and the protection of EU classified information referred to in Article 69 of this Regulation;
  - (c) prepare any instrument necessary for the application of this Regulation; and
  - (d) revise the non-legislative measures implementing Decision 2009/371/JHA so as to allow the Management Board established pursuant Article 13 of this Regulation to take a decision pursuant to Article 78(2).
4. The Commission shall take the measures necessary without delay after the entry into force of this Regulation to ensure that the Management Board established in accordance with Article 13 starts its work at the [date of entry into application of the Regulation];
5. By 6 months from the date of entry into force of this Regulation at the latest the Member States shall notify the Commission of the names of the persons whom they have appointed as member and alternate member of the Management Board, in accordance with Article 13.
6. The Management Board established pursuant to Article 13 of this Regulation shall hold its first meeting on [the date of entry into application of this Regulation]. On that occasion it shall, if necessary, take a decision as referred to in Article 78(2).

#### *Article 75*

#### **Transitional arrangements concerning the Executive Directors and the Deputy Directors**

1. The Executive Director appointed on the basis of Article 38 of Decision 2009/371/JHA shall, for the remaining periods of his/her term of office, be assigned to the responsibilities of the Executive Director as provided for in Article 19 of this Regulation. The other conditions of his/her contract remain unchanged. If the term of office ends after [the date of entry of this Regulation] but before [the date of application of this Regulation], it shall be extended automatically until one year after the date of application of this Regulation.
2. Should the Executive Director be unwilling or unable to act in accordance with paragraph 1, the Commission shall designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director for a period not exceeding 18 months, pending the appointments provided for in Article 56.
3. Paragraphs 1 and 2 shall apply to the Deputy Directors appointed on the basis of Article 38 of Decision 2009/371/JHA.
4. The Executive Director of CEPOL appointed on the basis of Article 11(1) of Decision 2005/681/JHA shall, for the remaining periods of his/her term of office, be assigned to the functions of the Deputy Executive Director of training of Europol. The other conditions of his/her contract remain unchanged. If the term of office ends after [the date of entry into force of this Regulation] but before [the date of application of this Regulation], he/she shall be extended automatically until one year after the date of application of this Regulation.

#### *Article 76*

#### **Transitional budgetary provisions**

1. For each of the three budgetary years following the entry into force of this Regulation, at least EUR 8 million of the operational expenses of Europol shall be reserved for training, as described in Chapter III.
2. The discharge procedure in respect of the budgets approved on the basis of Article 42 of Decision 2009/371/JHA shall be carried out in accordance with the rules established by Article 43 of Decision 2009/371/JHA and the financial rules of Europol.

### **Chapter XIV**

### **FINAL PROVISIONS**

#### *Article 77*

#### **Replacement**

This Regulation replaces and repeals Decision 2009/371/JHA and Decision 2005/681/JHA.

References to the replaced Decisions shall be construed as references to this Regulation.

#### *Article 78*

#### **Repeal**

1. All legislative measures implementing the Decisions 2009/371/JHA and Decision 2005/681/JHA are repealed with effect from the date of application of this Regulation.

2. All non-legislative measures implementing Decision 2009/371/JHA which sets up the European Police Office (Europol) and Decision 2005/681/JHA which sets up CEPOL shall remain in force following the [date of application of this Regulation], unless otherwise decided by the Management Board of Europol in the implementation of this Regulation..

*Article 79*

**Entry into force and application**

1. This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from [date of application].  
However, Articles 73, 74 and 75 shall apply from [the date of entry into force of this Regulation].

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## **ANNEX 1**

### **List of offences with respect to which Europol shall support and strengthen action by the competent authorities of the Member States and their mutual cooperation in accordance with Article 3(1) of this Regulation**

- terrorism,
- organised crime,
- unlawful drug trafficking,
- illegal money-laundering activities,
- crime connected with nuclear and radioactive substances,
- illegal immigrant smuggling,
- trafficking in human beings,
- motor vehicle crime,
- murder, grievous bodily injury,
- illicit trade in human organs and tissue,
- kidnapping, illegal restraint and hostage taking,
- racism and xenophobia,
- robbery,
- illicit trafficking in cultural goods, including antiquities and works of art,
- swindling and fraud, including fraud affecting the financial interests of the Union
- racketeering and extortion,
- counterfeiting and product piracy,
- forgery of administrative documents and trafficking therein,
- forgery of money and means of payment,
- computer crime,
- corruption,
- illicit trafficking in arms, ammunition and explosives,
- illicit trafficking in endangered animal species,
- illicit trafficking in endangered plant species and varieties,
- environmental crime, including ship source pollution
- illicit trafficking in hormonal substances and other growth promoters,
- sexual abuse and sexual exploitation of women and children.

## ANNEX 2

### **Categories of personal data and categories of data subjects whose data may be collected and processed for cross-checking purpose as referred to in Article 24(1)(a)**

1. Personal data collected and processed for cross-checking purposes shall relate to:

(a) persons who, in accordance with the national law of the Member State concerned, are suspected of having committed or having taken part in a criminal offence in respect of which Europol is competent or who have been convicted of such an offence;

(b) persons regarding whom there are factual indications or reasonable grounds under the national law of the Member State concerned to believe that they will commit criminal offences in respect of which Europol is competent.

2. Data relating to the persons referred to in paragraph 1 may include only the following categories of personal data:

(a) surname, maiden name, given names and any alias or assumed name;

(b) date and place of birth;

(c) nationality;

(d) sex;

(e) place of residence, profession and whereabouts of the person concerned;

(f) social security numbers, driving licences, identification documents and passport data; and

(g) where necessary, other characteristics likely to assist in identification, including any specific objective physical characteristics not subject to change such as dactyloscopic data and DNA profile (established from the non-coding part of DNA).

3. In addition to the data referred to in paragraph 2, following categories of personal data concerning the persons referred to in paragraph 1 may be collected and processed:

(a) criminal offences, alleged criminal offences and when, where and how they were (allegedly) committed;

(b) means which were or may be used to commit those criminal offences including information concerning legal persons;

(c) departments handling the case and their filing references;

(d) suspected membership of a criminal organisation;

(e) convictions, where they relate to criminal offences in respect of which Europol is competent;

(f) inputting party.

These data may be provided to Europol even when they do not yet contain any references to persons.

4. Additional information held by Europol or National Units concerning the persons referred to in paragraph 1 may be communicated to any national unit or Europol should either so request. National units shall do so in compliance with their national law.

5. If proceedings against the person concerned are definitively dropped or if that person is definitively acquitted, the data relating to the case in respect of which either decision has been taken shall be deleted.

**Categories of personal data and categories of data subjects whose data may be collected and processed for the purpose of analyses of strategic or other general nature and for the purpose of operational analyses (as referred to in Article 24(1)(b) and (c))**

1. Personal data collected and processed for the purpose of analyses of a strategic or other general nature and operational analyses shall relate to:
  - (a) persons who, in accordance with the national law of the Member State concerned, are suspected of having committed or having taken part in a criminal offence in respect of which Europol is competent or who have been convicted of such an offence;
  - (b) persons regarding whom there are factual indications or reasonable grounds under the national law of the Member State concerned to believe that they will commit criminal offences in respect of which Europol is competent.
  - (c) persons who might be called on to testify in investigations in connection with the offences under consideration or in subsequent criminal proceedings;
  - (d) persons who have been the victims of one of the offences under consideration or with regard to whom certain facts give reason to believe that they could be the victims of such an offence;
  - (e) contacts and associates; and
  - (f) persons who can provide information on the criminal offences under consideration.
2. The following categories of personal data, including associated administrative data, may be processed on the categories of persons referred to in paragraph 1 point (a) and (b):
  - (a) Personal details:
    - (i) Present and former surnames;
    - (ii) Present and former forenames;
    - (iii) Maiden name;
    - (iv) Father's name (where necessary for the purpose of identification);
    - (v) Mother's name (where necessary for the purpose of identification);
    - (vi) Sex;
    - (vii) Date of birth;
    - (viii) Place of birth;
    - (ix) Nationality;
    - (x) Marital status;
    - (xi) Alias;
    - (xii) Nickname;
    - (xiii) Assumed or false name;
    - (xiv) Present and former residence and/or domicile;
  - (b) Physical description:
    - (i) Physical description;



- (ii) Distinguishing features (marks/scars/tattoos etc.)
- (c) Identification means:
  - (i) Identity documents/driving licence;
  - (ii) National identity card/passport numbers;
  - (iii) National identification number/social security number, if applicable
  - (iv) Visual images and other information on appearance
  - (v) Forensic identification information such as fingerprints, DNA profile (established from the non-coding part of DNA), voice profile, blood group, dental information
- (d) Occupation and skills:
  - (i) Present employment and occupation;
  - (ii) Former employment and occupation;
  - (iii) Education (school/university/professional);
  - (iv) Qualifications;
  - (v) Skills and other fields of knowledge (language/other)
- (e) Economic and financial information:
  - (i) Financial data (bank accounts and codes, credit cards etc.);
  - (ii) Cash assets;
  - (iii) Share holdings/other assets;
  - (iv) Property data;
  - (v) Links with companies;
  - (vi) Bank and credit contacts;
  - (vii) Tax position;
  - (viii) Other information revealing a person's management of their financial affairs
- (f) Behavioural data:
  - (i) Lifestyle (such as living above means) and routine;
  - (ii) Movements;
  - (iii) Places frequented;
  - (iv) Weapons and other dangerous instruments;
  - (v) Danger rating;
  - (vi) Specific risks such as escape probability, use of double agents, connections with law enforcement personnel;
  - (vii) Criminal-related traits and profiles;
  - (viii) Drug abuse;
- (g) Contacts and associates, including type and nature of the contact or association;

