

Journal of Contemporary European Research

Volume 13, Issue 2 (2017)

Research Article

Supranational activism and intergovernmental dynamics: the European Police Office as a supranationalist opportunist?

Agathe Piquet, *Panthéon-Assas University*

Citation

Piquet, A. (2017). 'Supranational activism and intergovernmental dynamics: the European Police Office as a supranationalist opportunist?', *Journal of Contemporary European Research*. 13 (2), 1185-1207

First published at: www.jcer.net

Abstract

This article aims at analysing Europol's supranational activism through a reworked Principal-Agent framework. This theoretical approach offers insights regarding the preferences of the Member States, the European Commission, and the European Parliament as Europol's Principals, and discusses how they interact with each other, with a focus on potential conflicts. Furthermore, this paper studies how Europol has evolved within this context, with the aim to determine if it is getting closer to one actor or the other, and how it manages to follow its own preferences and aims of expansion. Consequently, Europol's principals' heterogeneous preferences and its capability of defining problems, notably through its Directors, have enabled Europol to act as a policy entrepreneur to project its preferences and its representations for its strengthening. Hence, Europol appears as a supranationalist opportunist, as it punctually aspires for its own supranationalisation, taking care not to antagonise Member States which remain its main clients.

Keywords

European Union, supranational activism, Europol, principal-agent, agenda-setting.

As Howarth and Roos (2017) have indicated in the introduction of this special edition, rational choice institutionalism, and especially the Principal-Agent theory, tend to be one important explanatory framework for the understanding of European integration through the activities of European institutions and agencies. Briefly, the Principal-Agent theory assumes that Principals, often national actors as regards the European Union (EU), delegate prerogatives to Agents, here mainly European institutions and agencies, for functional reasons so as to solve collective action problems and to reduce transaction costs (Egeberg et al. 2012; Tallberg 2002). Despite the extended literature applying this Principal-Agent framework to European institutions and agencies¹, various academic works have aimed at questioning this theoretical approach, or even at rejecting it, arguing that it would either not fit the European reality (Dehousse 2008; Keleman 2002), or reassessing the functionalist logic in itself (Borrás et al. 2007; Ekelund 2014; Kassim and Menon 2003). One of the main issues discussed in the Principal-Agent literature and its critical analysis is the dilemma of the Principal to delegate prerogatives to the Agent without losing control of the Agent, echoing hence various matters as accountability ('drift' etc.), namely a cost-benefit logic. This question is of particular interest when connected to the broad issue of this special edition, the activism of supranational institutions. Indeed, such activism could mean that the Agent distances itself from its Principal and follows its preferences. Consequently, the need arises to define the agent's preferences, and to determine if this activism intends to reinforce the supranational dynamic of European integration or not (Howarth and Roos 2017).

An analysis with the aim to deepen the empirical and academic knowledge of European institutions and agencies could offer a theoretical input relative to the debate between intergovernmentalism and neofunctionalism. For intergovernmentalists, supranational institutions do not matter as such and do not have distinct preferences from the ones of the Council and the Member States; whereas, for the defenders of neofunctionalism, supranational entities aim at expanding European integration due to a spill-over dynamic (Howarth and Roos 2017; Kassim and Menon 2003; Pollack 1997; Tallberg

2002). Thus, this article uses the Principal-Agent theory, with various reconfigurations as it is explained in the analysis, with regard to a specific empirical case, the European Police Office (Europol), to contribute to the existing literature in the area. Europol is an agency from the former third pillar of the European Union, Justice and Home Affairs (JHA), and as such it has specific features compared to the agencies created in the first pillar framework (Busuioc et al. 2011a; Rijpma 2010, 2012). Furthermore, Europol is different from the other JHA agencies insofar as in 1995, in the Europol Convention (Convention 1995), it was not created as a European agency, but as an intergovernmental organisation, entirely dependent on the Member States. It was transformed into a European agency in 2009 (Council Decision 2009), with a Council Decision replacing its initial legal framework, and since 2009 it is considered a 'specific agency' (interview with an official of the General Secretariat of the Council, April 2016), and a 'hybrid organisation' (interview with an official of Europol's Legal Service, November 2016) due to some remaining intergovernmental characteristics. Hence, it does have 'multiple Principals', i.e. both the Member States and the European institutions, being the potential subject of institutional tensions (Dehousse 2008), and it could be at the junction of intergovernmental and supranational dynamics.

Consequently, firstly, this article aims at analysing if Europol shows some activism, whether it establishes and obeys own preferences, and how it interacts with its Principals. Secondly, it intends to determine Europol's preferences as an Agent and studies if, since its creation and after its transformation into a European agency, Europol has tended to defend more supranational positions following the neofunctionalist assumption, or has remained close to its initial Principals, the Member States. Considering Europol's past trajectory as the one of an intergovernmental organisation that has developed intergovernmental mechanisms and has only acquired the agency status less than ten years ago with still many exceptions, it would seem rather plausible that Europol stays closer to the Member States than to the European institutions. This seems even more probable due to the staff of the agency, which is mainly composed of national police officers and representatives staying for short periods of time, with few permanent European staff (interview with an official of Europol's Legal Service, November 2016). This study aims at verifying this assumption by drawing on interviews with police officers involved in the cooperation with Europol, EU officials, former and current Europol staff, as well as an extensive analysis of official and unofficial documents. The article proceeds as follows. The first part introduces the analytical framework with the readjusted Principal-Agent theory regarding the EU and Europol. The second part analyses Europol's institutional trajectory, the hybridisation dynamic of the Principals and the competition between the national delegations, the European Commission and the European Parliament, with a focus on distinct cognitive and strategic resources. The third part studies the preferences developed by Europol and the leeway it has due to the nature of the tasks it has been entrusted with.

RETHINKING THE PRINCIPAL-AGENT FRAMEWORK

The Principal-Agent framework is rooted in the new economics of organisation and has initially been applied by US academics to study the delegation of powers from the US Congress to federal agencies. The foundation of this framework is to analyse the agency relationship which evolves when 'the *Principal*, enters into a contractual agreement with a second party, the *Agent*, and delegates to the latter responsibility for carrying out a function or set of tasks on the Principal's behalf' (Kassim and Menon 2003: 122). Thus, this theoretical framework explains that this relationship is set due to some functional reasons, and 'delegation is explained in terms of the anticipated effects for the delegating party, and is likely to take place when the expected benefits outweigh the expected costs' (Tallberg 2002: 25). Hence, it means that 'the Principal and the Agent enter into a contractual arrangement, in which the Principal chooses to delegate certain functions to the Agent in the expectation that the Agent will act in ways that produce outcomes desired by the Principal' (Tallberg 2002).

The expected benefits can be divided in four broad categories which are not exclusive: delegation aims at enhancing the credibility of a decision and credible policy commitments due to the political independence of the Agent that is isolated from short-term political considerations; an Agent can develop some expertise and reduce information asymmetries; the Agent helps improving decision-making efficiency, above all in technical domains, since it allows the Principal to focus on less technical tasks and instead on more general policy decisions; delegation can allow the Principal to shift blame on the Agent for unpopular decisions (Léonard 2009; Magnette 2005; Tallberg 2002). However, delegation implies a potential tension between these expected benefits and the potential costs of delegating prerogatives to an Agent. The costs arise mainly through the development of own preferences by the Agent, diverging from the ones of the Principal. This is called 'bureaucratic drift' or 'shirking'. The Agent, by the development of expertise, benefits from an asymmetry of information and can follow its own policy agenda, potentially differing from that of its political Principal (Kassim and Menon 2003; Wallace et al. 2010). Such possible loss of control leads the Principal to establish some *ex ante* and *ex post* control mechanisms to ensure the compliance of the Agent to its preferences (Busuioac 2009; Busuioac et al. 2011a; Keleman 2002; Krapohl 2004). Hence, the Principal faces a dilemma: a too restrictive control would deprive the Agent of its autonomy and diminish its performance; whereas a loose control would allow the Agent to follow its own preferences while giving it some leeway to accomplish its tasks (Busuioac 2009; Kassim and Menon 2003).

