



THE SENATE
OF THE PARLIAMENT OF THE CZECH REPUBLIC
9TH TERM

290th

RESOLUTION OF THE SENATE

Delivered on the 12th session held on 21st August 2013

on the Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA /Senate Press no. N 063/09/

The Senate

I.

1. Is aware of

the need for effective cooperation, sharing of information and analyses among the Member States and provision of mutual operational support in investigations;

2. Recalls, however,

that in accordance with Article 88(3) of the Treaty on the Functioning of the European Union, the application of coercive measures in the prevention and investigation of criminal activities remains fully in the competence of the Member States;

3. Emphasizes

the importance of parliamentary scrutiny of Europol's activities, while recalling its Resolution No. 206 from 28th May 2011 on the Communication from the Commission to the European Parliament and the Council on the procedures for the scrutiny of Europol's activities by the European Parliament, together with national Parliaments;

II.

1. Does not support

the proposed merger of Europol and CEPOL agencies because the Commission has not sufficiently demonstrated its positive effects and possible financial and administrative savings considering:

- the differing nature of activities of both agencies;
- their different personnel requirements needed to carry out their activities; and
- the risk of marginalisation of police training among the other activities of the merged agency;

2. Is of the opinion

that if the Commission has proposed, in accordance with Article 88(2)(b) of the Treaty on the Functioning of the European Union, to entrust Europol with the tasks of coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities, the Regulation must specify in detail the scope of such tasks in order to prevent legal uncertainty; adds, however, that such specification is missing from the Commission's proposal;

3. Points out, therefore,

that the decision on the application of coercive measures as well as the execution of coercive measures must remain in the exclusive competence of the relevant national police and judicial authorities in accordance with their national law, and that the coordinating and organising activities of Europol must be based on a voluntary consent of the Member States' authorities and must give way to the powers of national judicial authorities that provide the oversight of legality of the investigation carried out by police authorities;

4. Recalls

that in its abovementioned Resolution on the Communication from the Commission on the procedures for the scrutiny of Europol's activities by the European Parliament, together with national Parliaments, the Senate adopted an opinion that the scrutiny mechanism on the national level should be also based on discussion with Europol's representatives;

5. Is of the opinion

that the competence to initiate and hold a parliamentary debate on matters of Europol in the presence of its representatives according to Article 53(1) of the draft regulation shall lie with both the European Parliament (with the possible presence of national parliaments' delegations) and each national parliament individually because only this approach will enable effective use of the power of scrutiny in matters related to individual Member States;

6. Demands

that a more detailed elaboration of the competence set in Article 53(1) in the sense of point II./5 of this Resolution should be added to the Regulation and that the term "consultation" of European Parliament and national parliaments by the Management Board prior to the adoption and update of the Europol's multi-annual work programme should be specified in detail in the Regulation;

7. Points out

the need to reconcile the strengthening of information flow and the orientation of Europol's activities according to Member States' demands, guaranteeing that the authority providing information will remain in control of the further handling of the provided information;

8. Supports

a more flexible setup of Europol's information systems for information processing purposes on condition that a high level of personal data protection is preserved;

III.

1. Requests

the Government to inform the Senate about the way this position was taken into account and to provide the Senate with information on the further proceeding of negotiations;

2. Authorises

the President of the Senate to forward this Resolution to the European Commission.

Milan Štěch
sign manual
President of the Senate

Vladimír Plaček
sign manual
Senate Verifier