- (h) Means of communication used, such as telephone (static/mobile), fax, pager, electronic mail, postal addresses, Internet connection(s);
  - (i) Means of transport used, such as vehicles, boats, aircraft, including information identifying these means of transport (registration numbers);
  - (j) Information relating to criminal conduct:
    - (i) Previous convictions;
    - (ii) Suspected involvement in criminal activities;
    - (iii) Modi operandi;
    - (iv) Means which were or may be used to prepare and/or commit crimes;
    - (v) Membership of criminal groups/organisations and position in the group/organisation;
    - (vi) Role in the criminal organisation;
    - (vii) Geographical range of criminal activities;
    - (viii) Material gathered in the course of an investigation, such as video and photographic images
  - (k) References to other information systems in which information on the person is stored:
    - (i) Europol;
    - (ii) Police/customs agencies;
    - (iii) Other enforcement agencies;
    - (iv) International organisations;
    - (v) Public entities;
    - (vi) Private entities
  - (l) Information on legal persons associated with the data referred to in points (e) and (j):
    - (i) Designation of the legal person;
    - (ii) Location;
    - (iii) Date and place of establishment;
    - (iv) Administrative registration number;
    - (v) Legal form;
    - (vi) Capital;
    - (vii) Area of activity;
    - (viii) National and international subsidiaries;
    - (ix) Directors;
    - (x) Links with banks.
3. “Contacts and associates”, as referred to in paragraph 1 point (e), are persons through whom there is sufficient reason to believe that information, which relates to the persons referred to in paragraph 1 point (a) and (b) of this Annex and which is relevant for the analysis, can be

gained, provided they are not included in one of the categories of persons referred to in paragraphs 1 (a), (b), (c), (d) and (f). “Contacts” are those persons who have sporadic contact with the persons referred to in paragraph 1 point (a) and (b). “Associates” are those persons who have regular contact with the persons referred to in paragraph 1 point (a) and (b).

In relation to contacts and associates, the data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that such data are required for the analysis of the role of such persons as contacts or associates.

In this context, the following shall be observed:

- (a) the relationship of these persons with the persons referred to in paragraph 1 point (a) and (b) shall be clarified as soon as possible;
  - (b) if the assumption that a relationship exists between these persons and the persons referred to in paragraph 1 point (a) and (b) turns out to be unfounded, the data shall be deleted without delay;
  - (c) if such persons are suspected of committing an offence falling under Europol’s objectives , or have been convicted for such an offence, or if there are factual indications or reasonable grounds under the national law of the Member State concerned to believe that they will commit such an offence, all data pursuant to paragraph 2 may be stored;
  - (d) data on contacts and associates of contacts as well as data on contacts and associates of associates shall not be stored, with the exception of data on the type and nature of their contacts or associations with the persons referred to in paragraph 1 point (a) and (b);
  - (e) if a clarification pursuant to the previous points is not possible, this shall be taken into account when deciding on the need and the extent of storage for further analysis.
4. With regard to persons who, as referred to in paragraph 1 point (d), have been the victims of one of the offences under consideration or who, certain facts give reason to believe, could be the victims of such an offence, data referred to in paragraph 2 point (a) indent ‘i’ to paragraph 2 (c) indent ‘iii’ of this Annex, as well as the following categories of data, may be stored:
- (a) Victim identification data;
  - (b) Reason for victimisation;
  - (c) Damage (physical/financial/psychological/other);
  - (d) Whether anonymity is to be guaranteed;
  - (e) Whether participation in a court hearing is possible;
  - (f) Crime-related information provided by or through persons referred to in paragraph 1 point ‘d’, including information on their relationship with other persons, where necessary, to identify the persons referred to in paragraph 1 points ‘a’ and ‘b’

Other data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that they are required for the analysis of a person’s role as victim or potential victim.

Data not required for any further analysis shall be deleted.

5. With regard to persons who, as referred to in paragraph 1 (c), might be called on to testify in investigations in connection with the offences under consideration or in subsequent criminal proceedings, data referred to in paragraph 2 point (a) indent ‘i’ to paragraph 2 (c) indent ‘iii’

of this Annex as well as categories of data complying with the following criteria, may be stored:

- (a) crime-related information provided by such persons, including information on their relationship with other persons included in the analysis work file;
- (b) whether anonymity is to be guaranteed;
- (c) whether protection is to be guaranteed and by whom;
- (d) new identity;
- (e) whether participation in a court hearing is possible.

Other data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that they are required for the analysis of such persons' role as witnesses.

Data not required for any further analysis shall be deleted.

6. With regard to persons who, as referred to in paragraph 1 point (f), can provide information on the criminal offences under consideration, data referred to in paragraph 2 point (a) indent 'i' to paragraph 2 (c) indent 'iii' of this Annex may be stored, as well as categories of data complying with the following criteria:

- (a) coded personal details;
- (b) type of information supplied;
- (c) whether anonymity is to be guaranteed;
- (d) whether protection is to be guaranteed and by whom;
- (e) new identity;
- (f) whether participation in court hearing is possible;
- (g) negative experiences;
- (h) rewards (financial/favours).

Other data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that they are required for the analysis of such persons' role as informants.

Data not required for any further analysis shall be deleted.

7. If, at any moment during the course of an analysis, it becomes clear on the basis of serious and corroborating indications that a person should be placed under a different category of persons, as defined in this Annex, from the category in which that person was initially placed, Europol may process only the data on that person which is permitted under that new category, and all other data shall be deleted.

If, on the basis of such indications, it becomes clear that a person should be included in two or more different categories as defined in this Annex, all data allowed under such categories may be processed by Europol.

## LEGISLATIVE FINANCIAL STATEMENT

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

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 Council Decisions 2009/371/JHA and 2005/681/JHA

#### 1.2. Policy area(s) concerned in the ABM/ABB structure<sup>46</sup>

Policy area: Home Affairs  
Activity: 18.02 Internal Security

#### 1.3. Nature of the proposal/initiative

- The proposal/initiative relates to **a new action**
- The proposal/initiative relates to **a new action following a pilot project/preparatory action**<sup>47</sup>
- The proposal/initiative relates to **the extension of an existing action**
- The proposal/initiative relates to **an action redirected towards a new action**

#### 1.4. Objective(s)

##### 1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

The European Police Office (Europol) started as an intergovernmental body regulated by a Convention concluded between the Member States that entered into force in 1999. As from 1 January 2010 Europol was transformed by Council Decision 2009/371/JHA into a decentralised EU agency to support and strengthen action by the competent Member States' law enforcement authorities against serious and organised crime and terrorism. The Council Decision also defined in details Europol's objectives and tasks.

The Treaty of Lisbon has abolished the pillar structure of the European Union and aligned the area of police cooperation with the *acquis communautaire*. Article 88 of the TFEU stipulates that Europol shall be governed by a regulation to be adopted by co-decision. It requires the establishment of procedures and a mechanism for the scrutiny of Europol's activities by the European Parliament and national parliaments. Furthermore, the Stockholm Programme<sup>48</sup>, which lays down an EU multiannual strategy on justice and security, calls on 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."

Article 87(2)(b) of the TFEU provides for measures concerning support for the training of staff and cooperation on the exchange of staff. The Stockholm Programme states that it is essential to step up training on Union-related issues in order to foster a genuine European judicial and law enforcement culture, and that the objective of systematic European Training Schemes should be pursued. The Commission is accordingly proposing, alongside this proposal, a European Law Enforcement Training Scheme (LETS) which would build on the activities currently carried out by CEPOL. The current

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<sup>46</sup> ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

<sup>47</sup> As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

<sup>48</sup> Stockholm Programme on open and secure Europe, serving and protecting citizens, OJ C115,4.5.2010.

proposal would merge the two agencies and give the new (merged) agency the task of implementing the training scheme.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

ABB Activity 18 05: Security and safeguarding liberties

SPECIFIC OBJECTIVE 3

To enhance law enforcement cooperation between Member States, in particular through facilitation of the exchange of information between the law enforcement authorities, enabling access to relevant data while ensuring the respect of data protection principles, and strengthening the role of Europol and Cepol as Member States partners in tackling serious crime and training police officers

Main policy outputs in 2013 - Regulation merging EUROPOL and CEPOL

Europol regulation:

Specific objective No.1:

To function as the principle support centre for law enforcement operations and for law enforcement expertise

Specific objective No.2:

To function as the EU criminal information hub

Specific objective No. 3:

To coordinate the implementation of EU policy on training for law enforcement officers and to deliver relevant EU-level training and exchanges

Specific objective No. 4:

To strengthen EU capacity to tackle cybercrime to avoid harm to EU citizens. businesses and losses to the EU economy

ABM/ABB activity(ies) concerned

Activity 18 05: Security and Safeguarding liberties

### 1.4.3. *Expected result(s) and impact*

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

Europol's role is to provide support to national law enforcement services in their mutual cooperation in the prevention of and fight against serious crime and terrorism. The proposal, i.e. the regulation on Europol, provides for a new legal framework for Europol. The introduction of the new legal basis will increase the security of the EU by improving the effectiveness and efficiency of Europol in supporting the prevention and fight against serious cross-border crime and terrorism as well as conferring on Europol new tasks in relation to law enforcement training at EU level, and in relation to the hosting of EU law enforcement centres on specific crime phenomena such as cybercrime.