These various assumptions about the rationales of delegation, the related risks and the tensions are the theoretical basis of the Principal-Agent framework, which assumes that actors are rational, thinking and acting according to a cost-benefit and functionalist logic. This model has become predominant in the academic analysis of EU institutions and agencies (Wallace et al. 2010), aiming to understand 'Why do the elected politicians of sovereign member states decide to create, and delegate public authority to, supranational institutions beyond direct democratic control?' (Tallberg 2002). This article pays specific attention to EU agencies. EU agencies were not explicitly foreseen in the European treaties, but have turned to be a 'paradigm of European governance' (Geradin et al. 2005). The 'agencification' phenomenon started in the 1970s and led to the proliferation of EU agencies (Musa 2014). The rationales of this 'agencification', that is 'delegation to the specialised and professional administrative organisations', have been mostly analysed through the Principal-Agent framework. The dense literature on EU agencies tends to consider the same rationales as the ones of the broader Principal-Agent framework introduced in this section, possibly supplemented by other specific considerations. Firstly, EU agencies are seen as giving more visibility to EU policies, compared to other mechanisms such as comitology, as reinforcing cooperation amongst Member States by allowing the sharing of information and coordination, and as implying a broader participation and input from other actors, for instance industry groups (Léonard 2009). Secondly, EU agencies are also conceived as fitting in the European project logic of a 'regulatory State' and as a compensation for the lack of implementation of policies at the European level (Musa 2014).

These additional rationales then underline the specificities of the European dimension and imply a need of adapting the Principal-Agent framework. Indeed, one of the most problematic matters in the application of this framework to EU agencies is the absence of one clear identifiable Principal. Thus, whereas the Principal-Agent approach assumes a delegation from one Principal to the Agent, EU agencies do not fit in this model, given that multiple Principals contribute to their creation and to their daily functioning, namely the Member States, the European Commission, and the European Parliament. Due to the anti-hegemonic aim of the European Union, EU agencies are the result of an interinstitutional compromise between these different actors with diverging interests and representations, as agencies are created based on a proposal by the European Commission and have to be accepted by the Member States and more and more the European Parliament (Dehousse, 2008). Consequently, the creation of EU agencies has to be understood in this context, given that they also reflect the perceived need of the Member States to delegate some tasks to the European

level, and at the same time their parallel unwillingness of delegating more powers to the European Commission ('The creation of the agencies allowed the regulatory capacity of the EU to increase in a manner more acceptable to the Council than a direct expansion of the Commission would have been', Léonard 2009: 375). The European Commission tends to favour this option, as its result offers more technical expertise and legitimacy for its own decisions, but it sees agencies as a second-choice option once it is convinced that the Member States are opposed to the delegation of prerogatives to the Commission itself. The European Parliament perceives agencies as positive insofar as it can be implied with the co-decision procedure, it controls EU agencies more easily than the European Commission, and agencies avoid the concentration of powers in favour of the Commission (Musa 2014).

Hence, Principals do not only fear a bureaucratic drift from the agency, they are also careful of controlling the agency in order to avoid any 'political drift' 'in which agencies are somehow 'captured' by one of their institutional rivals in the leadership contest.' (Dehousse 2008: 796). Member States are reluctant to grant more powers to the European Commission and insist on limited mandates and strong intergovernmental controls, specifically by being represented in the Management Board of these agencies (Keleman 2002; Léonard 2009); the European Commission wants to have an influence on their functioning; and the European Parliament 'tends to emphasise issues such as transparency and accountability in the institutional design of agencies' (Léonard 2009), demands to be in charge of political control, fears the intergovernmental bias and supports the European Commission's control of agencies (Dehousse 2008). These institutional struggles then lead to agencies with a weak mandate to avoid bureaucratic drift, and with fragmented control mechanisms (e.g. for the appointment of the agencies' heads) to circumvent any political drift, even if such fragmentation is in favour of the agency since sanctions are not easily imposed due to the multiple Principals which need to agree (Dehousse 2008; Keleman 2002). Therefore, 'the delegation process in the EU is not as neat and simple as suggested by the classic 'Principal-Agent' model' (Léonard 2009). Other scholars have underlined the insufficiencies of the functionalist reasoning itself. Firstly, it has been argued that:

Explanations of agency creation drawing solely on rational choice institutionalism give insufficient attention to aspects of agency establishment other than agency functions, such as timing of establishment and management structures. These aspects are important because, as demonstrated in a range of public management studies (Bouckaert and Peters 2004), they impact how the agency operates and how its activities can be controlled' (Ekelund 2014: 100).

Consequently, rational choice institutionalism, from which the Principal-Agent framework comes, has to be supplemented by other forms of institutionalism, such as historical and sociological institutionalism, in order to take into account that the creation of EU agencies is not only due to some functionalist reasons, but also to the perception of this modality as legitimate and appropriate and/or to some specific critical junctures (Borrás et al. 2007; Egeberg et al. 2012; Ekelund 2014; Krapohl 2004; Wallace et al. 2010). Furthermore, JHA agencies have been considered separately from the other EU agencies (Busuioc et al. 2011). Due to their specific domain of competence, these agencies were created as 'light' structures of institutional governance, mainly in charge of facilitating, coordinating and reinforcing cooperation between the national competent authorities, and without encroaching on national prerogatives (Rijpma 2010). Their governance is predominantly intergovernmental, the Council prevails over the Commission (Busuioc and Groenleer 2012) and even more over the European Parliament which has been marginalised (Trauner 2012). Hence, these JHA agencies are more conceived as serving the Member States rather than the EU institutions. They assist and support the Member States and are deeply dependent on them (Rijpma 2012), contradicting some of the expectations of the Principal-Agent framework applied to EU agencies. However, JHA agencies are not totally different from the former first pillar EU agencies, as many

elements of their daily functioning are similar (Busuioc 2011; Jorry 2011). They offer input for EU decision-making and for the EU institutions (Majone 1997; Rijpma 2012, 2010). Furthermore, the European Commission has worked towards a growing convergence, notably trying to rationalise the diversity and the *ad hoc* nature of these institutional arrangements in its 2001 White Paper on governance (European Commission 2001). This constant willingness of rationalisation led to the common approach on decentralised agencies in 2012 (European Parliament, Council, European Commission 2012). In 2009 the Lisbon Treaty confirmed this dynamic of rationalisation and normalisation of EU agencies (Rijpma 2010).

This section has demonstrated the amendments of the Principal-Agent framework performed here to reveal the complexity of the delegation process at the EU level to agencies, and to JHA agencies specifically. Functionalist and rational-choice explanations do not suffice; the dynamics of institutional struggles, historical events and the importance of representations and practices have to be taken into consideration as well. The fear from one Principal of bureaucratic drift is supplemented by the fear from multi-Principals of political drift. Europol then appears as an interesting case to apply these various elements by analysing its historical process and its setting of Principals.

EUROPOL'S INSTITUTIONAL TRAJECTORY AND THE GRADUAL HYBRIDISATION OF ITS PRINCIPALS

The idea of a European Police Office stems from the 1970s, in a context of various terrorist attacks and rising pressure from the United States to fight drug trafficking which led some European police officers to wonder about how to fight more efficiently the perceived common threats at the European level. Their first idea was to create European structures within Interpol to focus on their own problems, and to work with people they trusted. However, this proposition was rejected from the non-European states which were fearing an even stronger European influence on Interpol, and therefore, European clubs on internal security multiplied in the 1970s in compensation: the Berne club in 1971; the Trevi forum in 1975; the Vienna club in 1979; the Police Working Group on Terrorism in 1979 etc. (Bigo 1996).

These multiple forums functioned as venues for exchanging practical information, and for elaborating proposals to reinforce cooperation from a technical perspective. They favoured the emergence of a relatively exclusive microcosm among European police officers. These officers were sharing a similar 'public policy narrative' (Radaelli 2000), correlating the insufficiencies of the existing police means and structures and the problem of national borders with the transnationalisation of criminal threats due to the opening of borders and globalisation (Mégie 2007). Such representations also matched the interest of these police officers as they could thus acquire new budgets, new tools, and new missions. Hence, this microcosm of European police officers asked for a stabilised European alternative to improve the fight against international crime and terrorism. Various proposals were made for the creation of this structure, such as by the German Police Union (Bigo 1996), by national chiefs of police in the 1980s (Bunyan 1993), and by the Trevi forum in the early 1990s (Bigo 1996). The perceived necessity for a formalised structure grew with the establishment of the freedom of movement in Europe, foreseen by the Treaty on European Union, as these police officers called for compensatory measures: 'it was clear it was the opening of Europe, the falling of the boundaries which led to the conclusion we need forms of cooperation that are not only bilateral and on a day-by-day personal contact business, but we need something that is more institutionalised' (interview with an official of the German Liaison Bureau in Europol, November 2016).

The political level started getting interested in matters of police cooperation due to this change at the European level, and as the growing feeling of insecurity in Europe became an election issue

(Maillard 2010). Furthermore, national decision-makers had been alerted twice by the German Chancellor Kohl, in 1989 and in 1991, who asked for the creation of a 'European FBI'. This positioning of Helmut Kohl can be linked on the one hand to the personal will of the Chancellor to assert himself on the European stage with an innovative idea; and on the other hand to the pressuring of the Bundeskriminalamt (BKA), the German criminal office, which wanted a European structure to facilitate exchanges and to circumvent the Länder police offices (Bigo 1996). Hence, national decision-makers decided to create a European structure, but different from the idea of a European FBI and quite different also from the police officers' conceptions of what this structure should be due to political considerations: 'the need for Europol was from police at first, considered by the political level, stayed for a long time political, police officers didn't have a lot to do even for a long time' (interview with a former Europol deputy director, April 2016). The idea of Europol was 'smuggled' into the negotiations of the Maastricht Treaty' (Groenleer et al. 2010) and integrated in the third pillar, JHA matters, with distinctive decision-making processes and working with the Community method, which governed the first pillar. The article K.1§9 of the Treaty used ambiguous and brief wordings when evoking police cooperation as a matter of common interest and 'in connection with the organisation of a Union-wide system for exchanging information within a European Police Office'.

An initial intergovernmental dynamic

This formulation offered leeway to the national administrations in the negotiations of the founding text of Europol, within an *ad hoc* Europol working group of the Council, while the European Parliament was excluded and the European Commission was very rarely consulted (Lobkowicz 2002). National decision-makers hence chose not to create a European agency, although EU agencies were already a familiar mechanism at the EU level, but rather an intergovernmental body outside the Community legal framework. They opted for funding on the basis of national contributions, and decided to build Europol on a convention rather than a regulation, just as in the case of the European Monitoring Centre for Drugs and Drug Addiction, founded through a regulation in 1993 even though being inserted within the third pillar. This alternative offered the advantage of enabling control and supervision by all the national delegations, since any amendment to the Convention would require ratification by each national parliament, although that was leading to a 'long and cumbersome process' (Busuioc et al. 2011).

The Europol Convention was signed in 1995 and entered into force in 1999. Europol replaced its precursor, the Europol Drugs Unit (EDU) (Groenleer et al. 2010). Europol's initial institutional design reflected its intergovernmental nature. Europol itself was created with two different systems. On the one hand, there was the Europol staff (specialists, analysts, legal service etc.), initially mostly coming from the EDU staff which was composed of seconded national personal and was not necessarily the most competent. Gradually, this staff has been chosen by Europol itself, but recruiting mostly from national law enforcement agencies (Busuioc et al. 2011). On the other side, Europol hosts Liaison Officers from all Member States, and even some non-EU Member States (e.g. the United States), who are still subject to their national law and paid by their country. They are in charge, with their counterparts in Europol National Units (ENU) located in the Member States, of shuttling back and forth information from the various national services to their foreign homologs and/or to Europol and the other way, so to avoid any direct communication between Europol and the national services.

Furthermore, Europol was designed with a central Management Board initially composed of one representative from each Member State and one from the European Commission, but without voting right. Hence, the Management Board is predominantly an intergovernmental organ which has been in charge of some 'regular board functions (involving decision-making, the adoption of various implementing rules, the approval of agency key documents i.e. work program, draft budget, draft

establishment plan etc.)' (Groenleer et al. 2010: 24), which are key functions in the daily work of an organisation. Additionally, the Management Board was conceived as responsible for approving various analytical matters (e.g. the creation of analytical files), and for overseeing the 'proper performance of the Director's duties' (article 28 of the Europol Convention). Hence, the Management Board appeared as an 'organ control' of Europol and its Director (interview with an official of Europol Management Board Secretariat, November 2016), redoubling the already existing intergovernmental controls of the latter through the mechanisms of appointment by unanimous Council decision. Other intergovernmental mechanisms were created in the Convention, such as the Joint Supervisory Body for data protection, composed of representatives from the national supervisory bodies.

Intergovernmental control mechanisms appear also through the central role of the Council in Europol's governance. Indeed, the 1995 Convention established that the Council decided on Europol's priorities, controlled and approved many decisions of the Management board (including those linked to the management of information), decided which third organisations and States Europol could conclude agreements with, and named the director and the deputy directors. Furthermore, the Council ultimately approved the European texts relevant to Europol, potentially reinforcing its mandate or changing its functioning system. Consequently, national actors have had a clear influence on political framing and decision-making within the Council from the beginning, from the working groups and committees to the ministerial level. All these levels gather national representatives and experts, working in Brussels or in the capitals, and, even if a culture of consensus and socialisation gradually appears, their meetings are mainly driven by intergovernmental logic and dynamics (Smith and Maillard 2007: 203; interviews with national police officers, November 2015-November 2016). More indirectly, the heads of state or government could contribute through the European Council to Europol's governance by deciding on the broader priorities in JHA matters and the necessary actions for doing so during dedicated European Council summits.

These various control mechanisms for Member States have also been supplemented by the initially limited mandate of Europol, as the theoretical section mentioned. Indeed, the Europol Convention stated that the aim of creating Europol was to improve the cooperation of national competent authorities and the efficiency of their actions in preventing and fighting international crime. Hence, Europol had as its main functions to facilitate information exchanges, to collect and analyse data for operational and strategic purposes, to work as a hub for information and to support national investigations. Clear limitations were thus set for Europol's action, as it was not invested with operational powers, its agents couldn't carry guns, arrest suspects, or conduct house searches. Additionally, Europol has until today limited access to information, since it depends on the national authorities which are free to decide if they want to send information through Europol or another channel and if they want to share information with Europol, while always remaining owners of all the information they communicate. Finally, Europol had an initial field of competence restricted to drugs trafficking, trafficking in nuclear and radioactive substances, illegal immigrant smuggling, trade in human beings and motor vehicle crime, and it was foreseen that Europol would be competent on terrorism matters within two years after the entry into force of the Convention. The Council quickly decided to add new forms of crime to Europol's area of competence, mostly depending on domestic interests and representations (for instance, the insistence of the Belgian delegation that Europol acts on child pornography, or the insistence of Spanish representatives on terrorism issues due to their respective domestic issues).

These various elements confirm the theoretical elements previously mentioned: national actors do play a major role in framing Europol's working and are able to control it due to their centrality in the internal and external formal decision-making and daily monitoring. Initially, they constituted the only Principal and were aiming at limiting any bureaucratic drift of the agency with strong control mechanisms and limited action capabilities, illustrating hence a 'low *de jure* autonomy' and an 'overload of formal accountability arrangements' (Busuioc et al. 2011). Despite this

intergovernmental dynamic, a change has gradually occurred within Europol's functioning in connection to new Principals.

A GRADUAL HYBRIDISATION OF EUROPOL'S PRINCIPALS

Even if Europol was created as an intergovernmental organisation, outside of the Community framework, some major evolutions have transformed it into an EU agency, leading to a growing role of the European Commission and more recently of the European Parliament. As previously mentioned, with the creation of Europol and the third pillar apart from the Community framework in the Maastricht Treaty, the Commission had few competences. It had to be 'fully associated with the work in the areas referred to in this Title' (article K4 §2), even though this wording gives more room for interpretation. Its initiative right was shared with Member States and limited insofar as it lacked any initiative capability in three matters of common interest: judicial cooperation in criminal matters, customs cooperation, and police cooperation (article K3 §2). The Commission's participation in Europol's Management Board hence illustrates that it was only conceived as a 'tolerated partner' (Lobkowicz 2002: 49). The Maastricht Treaty foresaw that the European Parliament should be informed of the discussions and consulted on the principal aspects of activities, with a possibility of asking questions or making recommendations without any obligation from the Council to follow them (article K6). Similarly, Europol Convention negotiations, from which the European Parliament was excluded, led to a vague formulation providing for few possibilities of the European Parliament to control Europol: it was supposed to receive a specific annual report from the Council presidency, and to be consulted in case of an amendment of the Convention (article 34). Hence, the marginalisation of the European Commission and the European Parliament can be conceived as a 'dual strategy to minimise the interference of the EU's supranational institutions' by justifying the security specific features of JHA matters and the limited mandate and action capabilities of Europol which do not imply a need of further control in terms of fundamental rights and privacy (Trauner 2012).