The proposal aims to improve Europol's intelligence picture, so that it can better serve Member States and better inform the EU policy setting. It will better align Europol and its activities with the requirements of the Treaty of Lisbon and the Stockholm Programme. The proposal will further reinforce Europol's accountability and strengthen its data protection regime. Europol will be able to provide all necessary and up-to-date services and products to Member States in order to facilitate and support them in the fight against serious criminality affecting the EU citizens. The increased flow of information from Member States including on cybercrime and the improved data processing arrangements balanced by a robust data protection regime and increased training capabilities would further strengthen Europol's role in supporting the Member States.

Data originating from private parties could be submitted to Europol by any Member State (Europol National Unit) which would diminish the risk of delays or non-transmission. Exchanges of data with third countries will become more streamlined which would have a positive impact on the cooperation and on internal security in the EU and in the third countries. This would in turn enable a more coordinated global response to crime phenomena.

The proposal introduces a new task for Europol, incorporating and broadening to some extent the tasks related to training of law enforcement officials currently executed by CEPOL. Integrating and rationalising operational and training functions in one agency is expected to create a mutually-reinforcing dynamic. Resources saved through the elimination of duplication in support functions can be redeployed to training functions notably to implement the European Law Enforcement Training Scheme (LETS). The higher level of training thereby provided will raise the standard of policing across the EU, enhance trust between law enforcement agencies, contribute to a common law enforcement culture and thereby make more effective the EU's response to common security challenges.

Furthermore, the proposal will strengthen Europol's accountability and align Europol's governance with the other European regulatory agencies.

The proposal introduces a further new task for Europol, namely hosting the European Cybercrime Centre (EC3) established at the beginning of 2013. The EC3 will bolster significantly the EU's capacity to confront the growing threat posed by cybercrime, with a view to supporting and complementing Member States' efforts. Member States will benefit significantly from having a focal point equipped with state-of-the-art technology and a highly-qualified and specialised workforce offering a wide spectrum of services and products. Furthermore, a forward-thinking centre that anticipates trends, analyses threats and provides strategic guidance towards tackling cybercrime will be of significant added value to the Member States. EU agencies and bodies would also have a bolstered capacity to address the challenges raised by cybercrime.

#### 1.4.4. Indicators of results and impact

*Specify the indicators for monitoring implementation of the proposal/initiative.*

- User satisfaction regarding operational support provided to operations or investigations;
- Percentage of all SIENA messages sent by Member States shared with Europol;
- Volume and quality of information sent by each Member State in relation to overall volume and quality of information sent by Member States;
- Number of investigations supported by Europol;
- Number of cross-match reports delivered;
- Number of operational analysis reports delivered;
- Number of joint investigations, in specific the JITs supported by Europol;
- Number of SIENA requests and for information messages sent by Europol to external partners;
- Number of SIENA requests and for information messages sent by external partners to Europol;
- Number of SIENA cases initiated;
- Number of suspects identified, arrested and prosecuted in the Member States;
- Number of support given on technical and/or forensic issues (incl. on-the-spot);
- Number of staff trained;
- Quality of strategic products (detail, scope, analytical method).

In relation to training:

- Number of needs analyses;
- Number of quality assurance products;
- Number of common curricula;
- Number of training (and e-training) modules;
- Number of course delivered;
- Number of exchanges organised;
- User satisfaction.

Finally, the following main indicators can be used for evaluating the impact of the activities of EC3:

- The extent of the EC3's contribution to dismantling cybercrime networks through successful cross-border operations coordinated and/or supported by the EC3 (on the basis of the number of suspects identified, arrested and prosecuted and number of victims identified)
- The strategic and/or operational impact at EU and Member State level of the EC3's threat and risk assessments/trend forecasts;
- Increase in the amount of personnel (law enforcement or otherwise) who receive specialised cybercrime training;



- Extent to which new technological tools initiated, coordinated or developed by the EC3 are used during EC3 operations and/or by the Member States;
- Extent to which public private partnership initiatives facilitated EC3 work;
- Overall satisfaction rate of Member States regarding all of EC3’s products and services.

## **1.5. Grounds for the proposal/initiative**

### *1.5.1. Requirement(s) to be met in the short or long term*

The reform of Europol subscribes to a wider process of achieving an Open and Secure Europe Serving and Protecting Citizens, as set forth by the Stockholm Programme. Among other means to fulfil this objective, the Stockholm Programme calls for Europol to “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 role of Europol in the support for the law enforcement authorities within Member States, and its overall future direction, is therefore subject to a strong inter-institutional consensus.

At the same time, following the Treaty of Lisbon and the Joint Statement on the Regulatory Agencies, Europol’s activities will need to be subject to a regular scrutiny by the European Parliament and the national parliaments and its governance will need to be aligned with the standards for all EU regulatory agencies.

Furthermore, as regards data protection, Europol’s data protection regime standards need to be further aligned with those of other data protection instruments and the right of access of individuals to personal data pertaining to them needs to be reinforced by providing for an alternative procedure for checking the lawfulness of the processing of personal data.

The higher level of law enforcement training that will be brought about by this proposal will raise the standard of policing across the EU, contribute to enhance trust between law enforcement agencies, contribute to a common law enforcement culture, and thereby make more effective the EU’s response to common security challenges.

Whereas the phenomenon of cybercrime is growing and is increasingly complex, prior to the establishment of the EC3, the EU has not had an adequate capacity to tackle cybercrime due to the fact that cybercrime is extremely complex, evolves very rapidly and requires a high-level technical expertise to understand its characteristics and modus operandi, but also due to insufficient flow of information. High-skilled expertise gained at national and the EU level needs to be exchanged among all Member States so that the EU can improve its response to cybercrime, a phenomenon which is inherently of a cross-border nature and therefore requiring cooperation.

### *1.5.2. Added value of EU involvement*

Law enforcement cooperation within the EU cannot exist without an effective exchange of information and intelligence on crime between national law enforcement authorities and other relevant entities within and outside the EU. The access to, sharing and analysis of relevant and up-to-date criminal information is critical for the effective fight against crime. Europol is ideally placed to support the cooperation in this area and guarantee coordination at the EU level.

Effective prevention and the fight against cross-border crime cannot be successfully conducted by national police forces alone. It requires a coordinated and collaborative approach together with public and private stakeholders across the EU. Europol is the only EU agency supporting

law enforcement agencies in the Member States in this endeavour. It provides them with a unique set of operational services to fight serious cross-border crime (i.a.: criminal analyses, forensic and operational support to cross-border investigations). However, the current legislative set-up prevents Europol from being fully effective and equipping Member States with the necessary, complete and up-to-date tools. Such legislative set-up can be amended only through a legislative reform at the EU level. It cannot be carried out at a national, regional or local level or addressed by Europol itself through internal action.

In addition, the Treaty of Lisbon calls for establishing a mechanism of the parliamentary scrutiny over Europol's activities and the Joint Statement on Regulatory Agencies requires aligning Europol's governance with the one of other EU agencies. This requires an EU legislative intervention.

The added value of EU involvement in law enforcement training is to ensure a coordinated approach developing and implementing such training. Much is already done in this field, whether nationally by Member States or at EU-level by CEPOL. However, as explained in the accompanying Communication on a European Law Enforcement Training Scheme, more needs to be done e.g. to ensure that training responds to needs relating to crime topics prioritised at EU level and to ensure a coherent approach to deliver training at EU level according to the highest quality standards.

The EC3 is established in order to overcome the many obstacles for the effective investigation of cybercrime and prosecution of offenders at the EU level. It is a key step taken in the EU's overall strategy to improve cyber-security and to render cyberspace an area of justice where human rights and fundamental freedoms are guaranteed through the cooperative efforts of all stakeholders.

### 1.5.3. *Lessons learned from similar experiences in the past*

The external evaluation of the Europol Council Decision has provided food for thought on improving the effectiveness of Europol. It has confirmed that Europol is a well-functioning agency which is operationally relevant and adds value to the security of the European citizens. Nevertheless, the evaluation identified a number of areas where improvements are needed. The consultations with the external stakeholders on the reform of Europol and a number of annual and specific reports by Europol contributed to a clear understanding of what shall be changed in Europol. The recurring issues were: insufficient provision of information by Member States, legal restrictions on direct cooperation with the private sector and a rigid legal regime on the cooperation with the third countries (which, *nota bene*, will need to be changed as a result of the entry into force of the Treaty of Lisbon).