A certain formal evolution began at the end of the 1990s with the Amsterdam Treaty (1997). While the Commission remained fully associated with the JHA domains, and its right of initiative was still shared with Member States, this right was extended to all JHA matters (article 36 §2). The European Parliament witnessed a major evolution of its prerogatives as it should now be consulted by the Council before adopting framework decisions, decisions and conventions relative to JHA matters (article 39). However, this provision had hardly any consequences, especially concerning Europol and its implementation measures or even some external cooperation agreements, despite of the various calls from the European Parliament to increase Europol's political control (Trauner, 2012). The only two granted amendments of the European Parliament's control appeared in the third protocol to the Europol Convention (Council 2003, article 34) the Presidency of the Council 'may appear before the European Parliament with a view to discuss general questions relating to Europol', and 'may be assisted by the director'; and the European Parliament had to receive the same annual report as the Council, instead of the 'sanitised' version it received before (Busuioac et al. 2011: 855).

However, the major turning point relative to the role of the supranational institutions was the adoption of the 2009 Europol decision as the new legal framework for Europol. Indeed, the procedure of national ratifications to modify the Convention was perceived as too cumbersome and creating a discrepancy with respect to the need to rapidly change Europol's framework in response to emergencies and crises. A reflection had been launched in 2001 within the relevant Council groups and committees, without much success, but was once again set on the agenda by the Austrian

Council presidency during the first semester of 2006. This presidency initiated a broad consultation process to which the European Commission was little associated. In December 2006, the Commission proposed a decision replacing the Europol convention, which would be used as a basis for the future text (Commission 2006). Many paragraphs of the convention were therefore inserted in the final text adopted in 2009, which has been in effect since 1 January 2010. The status of Europol changed once it became a European agency and started receiving funding from the Community budget; its staff is now EU staff. In this change, various elements are noteworthy: Europol's mandate is no longer limited to the organised forms of international crime, but extended to serious forms of international crime. Its role in strategic analysis and information exchange, but also in operational action is reinforced. The European Commission obtains a voting right in the Management Board meetings, even though it had asked for three voices. The director of Europol, the chairman of the board and the Presidency of the Council must now appear before the European Parliament for hearings when it asks for them. The 2009 decision can be amended by a unanimous Council. The funding of Europol by the Community budget was a point on which the European Commission had insisted heavily against reluctance from Member States who were fearing to lose a source of control and influence by contributing. The funding by the Community was key for the supranational institutions to have more leverage on Europol, granting them the 'power of the purse' (Busuioc et al. 2011). Due to these fears, the adoption of the decision was not a clear political will from the Member States to transform Europol into a supranational agency, as illustrated for instance by the decision from the national representatives to adopt the decision before the Lisbon Treaty in order to avoid any co-decision procedure with the European Parliament (Trauner 2012).

Indeed, the Lisbon Treaty removed the pillars, and the JHA matters are now also subject to the Community method, even if exceptionalism remains strong for operational matters in police cooperation. The European Commission still shares its right of initiative with Member States which must now cooperate to use this right so to avoid any individual move or discontinuity between the presidencies (article 87). The European Parliament is now part of the co-decision process regarding JHA matters and Europol's 'structure, operation, field of action and tasks' (article 69 D). Moreover, the Lisbon Treaty foresees the setting of a regulation for all EU agencies, including Europol, which has led to new negotiations of Europol's legal framework. Europol's regulation was adopted in May 2016, following a draft regulation from the European Commission and dialogues with the Council and the European Parliament, and tends to increase the role of the Commission and the European Parliament while maintaining the centrality of the Council (Piquet 2017a). However, the European Parliament has still a lower influence and leverage on Europol than the European Commission, which has been more or less involved in Europol's governance from its creation, and above all has a voting right within the Management Board, whereas the regulation only foresees a possible invitation of a representative of the European Parliament at the Management Board's meetings, however without any voting right. Additionally to these different leverages on the agency, the three institutions tend to have diverging interests, preferences and representations regarding Europol which can be more or less compatible.

THE DIVERGING PREFERENCES OF EUROPOL'S PRINCIPALS

The 28 Member States do not form a homogeneous assembly, as decision-makers and police agencies face a diversity of situations (political climate, criminal phenomenon, institutional arrangements etc.) with a difference mostly expressed in terms of 'Big' States and 'Small' States considering the size of the population and the territory. Indeed:

The smaller Member States are generally more voluntary as they don't have any autonomous capacity, they don't have the systems, they don't have the sharing of

information, so the more Europol grows, the more it can offer them something. Germany, Spain, France have systems which are already functioning, so they expect something else from Europol, more support on specific domains and on particular operations or investigations, but not a Europol taking the lead on organised crime (interview with two French police officers from the International Cooperation Division, December 2015).

However, despite some divergences, a broad consensus, a 'common dominator' (interview with an official of the Secretariat of the Council, April 2016) has gradually appeared among Member States regarding Europol's direction and evolution:

There are of course sometimes discussions about whether we should put more emphasis on this or on that, [...] the project of the organisation as such is never put into question, this is rather a question of whether the course should be south-west or south-east [...] One major point of contention, the budget, is now in the hands of someone else and that also helps (interview with an official of Europol's legal service, November 2016).

Hence, Member States have decided several times to extend Europol's mandate and action capabilities, quite rapidly after its establishment and repeatedly over the time of its existence, due to some national needs or to broader exogenous events demanding a political response (Busuioc et al. 2011; Zanders 2006). Nevertheless, national decision-makers and police agencies want to restrict Europol to a support function: 'I think what we have to find today in the program is indeed what we like to see, meaning first of all support and just support, but support can be very much' (interview with an official of the German Liaison Bureau at Europol, November 2016); 'the red line is arriving where we are today with cooperation, coordination, analysis, information exchange, but no executive powers, no direct operational powers in the Member States' (interview with an official of the General Secretariat of the Council, April 2016). Furthermore:

Member States were in the vast majority very careful and reluctant not concerning the support capability of the agency, because that is what we were expecting, but rather on the risk of the agency overlooking Member States and on the reversal of the balance, meaning that the agency would no longer be serving Member States, but Member States will be forced to feed the agency (interview with a French police officer from the International Relations Division, February 2016).

Hence, 'Member States don't want to see the tool slipping through their fingers, it is a kind of schizophrenia because once you take off the training wheels of a kid's bicycle, the kid can become autonomous and if he goes faster, his parents will have difficulty following him' (interview with a French permanent representative to the EU, April 2016).

Furthermore, national actors do insist on the specific nature of Europol, leading to the impossibility of aligning its governance with the other EU agencies and justifying hence some remaining intergovernmental features: 'It is an agency we cannot compare to the other 32 European agencies because Europol's nature is singular' (interview with an official of the Spanish Liaison Bureau at Europol, November 2016). 'The importance of the agency, its size, its strategic nature, the transmitted information justifies a specific regime for Europol compared to the other agencies' (interview with an official of Europol's legal service, November 2016). Consequently, if national actors have accepted some evolution of Europol as an EU agency, they still want to stay in control, as the negotiations of Europol's regulation have shown. Indeed, during these negotiations, national representatives have rejected or tried to reject various ideas of the European Commission's draft which would have diminished their capacity of control over Europol, leading to some 'hiccups'

(interview with an official of Europol's legal service, November 2016), such as the suppression of the Joint Supervisory Body, which was to be replaced by the European Data Protection Supervisor; the awarding of two voices to the European Commission at the Management Board; or the creation of an executive committee within the Management Board as a limited structure to decrease the workload of the Board, which would have included the European Commission and few Member States on a rotating system (interview with a French police officer from the International Relations Division, February 2016; Piquet 2017a).

This illustrates the diverging preferences of Member States and the European Commission concerning Europol. Hence, the Commission has a different perception of Europol insofar as 'it has different responsibilities compared to the ones of the Member States which have different interests because they are Europol's clients whereas the Commission is not the client, it has bigger responsibilities than the Member States' ones' (interview with an official of the Spanish Liaison Bureau at Europol, November 2016). Consequently, as the Commission is a political organ, it is pushier towards Europol's development:

I think the Commission does believe in Europol and it is a belief that is not necessarily disappointed by the confrontation to reality, whereas the Member States' belief can be disappointed due to the daily operational experience. [...] The Commission can be more confident in Europol and it pushes it with more strength and I think we can be grateful to the European Commission's attitude of a strong determination without preconception (interview with an official of the Spanish Liaison Bureau at Europol, November 2016).

The European Commission has appeared very active in Europol's development since the early 2000s (interview with a former Europol's Director, January 2015), what may be based on the Commission's perception of Europol as 'a key flagship tool to fight organised crime in the EU, [which] is at the same time a useful instrument, a visibility instrument, a strategic counsellor' (interview with a former Europol's Director, January 2015). There is also a strategic consideration of Europol as 'it is in its interests to say that its tools are useful, and to valorise them' (interview with a French police officer from the International Relations Division, February 2016), even more in 'a political context of disaffection from European citizens concerning the Brussels bureaucracy [...]. The Commission needs visibility to survive [...] and Europol is her front shop, it is probably one of its most visible tools. [...] In a certain way, I think Europol will always be the Commission's beloved child' (interview with a French police officer from the International Relations Division, December 2015).

The Commission has not only pushed for Europol's development, it has also been active in trying to align its governance with the other EU agencies, in particular through the application of the 'Common approach on decentralised agencies', previously mentioned, and the need of rationalisation as implied in the Lisbon Treaty. Thus, the Commission tends to 'consider Europol from the same perspective as the other EU agencies' and 'wants a coherence of the agencies, so it is more reluctant today to create specific frameworks for Europol' (interview with an official of the Secretariat of the Council, April 2016). As the other EU agencies offer a much more central role to the Commission and the European Parliament to the detriment of Member States, the Commission has intended to assert its own prerogatives at various times, for instance its voting rights at the Management Board, its growing role foreseen by the regulation (Piquet 2017a), and to bring Europol closer to a supranational agency by gradually suppressing its features that make it different from other agencies (Den Boer 2015). As mentioned previously, divergences occur regularly between Member States and the Commission. The different sides do not share preferences regarding Europol's governance, even if they tend both to favour its development, but they do it in a different way with distinct objectives. The relationship between the European Commission and the European Parliament has not been easy either: once again, the Parliament can count on potential support from

the Commission to reach an enhanced role (European Commission 2002a; European Commission 2002b), however one that is far from being mechanical and absolute (European Commission 2002b; Busuioc et al. 2011; Trauner 2012).

Finally, the European Parliament, which has a growing role in Europol's governance, has insisted heavily on the need of an increased political control, transparency and accountability due to the nature of Europol's work with personal data (Den Boer 2015; Trauner 2012). The European Parliament has nevertheless been quite 'in favour that Europol gets more power and more resources' (interview with a former Europol's Director, January 2016). The negotiations of Europol's regulation have hence shown that the European Parliament was keen to develop Europol's action capabilities, however not by sacrificing fundamental liberties and privacy rights. It has also tried to deepen its own prerogatives, asking for instance to be much more involved in the appointing process of the Director, or having a voting right at the Management Board (Piquet 2017a). Relations between the European Parliament and the Council have oscillated between an opposition from Member States to any further involvement of the European Parliament on the one hand, as aforementioned, with a strong reaction from the European Parliament which rejected some Council's measures (Trauner 2012). And, on the other hand, the European Parliament has adopted a more consensual attitude towards the Council and has occasionally defended similar ideas (Trauner and Ripoll Servent 2015), for instance during the negotiations of the regulation (interview with a French permanent representative, April 2016). Europol can, therefore, be considered as having multiple Principals, but they do not intervene in the same way, in the same direction and with a similar influence, the European Parliament still being much more marginalised than the European Commission which tries to assert itself in front of the Member States. Thus, how does Europol act within this complex framework?

AN AGENT IN MIDSTREAM

Considering the former elements and the aforementioned Principal-Agent theory, the Agent, here Europol, would try to implement its own preferences, and potentially to move away from its Principal. However, due to the existing multiple Principals and to their distinct preferences, Europol could have distinctive relations depending on the Principal, exploiting these divergences. Alternatively, its action could be hindered, even paralysed, by the lack of agreement between them.

A tension between Principals as a constraint and a resource for Europol

On the one hand, Europol is highly dependent on the national actors, as they decide if they want to send personnel or information, and whether they are willing to use Europol rather than any other tool or channel, as Interpol. Europol is unable to impose anything upon national services and has to make the best of this limit to avoid antagonising national agencies, which remain its main 'client', its *raison d'être*, and its source of information. Even if national actors do use Europol much more now than they used to do in the past, they remain distrustful of any expansion to Europol outside the permitted framework. Hence, Europol displays some pragmatism so as not to act contrary to national objectives, and to ensure its existence and the adequate participation of national services.

On the other hand, as aforementioned, the European institutions, the European Commission especially, have been favourable to Europol's development, and the former 'has certainly not hesitated over supporting its enlargement' (interview with a former Europol's deputy director, April 2016) as the agency has been trying to 'extend its sphere of influence, of work' (interview with a French police officer from the International Relations Division, December 2015). Moreover, Europol

could have found some benefits in its transformation into an EU agency. For instance, its budget has increased neatly since 2010 and its evolution was accelerated, leading to the questions whether Europol would have reached the same level of development without being communautarised (interview with a French police officer from the International Relations Division, February 2016). Therefore, Europol is caught in a dilemma and splits its work between Member States and the European institutions in an attempt to conciliate both camps: whereas Member States have human resources, data and many control mechanisms at their disposal, the European institutions have the 'purse power' and can decide on Europol's major orientation. Therefore, Europol deals with a particular dilemma:

Rob Wainwright, as the director, is asked to implement the work, answering the Member States, without displeasing the Commission, otherwise he would be fired. He has found a median line which satisfies both sides. This is feasible when we are not in a crisis situation, but it turns out really challenging, when faced by crisis, since the goals of the two sides diverge, and so you are forced to do the splits (interview conducted with a French police officer, December 2015).

The director's post is a very challenging job, as he has to balance between the Member States' requirements and the ones by the European Commission, so I think part of the difficulties of the job is to ensure that Europol works according to the best interests of our stakeholders, to take into account that our stakeholders are very different, whether between Member States, the different national law enforcement authorities or the European Commission policy body (interview with an official of Europol Management Board Secretariat, November 2016).

Actually, finding the appropriate balance is not easy, and many practices have been developed, under Europol's discretion, which tends to 'hide' behind the façade of the Commission:

Europol is more and more communautarised, with an actor in the background, the Commission, which pushes it on the forefront. So, it is not in Wainwright's interests, and he has understood it, to be seen as too enterprising [...] because he was feeling that some Member States were balking in front of what they were perceiving as expansionist, invasive ambitions from Europol. He is aware he is asked to reassure Member States, otherwise he would be heading towards disaster. He is appointed by the Member States, but at the same time he is pushed by the Commission, for instance on terrorism, by the current events to always do more. It is not in his interest to appear as very conquering and his standing, which could be sincere, is 'considering all the things I am asked to do, I have to hold up' (interview with a French police officer from the International Relations Division, December 2015).

This shows that Europol needs to take care not to antagonise any Principal and find an appropriate balance. Further, it can also exploit the contradictions and the competition among its Principals to get the desired modalities and to frame its own future:

This puts the director between the Commission and Member States, able to lean on one to resist to the other one and to plead one to resist to the other one, rather an interesting position (interview with a French police officer from the International Relations Division, March 2016).

Hence, Europol creates varying alliances depending on its interests. It has countered some of the Commission's aims, such as in the case of the negotiations of the 2016 regulation during which it asked certain national delegations to carry some of its demands, which were opposite to the Commission's proposals, or it also opposed some propositions coming from the Commission:

For instance, when the European Commission sustained that Member States should be obliged to send us data, we told the European Commission that from our perspective this would not really make sense because this may backfire, we rather would place our trust in the readiness of Member States to supply this information (interview with an official of Europol's legal service, November 2016).

However, Europol also has a strong cooperative relationship with the Commission and works hand in hand with it: 'Europol's current expansion is also linked to its work and its collaboration with the Commission' (interview with two French police officers from the International Cooperation Division, December 2015); 'Europol as an agency is working closely with the DG Home and the Commission' (interview with an official from the General Secretariat of the Council, April 2016), and even:

Europol and the European Commission have used each other, then I offered, when the new status came into effect, to have a representation to the Commission because every day 15 Europol's officials go to meetings and there was this idea of having a permanent representative doing 'lobbying' even if it was not really necessary, reinforcing the ties between the Commission and Europol (interview with a Europol's former deputy director, April 2016).