In a wider context, the access to and the sharing of relevant and up-to-date criminal information among law enforcement agencies has proven to be critical for successfully tackling cross-border crime. This has been confirmed by the implementation of a number of the EU measures like, e.g. the "Prüm Framework Decision", and the "Swedish Initiative" Framework Decision.

As regards training, the accompanying Communication on a European Law Enforcement Training Scheme draws on a mapping exercise undertaken by CEPOL in 2012 as well as extensive consultations with experts from Member States and from JHA agencies. The results indicated a need for a more coordinated approach, including a strong role for an EU agency as driving force and coordinator for implementing the Scheme, in close cooperation with other agencies and national training academies. CEPOL has been the subject of a five-year

evaluation completed in 2011 and an external study commissioned by the Commission to support preparation of an impact assessment. The results indicated needs for increasing training on EU dimensions of policing, for better coordination between CEPOL, Member States and other agencies, and for improvements in CEPOL's current governance and structure.

Moreover, the technical sophistication required to tackle cybercrime comprehensively means that traditional ways of investigating this kind of crime are not sufficient. Without a high-level of IT training of the law enforcement services to understand the intricacies of the technology involved, the new landscape of digital forensics and the ability to keep up with rapidly changing technology and modus operandi of cybercriminals, the EU's capacity to tackle cybercrime adequately will continue to lag behind. Fast-changing technology has to be matched with fast-developing technological tools to employ in the fight against cybercrime as well as with personnel capable of adapting and building upon previous knowledge and expertise.

#### 1.5.4. *Compatibility and possible synergy with other appropriate instruments*

The regulation on Europol, making it the criminal intelligence hub of Europe, will contribute to achieving an Open and Secure EU Serving and Protecting Citizens, as set forth by the Stockholm Programme. Bringing together operational and training functions in a single agency will create a mutually-reinforcing dynamic that will enhance the effectiveness of operational activity and the relevance and focus of EU training.

In addition, 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.

Governance of Europol as proposed contributes to the overall coherence of the governance model of the EU agencies envisaged in the Joint Statement on the EU Regulatory Agencies. The establishment of the parliamentary scrutiny of Europol's activities and new means of cooperation with third countries align Europol with the requirements of the Treaty of Lisbon (which make the Commission, rather than Europol, competent to negotiate international information sharing agreements).

The proposal seeks also to define clearly the limits of the competence of Europol, to avoid duplications with the other JHA agencies and to streamline their cooperation with Europol. To reinforce this process, the solutions proposed in the regulation (e.g. on requests to member States to initiate criminal investigations, keeping Eurojust informed) would need to be mirrored in the legal bases of other agencies (e.g. of Eurojust) over time.

## 1.6. Duration and financial impact

Proposal/initiative of **limited duration**

–  Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY

–  Financial impact from YYYY to YYYY

Proposal/initiative of **unlimited duration**

– Implementation with a start-up period from 2013 for the EC3 and from 2015 for the reform of Europol and integration of training activities,

– followed by full-scale operation.

## 1.7. Management mode(s) envisaged<sup>49</sup>

**Centralised indirect management** with the delegation of implementation tasks to:

–  executive agencies

–  bodies set up by the European Union<sup>50</sup>

–  national public-sector bodies/bodies with public-service mission

–  persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

**Joint management** with international organisations (*to be specified*)

*If more than one management mode is indicated, please provide details in the “Comments” section.*

### Comments

The figures on financial and human resources combine the foreseen total amount for Europol as it is planned for the period until 2020 with the additional financial needs which are necessary to implement the proposed wider mandate for Europol, including training, as described in the present form.

<sup>49</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: [http://www.cc.cec/budg/man/budgmanag/budgmanag\\_en.html](http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html)

<sup>50</sup> As referred to in Article 185 of the Financial Regulation.

## **2. MANAGEMENT MEASURES**

### **2.1. Monitoring and reporting rules**

*Specify frequency and conditions.*

Monitoring and evaluating the implementation of the activities of the Agency will be important to ensure the effectiveness of Europol. In accordance with the Joint Statement on the EU regulatory agencies, Europol will accompany its activities included in its working programme by key performance indicators. The activities of Europol will be then measured against these indicators in the Annual Activity Report.

In addition to the horizontal governance rules applicable to agencies, Europol will in particular elaborate an annual report and there will be provision for a periodic overall evaluation to be commissioned by the Commission every 5 years.

To regularly monitor the provision of information by the Member States, Europol will report annually to the European Parliament and the Council on the performance of each individual Member State. Such reports will contain specific quantitative and qualitative indicators and demonstrate trends.

The proposal lays down also the rules on the scrutiny of Europol's activities by the European Parliament and national parliaments, i.e. ultimately on the implementation of Europol's work programme and the execution of the budget.

The Management Board of Europol will be responsible for supervision of the administrative operational and budgetary efficient management of the Agency.

### **2.2. Management and control system**

#### **2.2.1. Risk(s) identified**

Activities of criminals are currently more complex, diverse and international than ever before. Large scale criminal and terrorist networks pose a significant threat to the internal security of the EU and its citizens. Criminal activities have become more and more multi-commodity, poly-criminal and cross-border of nature. The national law enforcement forces cannot longer work in isolation but need to cooperate with each other and with Europol, designed to be the criminal intelligence hub of the EU. Reinforcement of Europol's staff is necessary to comply with the new tasks and requirements laid down in the new regulation. Redeployment opportunities within the existing staff have been fully exploited. Lack of provision of the requested new posts will result in permanent infringement of the applicable Union law and a compromised level of internal security in the EU.

#### **2.2.2. Control method(s) envisaged**

Europol will be subject to the following controls: budgetary control, internal audit, annual reports by the European Court of Auditors, the annual discharge for the execution of the EU budget and possible investigations conducted by OLAF to ensure, in particular, that the resources allocated to agencies are put to proper use. The activities of Europol will also be subject to the supervision of the Ombudsman in accordance with Article 228 of the Treaty. These administrative controls provide a number of procedural safeguards to ensure that account is taken of the interests of the stakeholders.

### **2.3. Measures to prevent fraud and irregularities**

*Specify existing or envisaged prevention and protection measures.*

In order to combat fraud, corruption and other unlawful activities, the provisions of Regulation (EC) No 1073/1999 shall apply without restriction to the Agency, as stipulated in Article 21 of the Regulation.

### 3. FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

#### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

*In order of multiannual financial framework headings and budget lines.*

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./non-diff. (51)	from EFTA countries 52	from candidate countries <sup>53</sup>	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
	[XX.YY.YY.YY]	Diff./non-diff.	YES/N O	YES/N O	YES/N O	YES/NO

- New budget lines requested<sup>(54)</sup>

*In order of multiannual financial framework headings and budget lines.*

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
3	18.02YYYY: Europol	Diff.	NO	NO	NO	NO

<sup>51</sup> Diff. = Differentiated appropriations / Non-Diff. = Non-differentiated appropriations.

<sup>52</sup> EFTA: European Free Trade Association.

<sup>53</sup> Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

<sup>54</sup> Existing budget lines 18.050201, 18.050202, 18.050501 and 18.050502 related to Europol and CEPOL respectively will be replaced by a single budget line.

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

<b>Heading of multiannual financial Framework:</b>	<b>3</b>	Security and citizenship
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Europol			Year 2015 <sup>55</sup>	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
Title 1	Commitments	(1)							
	Payments	(2)							
Title 2	Commitments	(1a)							
	Payments	(2a)							
Title 3	Commitments	(3a)							
	Payments	(3b)							
<b>TOTAL appropriations for EUROPOL<sup>56 57</sup></b>	Commitments	=1+1a +3a	99.675	100.667	102.657	104.689	106.760	108.874	<b>623.322</b>
	Payments	=2+2a +3b	99.675	100.667	102.657	104.689	106.760	108.874	<b>623.322</b>

<sup>55</sup> Year N is the year in which implementation of the proposal/initiative starts.

<sup>56</sup> The final number of posts and the overall budget are subject to the outcome of both an internal Commission review of the resource needs of decentralised agencies for the period 2014-2020 and the MFF negotiations with especial regard to an assessment of 'real needs' in the context of competing demands for very limited budget resources and in view of respecting the 5% staff cut in Agencies.

<sup>57</sup> These figures take account of savings resulting from the merger of CEPOL into Europol, amounting to €17.2m (€0.1m in staff costs and €7.1m in building and other administrative costs) over the period 2015-2020.



<b>Heading of multiannual financial framework:</b>	<b>5</b>	'Administrative expenditure'
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EUR million (to three decimal places)

		Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	<b>TOTAL</b>
DG: Home Affairs								
• Human resources		0.615	0.615	0.615	0.615	0.615	0.615	<b>3.690</b>
• Other administrative expenditure		0.038	0.288	0.288	0.038	0.288	0.288	<b>1.228</b>
<b>TOTAL DG HOME AFFAIRS</b>	Appropriations	0.653	0.903	0.903	0.653	0.903	0.903	<b>4.918</b>

<b>TOTAL appropriations under HEADING 5 of the multiannual financial framework</b>	(Total commitments = Total payments)	0.653	0.903	0.903	0.653	0.903	0.903	<b>4.918</b>
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EUR million (to three decimal places)

		Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	<b>TOTAL</b>
<b>TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework</b>	Commitments	100.328	101.570	103.560	105.342	107.663	109.777	<b>628.240</b>
	Payments	100.328	101.570	103.560	105.342	107.663	109.777	<b>628.240</b>

<b>Impact on European Data Protection Supervisor expenditure</b>		
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EUR million (to three decimal places)

		Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
• Human resources		0.111	0.111	0.111	0.111	0.111	0.111	<b>0.666</b>
• Other administrative expenditure		0.139	0.142	0.145	0.148	0.150	0.153	<b>0.877</b>
<b>TOTAL EDPS</b>	<b>(Total commitments = Total payments)</b>	<b>0.250</b>	<b>0.253</b>	<b>0.256</b>	<b>0.259</b>	<b>0.261</b>	<b>0.264</b>	<b>1.543</b>

3.2.2. *Estimated impact on Agency's appropriations*

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as described below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objective s and outputs ↓	Type <sup>58</sup>	Average cost	Year 2015		Year 2016		Year 2017		Year 2018		Year 2019		Year 2020		TOTAL	
			Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Total number	Total cost
SPECIFIC OBJECTIVE NO 1 <sup>59</sup> To function as the principle support centre for law enforcement operations and for law enforcement expertise																
- Output	Support to cross border investigations through provision of intelligence and operational analyses reports; coordination of joint operations	0.009	3800	31.244	3509	31.582	3560	32.041	3600	32.400	3660	32.941	3745	33.704	21874	<b>193.912</b>

<sup>58</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

<sup>59</sup> As described in point 1.4.2. 'Specific objective(s)...

- Output	The supply of platforms for specialist areas, knowledge products and the sharing pioneering techniques to combat crime	0.163	50	7.811	48	7.895	49	8.010	50	8.100	51	8.235	52	8.426	300	<b>48.477</b>
Subtotal for specific objective N°1				<b>39.055</b>		<b>39.477</b>		<b>40.051</b>		<b>40.501</b>		<b>41.177</b>		<b>42.131</b>		<b>242.390</b>
SPECIFIC OBJECTIVE NO 2 To function as the EU criminal information hub																
- Output	Production of strategic threat assessments of serious transnational crime and terrorism	0.298	45	12.888	44	13.027	44	13.217	45	13.365	46	13.588	47	13.903	271	<b>79.988</b>
- Output	Provision efficient and secure and information-sharing tools and communication channels for MSs	0.672	20	12.888	19	13.027	20	13.217	20	13.365	20	13.588	21	13.903	120	<b>79.988</b>

- Output	Improved analysis capability through enhancement of analysis systems and staff specialization	0.554	25	13.279	24	13.423	25	13.617	25	13.771	25	14.001	26	14.325	150	<b>82.416</b>
Subtotal for specific objective N°2				<b>39.055</b>		<b>39.477</b>		<b>40.051</b>		<b>40.501</b>		<b>41.177</b>		<b>42.131</b>		<b>242.390</b>
SPECIFIC OBJECTIVE NO 3 To coordinate the implementation of EU policy on training for law enforcement officers and to deliver relevant EU-level training and exchanges.																
- Output	Needs, coord. and quality assurance products	0.222	6	1.301	6	1.301	6	1.301	6	1.301	6	1.301	6	1.301	36	7.807
- Output	Common curricular. training modules. e-learning modules	0.108	18	1.899	18	1.899	18	1.899	18	1.899	18	1.899	18	1.899	108	11.393
- Output	No courses delivered	0.038	135	5.121	135	5.121	135	5.121	135	5.121	135	5.121	135	5.121	810	30.728
- Output	No exchanges organised	0.003	415	1.245	145	0.434	196	0.587	248	0.743	300	0.901	354	1.063	1658	4.971

Subtotal for specific objective N°3			<b>9.566</b>		<b>8.755</b>		<b>8.908</b>		<b>9.064</b>		<b>9.222</b>		<b>9.384</b>		<b>54.899</b>	
SPECIFIC OBJECTIVE NO 4 Strengthen EU capacity to tackle cybercrime to avoid harm to EU citizens, businesses and losses to the EU economy																
- Output	Supporting MS investigations to dismantle cybercrime networks operations	1.237	2	4.500	2	4.860	2	5.117	2	5.484	3	5.695	3	5.711	14	31.367
- Output	Information exchange between all stakeholders and fusion of data	0.516	4	3.750	4	4.049	5	4.265	5	4.570	5	4.745	5	4.759	28	26.138
- Output	Provide EU-wide strategic assessments . develop forensic tools. PPP. training	0.344	6	3.750	6	4.049	7	4.265	7	4.570	8	4.745	8	4.759	42	26.138
Subtotal for specific objective N°4			<b>12.000</b>		<b>12.958</b>		<b>13.647</b>		<b>14.624</b>		<b>15.185</b>		<b>15.229</b>		<b>83.643</b>	
<b>TOTAL COST</b>			<b>99.675</b>		<b>100.667</b>		<b>102.657</b>		<b>104.689</b>		<b>106.76</b>		<b>108.874</b>		<b>623.322</b>	

### 3.2.3. Estimated impact on [body]'s human resources

#### 3.2.3.1. Summary

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as described below:
- Assumption: Staff changes occur mid-year.
- These figure take account of savings resulting from the merger of CEPOL into Europol, amounting to 14 temporary agent posts, representing €10.1m, over the period 2015-2020.

#### Staff numbers

	Year 2015 <sup>60</sup>	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
Officials (AD Grades)						
Officials (AST Grades)						
Contract agents	106	106	106	106	106	106
Temporary agents	502	497	492	492	496	500
Seconded National Experts	45.5	45.5	45.5	45.5	45.5	45.5
<b>TOTAL</b>	<b>653.5</b>	<b>648.5</b>	<b>643.5</b>	<b>643.5</b>	<b>647.5</b>	<b>651.5</b>

#### EUR million (to three decimal places)

	Year 2015 <sup>61</sup>	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
Officials (AD Grades)							
Officials (AST Grades)							
Contract agents	7.420	7.420	7.420	7.420	7.420	7.420	<b>44.520</b>
Temporary agents	65.107	65.435	64.780	64.452	64.714	65.238	<b>389.726</b>

<sup>60</sup> Year N is the year in which implementation of the proposal/initiative starts.

<sup>61</sup> Year N is the year in which implementation of the proposal/initiative starts.

Seconded National Experts	3.549	3.549	3.549	3.549	3.549	3.549	<b>21.294</b>
<b>TOTAL</b>	<b>76.076</b>	<b>76.404</b>	<b>75.749</b>	<b>75.421</b>	<b>75.683</b>	<b>76.207</b>	<b>455.540</b>



### 3.2.3.2. Estimated requirements of human resources for the parent DG

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources. as described below:

*Estimate to be expressed in full time equivalent units (or at most to one decimal place)*

	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
<b>• Establishment plan posts (officials and temporary staff)</b>						
18 01 01 01 (Headquarters and Commission's Representation Offices)	3.5	3.5	3.5	3.5	3.5	3.5
XX 01 01 02 (Delegations)						
XX 01 05 01 (Indirect research)						
10 01 05 01 (Direct research)						
<b>• External staff (in Full Time Equivalent: FTE)<sup>62</sup></b>						
18 01 02 01 (CA. SNE. INT from the 'global envelope')	2	2	2	2	2	2
XX 01 02 02 (CA. LA. SNE. INT and JED in the delegations)						
XX 01 04 yy <sup>63</sup>	- at Headquarters <sup>64</sup>					
	- in delegations					
XX 01 05 02 (CA. SNE. INT - Indirect research)						
10 01 05 02 (CA. SNE. INT- Direct research)						
Other budget lines (specify)						
<b>TOTAL</b>	<b>5.5</b>	<b>5.5</b>	<b>5.5</b>	<b>5.5</b>	<b>5.5</b>	<b>5.5</b>

**XX** is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been or will be redeployed within the DG. The management of the action will not lead to an increase in staff in the managing DG for these purposes.

<sup>62</sup> CA= Contract Agent; LA = Local Agent; SNE= Seconded National Expert; INT= agency staff ('Intérimaire'); SNE= Seconded National Expert.

<sup>63</sup> Sub-ceiling for external staff covered by operational appropriations (former "BA" lines).

<sup>64</sup> Mainly for the Structural Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF).

Description of tasks to be carried out:

Officials and temporary staff	<p>Represent the Commission in the Management Board of the Agency. Draw up Commission opinion on the annual work programme and monitor its implementation. Monitor implementation of the budget.</p> <p>One official is tasked to monitor implementation and assist in development in relation to training activities.</p> <p>One official is tasked with overseeing the work of the EC3 in particular to ensure that it accomplishes its objectives. This includes representing the Commission on the EC3 Programme Board. The official will also be the interface between the EC3 and Commission policy work of interest to the EC3.</p>
External staff	<p>Two SNEs will support the officials and temporary staff in the above tasks and assist the Agency in developing its activities in line with EU policies, including by participating in experts meetings.</p>

Description of the calculation of cost for FTE equivalent should be included in the Annex. section 3.