Europol has also been quite cooperative with the European Parliament, even when it did not have any obligation insofar as 'informal and regular contacts (e.g. parliamentary requests for information, informal hearings of the Europol director), which have always existed (Busuioc 2010: 102), have intensified with the new legal base of Europol' (Trauner 2012: 12). Europol has managed to adapt and to find an intermediary position favouring its own direction, by which it can exploit the tensions among the Principals to obtain the most salient objectives for itself. Yet it does this in a strategic and pragmatic way, maintaining a balance to avoid any antagonism. This conveys the action capability of Europol as an Agent and suggests that the role of the agency in its own development should be examined more closely.

An enterprising direction of Europol

The previous elements have started drawing implicitly the potential key role of Europol's direction in the agency's development. This falls within a broader debate on the agency directors' role, aiming to understand if they are mere agents from the Member States whose action is extremely constrained, or 'independent power centres' (Busuioc and Groenleer 2012). The following part of this article will analyse the specific case of Europol's director. The director is mainly in charge of fulfilling the tasks given to Europol, of the daily management, of the relevant elaboration and execution of the Management board decisions, and of implementing Europol's budget. He oversees the internal organisation of Europol which is an essential dimension considering for instance the key roles of the new centres within Europol which will be discussed later². He remains accountable for his actions to the Management Board and is the legal representative of Europol. The director does not act as a national representative of a Member State and is subject to the staff regulations of officials of the European Communities and the conditions of employment of other servants of the European Communities, just like the rest of Europol's personnel. The director has important prerogatives at his disposal which have been gradually reinforced by, for instance, the 2009 Europol decision, amongst others concerning his practical capacities in matter of information management.

While the sample of directors remains limited due to Europol's recentness, there appears to be a central role for directors in Europol's evolution, depending on the personality (and also on the broader context). In a positive way, the German Jürgen Storbeck led the agency from 1999 to 2005, and was already in charge of Europol's precursors (the team project and the EDU). His ambitions and

creativity in covering Europol's broad area of work were widely recognised, even though he encountered national reluctance. In a more negative way, the ambitious, but impractical projects and working methods of the German Max-Peter Ratzel, director from 2005 to 2009, have potentially slowed down Europol's progress (interview with a formal Europol deputy director, April 2016). Today, and since 2009, the agency is led by the British Rob Wainwright. His professional skills coupled with personality characteristics have been emphasized in the interviews conducted by the author, in which his communication and leadership qualities, his pragmatism and his diplomacy were acknowledged:

He is an excellent director, who fulfils his role very well. He has charisma, he is a very good communicator. He is brilliant, he is political because it is necessary in European bodies. He is very skilled, a gifted negotiator, he is recognised in the house. He is really the driver (interview with a French police officer from the International Relations Division, December 2015).

Therefore, from a theoretical perspective, Europol's directors in general, and Rob Wainwright in particular, can be conceived as 'political entrepreneurs' according to Kingdon: the directors have some recognised expertise and leadership, as well as political connections, since they are often heard by the ministers, the Commission, and the European Parliament, have skills in negotiating and the patience to offer context-specific alternatives, all of which reinforce Europol's role (Kingdon 1990: 129). Directors have mostly used a strategy of persuasion, if we apply Kaunert's framework, by persuading other actors of the necessity that the action be given legitimacy, expertise, insistence and negotiation capabilities (Kaunert 2010: 42). In this respect, through their participation in many seminars, groups, and conferences in Europe, but also worldwide, where they represent the agency, the Europol directors can highlight previous work and call for the attribution of new competencies to Europol (interview with a French police officer from the International Relations Division, March 2016). Furthermore, they have a very important initiative function in the Management Board: 'The discussions in the board are largely based on the reports from or initiatives of the director. I would say 80 per cent of what is usually discussed in the Management Board is based on ideas, initiatives, proposals, considerations of Europol' (interview with an official of Europol Management Board Secretariat, November 2016). This dynamism and the good relations which the directors have with the national representatives (interview with a French police officer from the International Relations Division, December 2015) are crucial for Europol's evolution:

I think he is the visible person who represents Europol to the political level. Of course, if the political level, also including our governing board, perceives him as being competent, as a good interlocutor, trustful, a negotiator, then this would also have an impact on how the political level perceives Europol (interview with an official of Europol's Legal Service, November 2016).

The directors are often invited by the Council of Ministers and are listened to in earnest, as are indeed Europol's other representatives who participate almost systematically in all the Council's working groups. These working groups represent various opportunities for the directors to persuade the other participants of Europol's added value and of its capacity for resolution, they can also participate in agenda-setting for some domains or action modalities by relying on current events, or on results and reports of the agency to defend their own conceptions and strategic interests for the agency. Thus, the directors can certainly act as a key actor. They lead an agency the staff of which aims to ensure Europol's functionality and development, but also the satisfaction of its 'clients', which are mainly national law enforcement services. A common dynamic links these two objectives: bringing added value by generating new data and initiating unprecedented and lacking activities.

An assertion dynamic through expertise

The Principal-Agent framework foresees that the Agent could try to achieve its own preferences thanks to an asymmetry of information as it would acquire expert knowledge, one of the aims of the delegation process, and would obtain an advantage compared to its Principal. The acquisition of such knowledge is thus offering some legitimacy to the Agent and can enable it to reinforce its positions. This applies particularly in the case of Europol as it needs to persuade national actors of its pertinence in order to be supplied with the information from the national services and used by them. Therefore, by showing its added value, Europol could break the initial 'vicious circle' of a lack of information, giving birth to products with a low added value, creating hence even less incentives for police officers to send information to Europol (Piquet 2017b; Busuioc et al. 2011). Europol has managed to assert itself by developing some major features.

Firstly, Europol benefits from its function of 'belvedere' insofar as it gathers information from the 28 Member States and their different competent agencies through some sophisticated information systems, files, and databases; but also from the numerous third organisations and States it has agreements with, and where it has sent its own liaison officers. It has at its disposal a lot of information it can use for its own analysis and crosscheck to offer new insights to national investigations. This gathering of data and its accessibility explain Europol's nickname 'mill', given to it by national police officers, since it functions as a search engine (interview with two French police officers, November 2015).

Moreover, Europol has managed to advance its role of information analysis, which was one of its primary functions. Its first products were devoted to analytical ends, such as the Organised Crime Situation Reports (OCSR), which were above all mere reports of the ongoing situation with little interest and were prepared under national presidencies (Carrapiço and Trauner 2013). Progressively, Europol succeeded in adapting its reports, catering for national pressure, offering more strategic and proactive evaluations. It also diversified its products with the Organised Crime Threat Assessments (OCTA) replacing the OCSR in 2005, which became the European Serious Organised Crime Threat Assessments (SOCTA) in 2013; the European Union Terrorism Situation and Trend Report (TE-SAT), providing threat assessments in very precise areas. Due to its technological means, its dedicated staff and all the information it gathers, Europol's operational and strategic analysis are now widely acknowledged, contrary to the first products it offered (interview with an official of Europol staff, November 2016). These reports and evaluations, prepared from national and Europol's data, tend to highlight the transnational dimension of these threats and show the appropriateness and usefulness of Europol in this framework. Consequently, they make a contribution by setting these topics on the European political agenda, which helps to develop and maintain the belief in Europol's credibility and its added value, including at a political level (Carrapiço and Trauner 2013).

This dynamic has been reinforced since 2010 as OCTA (and then SOCTA), at Europol's request, has been situated at the heart of the European Union's multiannual political cycles in the fight against serious international and organised crime to increase efficiency. These reports offer a set of recommendations based on the analysis of the major threats to the European Union, which the JHA Council can use afterwards to define priorities for coming years. Based on these priorities, strategic plans are developed defining the objectives for every priority threat. These plans are used as a basis for operational action plans, which are then evaluated by the standing Committee on Operational Cooperation on Internal Security (COSI). Europol is in charge of preparing a midterm evaluation to control and adjust, if needed, the fight of these threats. Regarding the 2014-2017 cycle, the nine identified domains³ are above all domains of Europol expertise, providing it with legitimacy to intervene, which could be conceived as a demonstration of Europol's influence to orientate the cycle towards reinforcing its very own positions (Council 2013). Interestingly, some debates have emerged from the identified priorities: not all Member States share the same priorities depending on the

national circumstances and the political issues, leading to some struggles and even discontentment about the highlighted threats (Piquet 2017b). Europol's central role of agenda-setting through its reports has gradually reinforced its position in the police field, insofar as it is enterprising and frames the orientation of European police cooperation with consequences for national police services, operations and investigations. These should follow the set objectives in the framework of the political cycles:

Europol has succeeded in convincing since the first experimental cycle and with the current one, that it was its job to ensure support and coordination for all the measures set by the Member States to fight against the priorities coming from its own threat assessments. Europol hosts all the meetings of the EMPACT groups which draw the operational action plans which identify the measures that need to be set by Europol and/or the Member States during the years, with funding, a secretariat, a following-up from Europol. It is a tool that puts them at the centre of everything going on (interview with a French police officer from the International Relations Division, February 2016).