### 3.2.3.3. Estimated requirements of human resources for EDPS

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources. as described below:

*Estimate to be expressed in full amounts (or at most to two decimal places)*

	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020
<b>• Establishment plan posts (officials and temporary staff)</b>						
XX 01 01 01 (Headquarters and Commission's Representation Offices)	0.65	0.65	0.65	0.65	0.65	0.65
XX 01 01 02 (Delegations)						
XX 01 05 01 (Indirect research)						
10 01 05 01 (Direct research)						
<b>• External staff (in Full Time Equivalent: FTE)<sup>65</sup></b>						
XX 01 02 01 (CA. SNE. INT from the 'global envelope')	0.35	0.35	0.35	0.35	0.35	0.35
XX 01 02 02 (CA. LA. SNE. INT and JED in the delegations)						
<b>XX 01 04 yy<sup>66</sup></b>	- at Headquarters <sup>67</sup>					
	- in delegations					
XX 01 05 02 (CA. SNE. INT - Indirect research)						
10 01 05 02 (CA. SNE. INT- Direct research)						
Other budget lines (specify)						
<b>TOTAL</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>

<sup>65</sup> CA= Contract Agent; LA = Local Agent; SNE= Seconded National Expert; INT= agency staff ('Intérimaire'); SNE= Seconded National Expert.

<sup>66</sup> Sub-ceiling for external staff covered by operational appropriations (former "BA" lines).

<sup>67</sup> Mainly for the Structural Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF).

### 3.2.3.4. Estimated requirements of other administrative expenditure for EDPS

•Other administrative expenditure	Year	Year	Year	Year	Year	Year	TOTAL	
	2015	2016	2017	2018	2019	2020		
Meetings	0,082	0,084	0,085	0,087	0,089	0,091	<b>0,517</b>	
Missions	0,007	0,007	0,007	0,007	0,008	0,008	<b>0,044</b>	
Publications / Translations	0,050	0,051	0,052	0,053	0,054	0,055	<b>0,315</b>	
<b>TOTAL</b>	(Total commitments = Total payments)	<b>0,139</b>	<b>0,142</b>	<b>0,145</b>	<b>0,148</b>	<b>0,150</b>	<b>0,153</b>	<b>0,877</b>

### 3.2.4. Compatibility with the current multiannual financial framework

- Proposal/initiative is compatible the current multiannual financial framework.
- Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required. specifying the budget lines concerned and the corresponding amounts.

- Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>68</sup>.

Explain what is required. specifying the headings and budget lines concerned and the corresponding amounts.

### 3.2.5. Third-party contributions

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations cofinanced								

<sup>68</sup> See points 19 and 24 of the Interinstitutional Agreement.

### 3.3. Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.
- Proposal/initiative has the following financial impact:
  - on own resources
  - on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative <sup>69</sup>						
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article .....								

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

[...]

Specify the method for calculating the impact on revenue.

[...]

<sup>69</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.

## Annexes to the Legislative Financial Statement

### Annex 1: EC3 Staff needs 2013 - 2019

#### Staff - 2013

Europol will reallocate **5 posts** plus **7 vacancies** to the EC3. The **vacancies will be recruited in the following order:**

- 1 Analysts, AD6, following the general Europol Analyst recruitment
- 3 Specialist AD6 Cyborg – Twins - Terminal
- 2 Specialists AD6 Fusion
- 1 Senior Specialist AD7 Forensic

The centre may also get an additional SNE (still under discussion)

2013	Strategy and prevention	Outreach and communication	R&D, Forensic and training	Data fusion	Operations	Mgt	TOTAL
Baseline 2012 TA	4	1	1	1	17	1	25
Baseline 2012 SNEs		1			5		6
reallocation of TA			+1			+3	+4
reallocation of SNE			+1				+1
reallocation of vacancies			+1	+2	+4		+7
New SNEs		+1					+1
<b>TOTAL TA 2013</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>21</b>	<b>4</b>	<b>36</b>
<b>TOTAL SNE 2013</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>

## Staff - 2014

As we could not cover for the EC3 business need in 2013, the request for temporary agents in 2014 is **17 posts**. Please see annex 2 for a detailed justification. The ranks of the 17 posts are as follows:

- **11 AD5:** Fusion - 1, Ops – 7, Outreach/Com – 2, Training - 1
- **3 AD6:** Forensic - 3
- **2 AD7:** Management – 1, Strategy – 1
- **1 AD12:** Management - 1

2014	Strategy and prevention	Outreach and communication	R&D, Forensic and training	Data fusion	Operations	Mgt	TOTAL
<b>Baseline TA</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>21</b>	<b>4</b>	<b>36</b>
<b>Baseline SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>
Additional TA	+1	+2	+4	+1	+7	+2	<b>+17</b>
Additional SNEs							
<b>TOTAL TA</b>	<b>5</b>	<b>3</b>	<b>7</b>	<b>4</b>	<b>28</b>	<b>6</b>	<b>53</b>
<b>TOTAL SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>

## Staff - 2015

The request for staff in 2015 is **21 posts**. The detailed justification can be found in annex 2.

The ranks of the 21 posts are as follows:

- **19 AD5:** Ops – 10, Outreach/Com – 1, Research – 1, Fusion - 7
- **1 AD6:** Strategy – 1
- **1 AD7:** Forensic – 1

<b>2015</b>	<b>Strategy and prevention</b>	<b>Outreach and communication</b>	<b>R&amp;D, Forensic and training</b>	<b>Data fusion</b>	<b>Operations</b>	<b>Mgt</b>	<b>TOTAL</b>
<b>Baseline TA</b>	<b>5</b>	<b>3</b>	<b>7</b>	<b>4</b>	<b>28</b>	<b>6</b>	<b>53</b>
<b>Baseline SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>
Additional TA	+1	+1	+2	+7	+10		+21
Additional SNEs							
<b>TOTAL TA</b>	<b>6</b>	<b>4</b>	<b>9</b>	<b>11</b>	<b>38</b>	<b>6</b>	<b>74</b>
<b>TOTAL SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>



## Staff - 2016

The request for staff in 2016 is **4 posts**. The detailed justification can be found in annex 2.

The ranks of the 4 posts are as follows:

- 4 AD5: Operations – 2, Forensic – 1, Strategy – 1

2016	Strategy and prevention	Outreach and communication	R&D, Forensic and training	Data fusion	Operations	Mgt	TOTAL
Baseline TA	6	4	9	11	38	6	74
Baseline SNEs		2	1		5		8
Additional TA	+1		+1		+2		+4
Additional SNEs							
<b>TOTAL TA</b>	<b>7</b>	<b>4</b>	<b>10</b>	<b>11</b>	<b>40</b>	<b>6</b>	<b>78</b>
<b>TOTAL SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>

## Staff - 2017

The request for staff in 2017 is **4 posts**. The detailed justification can be found in annex 2.

The ranks of the 4 posts are as follows:

- 4 AD5: Ops – 3, Outreach - 1

2017	Strategy and prevention	Outreach and communication	R&D, Forensic and training	Data fusion	Operations	Mgt	TOTAL
<b>Baseline TA</b>	<b>7</b>	<b>4</b>	<b>10</b>	<b>11</b>	<b>40</b>	<b>6</b>	<b>78</b>
<b>Baseline SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>
Additional TA		+1			+3		+4
Additional SNEs							
<b>TOTAL TA</b>	<b>7</b>	<b>5</b>	<b>10</b>	<b>11</b>	<b>43</b>	<b>6</b>	<b>82</b>
<b>TOTAL SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>

## Staff - 2018

The request for staff in 2017 is **4 posts**. The detailed justification can be found in annex 2.

The ranks of the 4 posts are as follows:

- 3 AD5: Ops – 3
- 1 AD6: Forensic - 1

2018	Strategy and prevention	Outreach and communication	R&D, Forensic and training	Data fusion	Operations	Mgt	TOTAL
<b>TOTAL TA</b>	<b>7</b>	<b>5</b>	<b>10</b>	<b>11</b>	<b>43</b>	<b>6</b>	<b>82</b>
<b>TOTAL SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>
Additional TA			+1		+3		<b>+4</b>
Additional SNEs							
<b>TOTAL TA</b>	<b>7</b>	<b>5</b>	<b>11</b>	<b>11</b>	<b>46</b>	<b>6</b>	<b>86</b>
<b>TOTAL SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>

## Staff - 2019

The request for staff in 2017 is **4 posts**. The detailed justification can be found in annex 2.

The ranks of the 4 posts are as follows:

- 4 AD5: Ops – 2, Fusion – 1, Training - 1

2019	Strategy and prevention	Outreach and communication	R&D, Forensic and training	Data fusion	Operations	Mgt	TOTAL
<b>TOTAL TA</b>	<b>7</b>	<b>5</b>	<b>11</b>	<b>11</b>	<b>46</b>	<b>6</b>	<b>86</b>
<b>TOTAL SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>
Additional TA			+1	+1	+2		+4
Additional SNEs							
<b>TOTAL TA</b>	<b>7</b>	<b>5</b>	<b>12</b>	<b>12</b>	<b>48</b>	<b>6</b>	<b>90</b>
<b>TOTAL SNEs</b>		<b>2</b>	<b>1</b>		<b>5</b>		<b>8</b>

## Annex 2: Detailed justification for EC3 staff needs

### Operational areas of EC3

#### 1. DATA FUSION

##### Definition

Data Fusion is a new capability within Europol required by the implementation of the EC3. It is recognised by the Commission's and RAND's analysis as **fundamental** to the success of the EC3.