Additionally, this agenda-setting and alert function of Europol towards the political level refers to the specific links between police officers and polity with a central role of police to inform political circles, so to help them in regulating the societal dynamics. This function can be central for police to orientate political actions towards its own perceptions and interests (Loubet del Bayle 1992), and Europol is as such an intermediary between the European political level and the national practitioners (Carrapiço and Trauner 2013). Lastly, Europol tends to acquire an expertise on specific domains through centres, created by the director. Three have already been created: the European Cybercrime Centre (EC3) in 2013, the European Counter-Terrorism Centre (ECTC), and the European Migrant Smuggling Centre (EMSC), in 2016. They are new internal structures for distributing personnel and recruiting additional staff who enable Europol to highlight certain fields and develop new specialisations. That in turn provides visibility and a specific dimension to Europol, contributing in this way by adding value to the agency. A police officer confirmed the following:

It is quite coherent, more readable, it could look like a mere display, but in the background, it facilitates synergies, internal coherency logics of action and reinforcement of its capabilities as it is easier to equip Europol's centre on counterterrorism, rather than Europol's focal point (interview with a French police officer from the International Relations Division, March 2016).

While the EC3 covers a relatively new crime area, and can offer additional expertise to most of the national agencies which are not familiar with cybercrime, even more due to its technological means, the creation of the ECTC and the EMSC 'group the different services that we already offered in these areas, under a more visible umbrella' and address more well-known crimes (interview with an official of Europol's legal service, November 2016). These centres enable the building of Europol's own expertise, as they offer reinforced capacities with the gathering of analytical competencies and expertise from all Member States, and add some innovative possibilities (as privileged contacts with the private industry to obtain information; the Internet Referral Unit to control and remove extremist online content materials, etc.). These centres tend to fulfil missions of strategic analysis, exchanges of support, and investigations support and training. The EC3 has been considered a success by the interviewees and a major evolutionary step for Europol to acquire expertise and to assert itself vis-à-vis national services, being a 'spearhead' for the agency (interview with a member of the Spanish liaison office, November 2016). One official of Europol's legal service even declared that 'we have difficulties to manage the input. In the area of cybercrime, we have a lot more requests for support and investigations than we ever could offer' (interview with an official of Europol's legal service, November 2016). In the case of the ECTC and the EMSC, these are more recent, and it is still

difficult to assess the expertise which has been developed. Nevertheless, it seems that Europol has been actively used following the Paris terrorist attacks as ‘before November, 13th, there were 1.5 million entities, as data, enabling the identification of a person, in the analytical work files ‘Terrorism’, while currently there are more than 3 million, so there have been as much data sent to Europol during one year as during the last 15 years’ (interview with a French liaison officer, member of the Joint Liaison Team in the ECTC, November 2016).

This is particularly interesting given that terrorism has been a crime area in which Europol has had difficulties to assert itself due to the reluctances from national services to send data through Europol or to use it in this domain, and it seems that this gate has collapsed due to the recent events. However, it is important to see whether this dynamism will be perpetuated, or whether it is merely a temporary effect. By the gathering of information, by the delivering of operational and strategic analysis and the correlated agenda-setting, and by the establishment of centres of expertise, Europol tends to offer a specialist knowledge to national police agencies, but also to national and European decision-makers. It acquires thus more legitimacy, which encourages its Principals to give it more prerogatives and can reinforce its own positioning, notably by framing the agenda and warning of threats. The autonomous generation of information and expertise by Europol itself could thus lead to information asymmetries regarding its Principals, creating a potential bureaucratic drift, though limited due to the function of Europol and its relationship with national officers.

CONCLUSION

The Principal-Agent framework offers interesting insights in the understanding of the interactions between the Agent and its Principals concerning Europol, but also in the analysis of the relations among its Principals. Indeed, these two dimensions matter, as both the fear of a ‘bureaucratic drift’ and the one of a ‘political drift’ have framed the institutional design of Europol, its daily work and its evolution process. Europol, as an Agent, has gradually and not immediately succeeded in adapting to this framework and to its transformation, due to its enterprising directors and to the development of a specific expertise and of skills national police services tend to require. It has managed to acquire new market shares and develop new tools, acquiring some *de facto* (through practices) and *de jure* (through formal changes to its legal framework) autonomy. Therefore, Europol displays activism favouring its own expansion, turning in an intergovernmental direction or a supranational one depending on what it considers the most appropriate to its growth, while trying not to displease any of its Principals. Particularly internal security ‘crises’ have turned out to be opportunities for Europol to demonstrate some activism to obtain new prerogatives by convincing transnational actors of crime and consequently of its own utility, even its necessity. This process has been facilitated by the conjunction of political willingness, at the European and the national level, to reassure European citizens by showing that decision-makers were reacting to these ‘threats’ through the growth of Europol. However, to nuance Europol’s influence, its evolution is still constrained by the Member States’ reluctances of any supranationalisation and doubts in police agencies about the capabilities of Europol, and the insistence of the European Parliament on the respect of fundamental rights. Furthermore, some of Europol’s transformations are independent, correlated to the broader European integration dynamic. The European treaties, for instance, provided for an increased role of the European institutions independently from Europol’s own preferences.

CORRESPONDENCE ADDRESS

Agathe Piquet, Panthéon-Assas University, 75006 Paris, France [piquetagathe@gmail.com]

ACKNOWLEDGEMENTS

The author would like to thank Mechthild Roos, Fraser Logan and the anonymous reviewers for their valuable comments and suggestions to improve the quality of the paper.

ENDNOTES

¹ For some non-exhaustive literature review, see Kassim and Menon 2003; Keleman 2002; Léonard 2009.

² Three centres have been created until now: the European Cybercrime Centre in 2013, the European counter terrorism centre and the European Migrant Smuggling Centre, both in 2016.

³ They were smuggling of migrants, trafficking in human beings, counterfeiting, excise duty fraud, intra-Community VTA fraud, synthetic drugs trafficking, heroin and cocaine trafficking, trafficking in firearms, property offences, and cybercrime.

REFERENCES

Bigo, D. (1996). *Polices en réseaux : l'expérience européenne*. Paris: Presses de la Fondation nationale des sciences politiques.

Borrás, S., Koutalakis, C. and Wendler, F. (2007). European Agencies and Input Legitimacy: EFSA, EMeA and EPO in the Post-Delegation Phase. *Journal of European Integration*, 29(5), pp. 583–600.

Bunyan, T. (1993). Trevi, Europol and the European state. In T. Bunyan (Ed.), *Statewatching the New Europe: A Handbook on the European State*. London: Statewatch.

Busuioc, M. (2009). Accountability, Control and Independence: The Case of European Agencies. *European Law Journal*, 15(5), pp. 599–615.

Busuioc, M. (2011). European Agencies and Their Boards: Too Much Board, Too Little Monitoring. Social Science Research Network, Rochester, NY (SSRN Scholarly Paper No. ID 1890671).

Busuioc, M., Curtin, D. and Groenleer, M. (2011). Agency growth between autonomy and accountability: the European Police Office as a “living institution”. *Journal of European Public Policy*, 18(6), pp. 848–867.

Busuioc, M. and Groenleer, M. (2012). Wielders of supranational power: the administrative behavior of the heads of European Union agencies. In M. Busuioc, M. Groenleer and J. Trondal, (Eds.), *The Agency Phenomenon in the European Union: Emergence, Institutionalisation and Everyday Decision-Making*. Manchester University Press: European Policy Research Unit Series, pp. 128-150.

Carrapiço, H. and Trauner, F. (2013). Europol and its Influence on EU Policy-making on Organized Crime: Analyzing Governance Dynamics and Opportunities. *Perspectives on European Politics and Society*, 14(3), pp. 357–371.

Communication from the Commission to the European Parliament and the Council (2001). European governance: a White Paper. COM (2001) 428 final. 12.10. Brussels.