In its Communication to the Council and European Parliament, the Commission stated:

*“An information fusion function would ensure information collection on cybercrime from the widest array of public, private and open sources, enriching available police data”* and the Council notes in its Conclusions that it should be *“the focal point in the fight against cybercrime in the Union, contributing to faster reactions in the case of cyber attacks”*.

##### Services

The set of services provided by Data Fusion can be clustered as follows. For each one of them, it is indicated if it is a new task for Europol or the improvement of an existing one:

1. **NEW TASK** - Bridge the current gaps in the information available from the communities responsible for cyber-security and for tackling cybercrime. One of the action will be to improve the requirements to report cybercrime offences to national law enforcement authorities;
2. **NEW TASK** - Provide an oversight for Member States on significant cases and investigations in the EU, in order to enable preventive or investigative coordination to maximise the outcome and minimise the investment of resources;
3. **NEW TASK** – Pro actively scan the environment, identifying new threats as they emerge, updating stakeholders accordingly;
4. **NEW TASK** - Provide a 24/7 Cybercrime Help Desk for MS' law enforcement units;
5. **NEW TASK** – Coordinate the EUROPOL-CERT activities in order to enhance the information exchange with the CERT community;

## Resources

Europol does not have the very specific profile in house to perform data fusion function. That is why this part of the EC3 has to be prioritized for in 2014 and 2015. In 2013, and until the full allocation of staff, work-a-rounds are introduced to build a very basic data fusion service. This will not form a long term solution and optimum service expected of the EC3 by the Commission, Council and MS and other stakeholders.

### **2014 (+ 1 AD5) = 4 TA**

In 2014, data fusion staff will focus on tasks 1, 4 and 5 above. Task 2 and 3 will be started but await 2015 to be at full potential.

### **2015 (+ 7 AD5) = 11 TA**

The additional staff requested for 2015 is the minimum necessary to bring this crucial service to an acceptable level. The additional staff requested in 2015 will bring Data Fusion to cruise speed. It will help to ensure the fulfillment of the minimum requirements expressed by the Commission and the Council. As Data Fusion should function on a 24/7 basis, 8 FTEs + 1 team leader is the minimum staffing level required to man a 24/7 service. The remaining 2 FTEs will focus on tasks 1, 2 and 3.

### **2016 – 2019 (+ 1 AD5) = 12 TA**

The aim is to reach a staffing level of 12 TA in 2019, ensuring a proper support across all tasks, and already capitalizing on the upward trends in the volume and number of cyber information.

## 2. OPERATIONS

### Definition

Operations coordinate high profile cross border operations (or investigations), provide operational analysis and support, technical and digital forensic examinations in the Lab and on-the-spot.

It delivers high-level technical, analytical and forensic expertise in joint investigations of cybercrime cases and strives to support the best possible outcome and facilitate liaison with Law Enforcement outside the EU.

In close cooperation with EUROJUST and INTERPOL, it supports and coordinates complex transnational cases in order to avoid the overlapping and duplication of efforts among the cybercrime units in the Member States and partner countries.

### Services

The set of services provided by Operations can be clustered as follows. For each one of them, it is indicated if it is a new task for Europol or the improvement of an existing one:

1. **IMPROVEMENT** – Analysis of EC3 information in order to support MS operations and to facilitate the delivery of operational intelligence. This supports high profile investigations/ operations, complex transnational cases and Joint Investigation Teams;
2. **IMPROVEMENT** - Technical support delivered on the spot or from Europol headquarters to MS. This can be done through the use of a mobile toolkit, allowing analysts and/or specialists to provide direct forensic support to ongoing

investigations. It can also be done through the use of the Cyber Forensic Lab at Europol HQ;

3. **IMPROVEMENT** - Coordination of operations by organising operational meetings, supporting Joint Investigation Teams, and assistance in the delivery of EMPACT priorities on cybercrime, online child sexual exploitation and payment card fraud.

### Resources

*2014 (+ 7 AD5) = 28 TA*

*2015 (+ 10 AD5) = 38 TA*

*2016-2019 (+10 AD5) = 48 TA*

The resource allocation for Operations is closely based on the RAND Europe feasibility study which provided the basis for the Commission's Communication on the establishment of EC3. Essentially, RAND's resource allocation at the end of 2014 is contingent upon the scale of cybercrime and the number of cases supported.

Cognizant that the information flow coming in through Europol's Secure Information Exchange Network Application (SIENA) system has significantly increased over the course of the last two years, data trends on the use of SIENA clearly indicates that there has been a mild increase in the number of requests sent and received (14%) by Europol and a significant increase in the number of high-profile operations (HPO) supported by Europol through TWINS, TERMINAL and CYBORG (62%). There is indeed a growing need for capacity to ensure that the specialised units have sufficient human capital to continue providing the necessary high-quality criminal intelligence analysis for cybercrime matters.

In 2012, 17 TA were supporting 44 high profile operations and 2593 operational requests. This gave a ratio of less than 1 TA dealing with 2 high profile operations and 153 operational requests. This is partially addressed with an addition of 4 TA in 2013, but as the number of cases continues to increase and as high profile operations require continuous support for duration of 6 to 24 months, Operations remains understaffed.

The below table shows a projection of the support level provided by Operations until 2019, providing that the number of requests continues to grow at the same rate and that the number of high profile operations will stabilise around 100 from 2014 onwards.

	2012	2013	2014	2015	2016	2017	2018	2019
<b>Nr of TA</b>	17	21	28	38	40	43	46	48
<b>Nr of request</b>	2593	2956	3369	3841	4379	4992	5691	6488
<b>Ratio request/ TA</b>	153	141	120	101	109	116	124	135
<b>Nr of HPO</b>	44	71	100	100	100	100	100	100

<b>Ratio TA/ high profile operation</b>	0.39	0.29	0.28	0.38	0.40	0.43	0.46	0.48
-------------------------------------------------	------	------	------	------	------	------	------	------

This tables shows that the increase of staffing will not significantly improve the operational support. It will mainly keep it on a reasonable level. As a high profile operation (HPO) requires continuous support for duration of 6 to 24 months, prioritisation in all mandated areas will continue when a case is submitted. This will still lead to the delivery of a basic service to cases that would normally necessitate fully fledged support.

It is worthwhile to note that capitalising on this upward trend of cybercrime-related workload the benchmark for full-time equivalent posts (FTEs) would be **more than 70 TA in Operations in 2014** based on the approach employed in the RAND Feasibility Study.

In that regard, with a request of **48 TA** augmented by 2 to 6 SNEs in 2019 (depending on the MS capabilities), Europol’s approach is more than reasonable when trying to meet the EU citizen expectation in a time of budget austerity.

The requested posts are **specialists** and **analysts** spread across the EC3 mandated areas.

### **Non-operational areas of EC3**

Although the core EC3 activity will be operational, the Commission and the Council have underlined the need to establish wider partnerships in tackling cybercrime not only with the competent services but also with other public and private bodies.

The Council in its conclusions,

*“EMPHASISES the importance of ensuring that the European Cybercrime Centre cooperates closely with other relevant agencies and actors such as Eurojust, CEPOL, Interpol, ENISA, the wider computer emergency response team (CERT) community and not least the private sector, to broaden in practice the information picture and exchange of best practices on cybercrime in Europe;*

*EMPHASISES the need to ensure that the European Cybercrime Centre cooperates closely with the existing Union’s fora dealing with cybercrime, and that the Centre supports the activities and makes use of the expertise within these fora;”*

### **3. R&D, FORENSIC AND TRAINING**

#### **Definition**

R&D-Forensic-Training is devoted to research on technical threat analysis and vulnerability scanning, static forensics, best practice and training, and tool development. It coordinates a cost effective approach to take advantage of synergies with other players like the EU’s JRC.

It develops high-level digital forensic and related capabilities for the purposes of deployment in support of Member States’ investigations.

It designs and manages the delivery of cyber related training in close cooperation with CEPOL and ECTEG as well as with private companies and research bodies.



## Services

The set of services provided by R&D-Forensic-Training can be clustered as follows. For each one of them, it is indicated if it is a new task for Europol or the improvement of an existing one:

1. **NEW** - A central gathering of MS requirements for forensic tools, in order to make best use of EU funds (e.g. FP7 programme) to develop these much needed tools and distribute them to MS competent authorities.
2. **IMPROVEMENT** - An accredited forensic capability providing state-of-the-art solutions such as a high-end decryption, recovery and analysis of operational information extracted from computers, digital devices or digitally-stored media. It comprises a dedicated ICT network, specialised hardware and software tools, and supports information processing under the AWF regime. It will comply with ISO standards to maximise the reliability of the processes and their outcomes;
3. **IMPROVEMENT** - A uniform process for training and capacity building in MS, with the scope to upgrade both basic and advanced knowledge of investigative tools, procedures and trends in order for all MS to be able to address the increasing challenge in this crime area which develops rapidly;
4. **NEW** - identification of good practice related to online investigative techniques and establishment of standards for the gathering and provision of digital evidence, in cooperation with EUROJUST and other relevant partners.

## Resources

**2014 (+ 1 AD5 and 3 AD6) = 7 TA**

### **Forensic: + 3 senior specialists AD6**

The forensic support to the competent services will be one of the most important functionalities of EC3. All competent services have forensic laboratories but for some most complex analysis Europol experience is often requested but the majority of cases are seeking external support from specialised laboratories outside law enforcement. With adequate resourcing the EC3 can provide these services. On top of this, MS laboratories face an explosion in digital evidence analysis up to the point where some labs have more than 2 years of backlog. Through centralisation the EC3 laboratory will deliver techniques and reports in advance forensics, in-house and on-the spot that would support the MS digital evidence collection in a fast manner. This team will use advanced techniques found by European R&D to provide more efficient tools to investigators. To staff the laboratory envisaged for the EC3, **3 Senior Specialists are required in 2014** to cover the basic areas of expertise, digital forensics, mobile forensics, network forensics and Malware reverse engineering.

### **Training: + 1 specialist AD5**

In its communication, the Council confirms that *“the European Cybercrime Centre should serve as the European cybercrime information focal point, that it should pool cybercrime expertise to support Member States in capacity building and that it should provide support to cybercrime investigations in Member States”*

Although training and capacity building will be carried out in cooperation with CEPOL and other partners, 1 specialist training coordinator will be needed to carry out these activities. It is the minimum staffing level to ensure coordinated development and delivery of training and awareness-raising initiatives of Law Enforcement, judicial authorities and the private sector.

This staff will also be responsible to propose harmonisation of procedures in cyber law enforcement, to make sure that all collected evidence in a MS is recognised in another MS and accepted by all courts.

*2015 (+ 1 AD5 and 1 AD7) = 9 TA*

**R&D: + 1 specialist AD5**

The number of potential EU projects will continue to grow. This will trigger the need for one additional **specialist** to identify initiatives of interest for EC3 and the MS. The coordination of demand for research and development activities in the EU regarding cyber crime in liaison with ENLETS will be essential for law enforcement to benefit from research in a sound, cost effective and fast tools and knowledge to fight the ever growing demand. EC3 will then be able to propose sound and useful project to the Horizon 2020 program. The growing demand to participate in R&D consortia as advisory will be fulfilled by this staff.

**Forensic: + 1 senior specialist AD7**

The recruitment of a highly skilled staff member will allow for the growing of the quality of forensic analysis. By 2015 it will be necessary to ensure that all forensic activities conducted in the lab would continue. It will ensure the delivery of accredited high level forensic solutions as soon as possible in 2015 (setting up a decryption platform, ISO 17020 accreditation for the Cyber lab). This person will coordinate forensic activities and be digital forensic crime scene coordinator for important cyber operations where decisions have to be made encompassing different forensic work streams.

*2016-2019: (+1AD6 +2AD5) = 12 TA*

The additional staff will ensure proper coordination of new training activities, in depth forensic activities and larger scope for support of EU R&D projects.

#### **4. STRATEGY-PREVENTION-OUTREACH**

##### **Definition**

Strategy-Prevention-Outreach conducts trend analysis, early warning and horizon scanning, crime prevention and policy work, strategic planning and stakeholder management.

As the vast majority of relevant information is held outside of the Law Enforcement's remit, it engages in building trust and confidence between the private sector and Law Enforcement authorities, benefiting from key partnerships with the CERTs and ENISA, military and security services, civil society organisations and other stakeholders in the areas of cybercrime, online child sexual exploitation and online fraud.

It acts as a gathering point for European cybercrime investigators, providing them with a collective voice when conversing with private partners, academia and citizens.

Strategy-Prevention-Outreach will give EC3 a privileged position between public and private sectors, which will enable it to have a better measurement of the cybercrime landscape in real time as well as in a strategic and forward-looking scenario design.

## Services

The set of services provided by Strategy-Prevention-Outreach can be clustered as follows. For each one of them, it is indicated if it is a new task for Europol or the improvement of an existing one:

1. **IMPROVEMENT:** Perform strategic analysis through production of the EU's threat assessment on cybercrime, online child sexual exploitation, payment card fraud and related online threats; specialised thematic assessments on emerging trends, criminal methods and facilitators; future-oriented scanning of technological and other external developments, with a view to identifying potential risks, vulnerabilities and key issues for policy makers and legislators.
2. **IMPROVEMENT:** Ensure cybercrime prevention in cooperation with relevant parties, to promote existing, and contribute to developing, prevention and awareness raising initiatives in the field of cybercrime, online child sexual exploitation, payment card fraud and other online threats; scanning for vulnerabilities and procedural gaps, in order to inform policy and product development which is safer by design.
3. **IMPROVEMENT:** Establish and maintain trusted relationships within the LE community (EMPACT, CIRCAMP, EUCTF, VGT); manage operational links between the EC3 and the ELO network, ensuring proper communication and engagement; establish of multi-sector trust networks involving LE, industry, academia and civil society organisations, with the aim of improving operational and strategic responses to cybercrime.
4. **NEW:** Become the collective voice of cybercrime investigators in the EU: communicate EU views, positions and results in the area of cybercrime; become the EU Central Office for Cybercrime; coordinate EU Member States and EU agencies' inputs to Internet governance and promote standardisation of approaches and adoption of good practice in the field of cybercrime.
5. **NEW:** Manage and develop an online collaboration platform (SPACE), which allows an easier exchange and sharing of strategic and technical knowledge and expertise between LE and the private sector in the areas of cybercrime, online child sexual exploitation, and online fraud.
6. **NEW:** Deliver tailored newsfeeds on emerging criminal trends, technological developments and other relevant information as it develops. These will be informed by active partnership with research institutes, academia and industry partners.

A larger increase of resources will materialize when the legal framework allows better engagement with private parties

## Resources

**2014 (+ 2 AD5 and 1 AD7) = 8 TA**

**Strategy: +1 senior specialist AD7**

In order to “*broaden in practice the global picture*” **1 Senior Strategic Analyst** is requested. Varying significantly from the traditional strategic analysis post at Europol which uses mainly Law Enforcement information, cybercrime information is very often derived from active partnership with bodies such as Academia, scientific researchers and insurance companies, and is used to predict trends and threats of Cybercrime and guide the strategy in this field. For

this reason, this post requires a very different set of competencies to the ones traditionally requested for Europol analysts. The capacity to produce accurate threat assessments and orient the strategy in Cybercrime is a key factor of success for EC3's activities. Senior level is required to provide guidance within the team to ensure the delivery of coherent and targeted analysis products of an adequate quality level.

**Outreach: + 2 specialists AD5**

The Council Conclusions also justify the need for staff to implement the necessary outreach and communication activities for EC3. Most of the information on cybercrime comes from sources outside Law Enforcement. If the EC3 has the ambition to be a reference point in this field and provide added value to the operational activities, it is necessary to build strong relations and cooperation with other partners with an interest in cybercrime. To support this activity **1 outreach specialist** is required in 2014.

In addition, to facilitate the communication between cybercrime specialists, the Secure Platform for Accredited Cybercrime Experts (SPACE) will have to realise its full potential. **1 specialist** is needed in 2014 to manage the content and moderate the platform. Furthermore, this specialist will be involved in the organisation of cybercrime related events, including the annual Interpol/Europol Cybercrime Conference.

**2015 (+ 1 AD5 and 1 AD6) = 10 TA**

**Strategy: + 1 senior specialist AD6**

Given the complexity and diversity of the cybercrime domain an additional resource is needed to monitor the strategic spectrum and to deliver high-quality, forward looking assessments. A strong focus of this work will be put on prevention with a multi-disciplinary approach that includes all relevant partners, both at policy and operational level. To cover this area 1 senior specialist AD7 is required.

**Outreach: + 1 specialist AD5**

An additional specialist will be hired to augment the scope of the EC3 outreach activities whilst the centre will be at cruising speed. The work of this specialist will not only include the relationship management with private and public partners, but also the pro-active provision of information as input for the communication to internal and various external audiences based on the work done and experience gained in EC3.

**2016-2019: (+ 2 AD5) = 12 TA**

The additional staff will improve the quality and the delivery rate of strategic analysis products. They will also support the improvement of the outreach activities of the centre.

## **5. MANAGEMENT**

There will be only two additional TAs between 2014 and 2019. One post is the replacement of an AD12 position provided by Europol to manage the centre.

The other one corresponds of a set of new task linked to the strategic activities of the EC3:

- **NEW:** chairing and coordinating the EC3 programme board activities
- **NEW:** managing the advisory groups created in the framework of the EC3 programme board
- **NEW:** providing coordination and secretariat to CIRCAMP, VGT, EUCTF, EFC, ECTEG

On top of the management of these tasks, this position will ensure proper operational and administrative coordination between all EC3 capabilities. It will also ensure that the EC3 activities are aligned with the Europol strategy and work plan.

***2014 – 2019 (+ 1 AD12 and 1 AD7) = 6 TA***