Communication from the Commission to the European Parliament and the Council (2006). Proposal for a Council Decision establishing the European Police Office. COM (2006) 817 final, 20.12. Brussels.

Communication from the Commission to the European Parliament and the Council (2002a). The operating framework for the European Regulatory Agencies. COM (2002a) 718 final, 11.12.2001. Brussels.

Communication from the Commission to the European Parliament and the Council (2002b) Democratic Control over Europol”, COM (2002b) 95 final, 26.02. Brussels.

Convention (1995). Convention based on article K.3 of the treaty on European Union on the establishment of a European Police Office (Europol Convention), OJ C 316/1 27.11. Brussels.

Council (2003). Act of 27 November 2003 drawing up, on the basis of Article 43(1) of the Convention on the Establishment of a European Police Office (Europol Convention), a Protocol amending that Convention, OJ C 2/1 06.01.2004. Brussels.

Council (2013). Conclusions on setting the EU's priorities for the fight against serious and organised crime between 2014 and 2017. JUSTICE and HOME AFFAIRS Council meeting Luxembourg, 6 and 7 June 2013, document 12095/13. Brussels.

Council (2012). Joint Statement and Common approach of the European Parliament, Council and the European Commission on Decentralised agencies, 19 July. Available on <https://europa.eu/european-union/sites/europa.eu/files/docs/body/joint_statement_and_common_approach_2012_en.pdf>. [Accessed 15 December 2016].

Council (2009). Decision 2009/371/JAI of 4 July 2009, establishing the European Police Office, OJ L 121, 15.05. Brussels.

Dehousse, R. (2008). Delegation of powers in the European Union: the need for a multi-principals model. *West European Politics*, 31(4), pp. 789–805.

Den Boer, M. (2015). Police cooperation, a reluctant dance with the supranational EU institutions. In F. Trauner and A. Ripoll Servent (Eds.), *Policy Change in the Area of Freedom, Security and Justice: How EU Institutions Matter*. Routledge Studies on Government and the European Union. Abingdon: Routledge, pp. 114–132.

Egeberg, M., Martens, M. and Trondal, J. (2012). Building executive power at the European level: on the role of European Union agencies. In M. Busuioc, M. Groenleer and J. Trondal (Eds.), *The Agency Phenomenon in the European Union: Emergence, Institutionalisation and Everyday Decision-Making*. Manchester University Press: European Policy Research Unit Series, pp. 19–41.

Ekelund, H. (2014). The Establishment of FRONTEX: A New Institutionalist Approach. *Journal of European Integration*, 36(2), pp. 99–116.

EU (2016). Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA. Brussels.

Geradin, D., Muñoz, R. and Petit, N. (Eds.) (2005). *Regulation through agencies in the EU: a new paradigm of European governance*. Cheltenham: Edward Elgar.

Groenleer, M., Busuioc, M. and Curtin, D. (2010). Living Europol: Between Autonomy and Accountability”, Paper presented to the ECPR Fifth Pan-European Conference on EU Politics. Porto, Portugal.

Howarth, D. and Roos, M. (2017), “Pushing the Boundaries. New Research on the Activism of EU Supranational Institutions”, *Journal of Contemporary European Research*, this issue.

Jorry, H. (2011). Une agence originale de l'Union : l'Agence FRONTEX. In J. Molinier (Ed.), *Les Agences de l'Union Européenne*. Droit de l'Union Européenne, Colloques. Bruylant, Bruxelles, pp. 169–191.

Kassim, H. and Menon, A. (2003). The principal-agent approach and the study of the European Union: promise unfulfilled?. *Journal of European Public Policy*, 10(1), pp. 121–139.

Kaunert, C. (2010). *European internal security: towards supranational governance in the area of freedom, security and justice*. Manchester: Manchester University Press.

Keleman, R. D. (2002). The Politics of “Eurocratic” Structure and the New European Agencies. *West European Politics*, 25(4), pp. 93–118.

Kingdon, J.W. (1990). *Agendas, alternatives, and public policies*. New York: Harper Collins.

Krapohl, S. (2004). Credible Commitment in Non-Independent Regulatory Agencies: A Comparative Analysis of the European Agencies for Pharmaceuticals and Foodstuffs. *European Law Journal*, 10(5), pp. 518–538.

-
- Léonard, S. (2009). The creation of FRONTEX and the politics of institutionalisation in the EU external borders policy. *Journal of Contemporary European Research*, 3(5), pp. 371-399.
- Lobkowicz de, W. (2002). *L'Europe et la sécurité intérieure : une élaboration par étapes*. Paris : Documentation française.
- Loubet del Bayle, J. L. (1992). *La police : approche socio-politique*. Paris: Clefs. Montchrestien, Paris.
- Magnette, P. (2005). The politics of regulation in the European Union. In D. Geradin, R. Muñoz and N. Petit (Eds.), *Regulation through agencies in the EU: a new paradigm of European governance*. Cheltenham: Edward Elgar, pp. 3-22.
- Maillard de, J. (2010). Les politiques de sécurité. In O. Borraz, V. Guiraudon, J. de Maillard and Y. Surel (Eds.), *Politiques Publiques, Gouvernances*. Paris: Presses de la Fondation nationale des sciences politiques, pp. 57-77.
- Majone, G. (1997). The New European Agencies: Regulation by Information. *Journal of European Public Policy* 4(2), pp. 262-275.
- Mégie, A. (2007). Eurojust et le mandat d'arrêt européen l'eupéanisation du pouvoir judiciaire genèse, luttes et enjeux de la construction de deux dispositifs de coopération pénale. PhD Thesis. Paris: Sciences Po.
- Musa, A. (2014). Reforming the European Union Agency Governance: More Control, Greater Accountability. *Croatian and comparative public administration* 14(2), pp. 317-353.
- Piquet, A. (2017a). Le nouveau règlement Europol: un cas d'entrepreneuriat politique supranational de la Commission européenne ?. *Cahiers de la sécurité et de la justice* 38, forthcoming.
- Piquet, A (2017b). La 'guerre des polices' au sein de l'Espace de Liberté, de Sécurité et de Justice : une dynamique multi-niveaux. In C. Chevallier-Govers, *Collected Papers of the Symposium 'L'échange de données dans l'Espace de Liberté, de Sécurité et de Justice*. Paris: Mare et Martin.
- Pollack, M. A. (1997). Delegation, agency, and agenda setting in the European Community. *International Organization* 51(1), pp. 99-134.
- Radaelli, C. M. (2000). Logiques de pouvoir et récits dans les politiques publiques de l'Union européenne. *Revue française de science politique*, 50(2), pp. 255-276.
- Rijpma, J. J. (2012). Hybrid agencification in the Area of Freedom, Security and Justice and its inherent tensions: the case of Frontex. In M. Busuioac, M. Groenleer and J. Trondal (Eds.), *The Agency Phenomenon in the European Union: Emergence, Institutionalisation and Everyday Decision-Making*. Manchester: Manchester University Press, European Policy Research Unit Series, pp.83-99.
- Rijpma, J. J. (2010). Justice and Home Affairs Agencies: Governing the Area of Freedom Security and Justice after Lisbon. Paper presented to the ECPR Fifth Pan-European Conference.
- Smith, A. and Maillard de, J. (2007). La sécurité intérieure entre logiques d'action nationales et européennes. Un milieu professionnel sans société politique. In O. Baisnee and R. Pasquier (Eds.), *L'Europe Telle Qu'elle Se Fait: Européanisation et Sociétés Politiques Nationales*. Paris: CNRS, pp. 197-209.
- Tallberg, J. (2002). Delegation to Supranational Institutions: Why, How, and with What Consequences?. *West European Politics*, 25(1), pp. 23-46.
- Trauner, F. (2012). The European Parliament and Agency Control in the Area of Freedom, Security and Justice. *West European Politics* 35(4), pp. 784-802.
- Trauner, F. and Ripoll Servent, A. (2015). The communitarisation of the Area of Freedom, Security and Justice: has institutional change triggered policy change?. *Les Cahiers européens de Sciences Po*. Available at <<http://www.cee.sciences-po.fr/fr/publications/les-cahiers-europeens/2015.html>>. [Accessed 15 December 2016].
- Wallace, H., Pollack, M. A. and Young, A. R. (Eds.) (2010). *Policy-making in the European Union*. Oxford: Oxford University Press, 6th ed.

Zanders, P. (2006). The future of Europol - a practitioner's North Star or a politician's air bubble?", Paper Presented to the High-Level Conference on the Future of Europol. Vienna.