



FISCALÍA GENERAL DEL ESTADO

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**INTERVENTION BY MR. CÁNDIDO CONDE-PUMPIDO,  
PROSECUTOR GENERAL OF THE KINGDOM OF SPAIN,  
ON THE DRAFT DOCUMENT PRESENTED BY  
THE BOARD OF PROSECUTORS GENERAL OF BELGIUM**

**“PURPOSE AND MISSION OF THE CONSULTATIVE FORUM  
OF PROSECUTORS GENERAL AND DIRECTORS OF PUBLIC  
PROSECUTIONS OF THE MEMBER STATES OF  
THE EUROPEAN UNION”**

**The Hague, 16<sup>th</sup> December 2010**

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**INTERVENTION BY MR. CÁNDIDO CONDE-PUMPIDO, PROSECUTOR GENERAL OF THE KINGDOM OF SPAIN, ON THE DRAFT DOCUMENT PRESENTED BY THE BOARD OF PROSECUTORS GENERAL OF BELGIUM: “PURPOSE AND MISSION OF THE CONSULTATIVE FORUM OF PROSECUTORS GENERAL AND DIRECTORS OF PUBLIC PROSECUTIONS OF THE MEMBER STATES OF THE EUROPEAN UNION”**

Dear President of the Board of Prosecutors General of Belgium,

Dear President and Members of the College of Eurojust,

Distinguished Prosecutors General and Directors of Public Prosecutions,

Dear colleagues and friends:

I have followed with the deepest interest the presentation made by my good friend Mr Visart de Bocarmé, and it is with great pleasure that I see that the idea that has been entertained by so many of us since so long ago, is finally settling and becoming ready to start producing results.

Barely seven months ago, we were meeting in Madrid and discussed the document that intended to be the guidelines for the establishment of this Forum, a Forum that, based on that work, now appears to be in very good shape and ready to undertake its mission.

From this perspective, I believe the draft document submitted to us by the Belgian Board of Prosecutors General is fully aligned with the ideas we expressed during the Madrid meeting, and constitutes an adequate starting point for the kick-off of the



activities of the Forum. The proposed objectives of the Forum follow the ones pointed out at the Madrid meeting, which, if you allow me to remind you, were:

- 1) To present a common contribution about the threats affecting the security of the EU, to be included in the OCTA and similar reports.
- 2) To be associated with the discussions in the internal bodies of the Council, before the adoption of the EU priorities, by either facilitating written comments or attending the meetings organized for this purpose.
- 3) To promote the discussion about common difficulties in the fight against specific criminal phenomena and the drawing up of common recommendations and good practices to tackle these phenomena when implementing the priorities at national level, and
- 4) To participate in the evaluation of the implementation of the EU priorities in the fight against crime at a later stage, when a methodology has been established according to Article 70 TFEU.

In my view, the basic principles remain the same, as well as the solutions proposed: There is a need to integrate the activities of the Forum into the wider process of the Internal Security Strategy, as adopted under the Spanish Presidency earlier this year. The new EU policy cycle for organized and serious international crime, approved by the Council under the Belgian Presidency, offers an excellent opportunity to integrate our contribution, thus fulfilling one of the main objectives sought by the establishment of this Forum: to make the voice of the prosecution heard at the highest EU levels as regards the evaluation of threats and the definition of policy priorities.

In addition to this, only a few days ago, the European Commission published its Communication “*The EU Internal Security Strategy in Action: Five steps towards a more secure Europe*”, stressing once more the importance to strengthen “*common*



*policies, legislation and practical cooperation in the areas of police and judicial cooperation” and putting forward “a shared agenda for Member States, the European Parliament, the Commission, the Council and agencies and others, including civil society and local authorities”. Serious and organized crime, terrorism and cybercrime are singled out as examples of fields in which common action is required, thus showing clearly there is a role to be played by those who hold positions at the highest level within Public Prosecution Offices and who have responsibility for organizing prosecutions.*

In this framework, the draft document presented to our consideration by Mr Visart de Bocarmé very well defines the importance of the various steps envisaged in the EU policy cycle and the role to be played by the Forum in each of them.

In relation to this, it would be unfair not to highlight the role of Eurojust, because its assistance goes beyond the mere material support for the meetings –a support that it is highly appreciated and for which I would like to express my gratitude to the College once more-: it also reaches the institutional level, given that, in my opinion, Eurojust should become the point where the information provided by the various prosecution services would be centralised and structured in order to be sent as written contributions of the Forum to the relevant Reports. In addition to this, Eurojust is in a perfect position to bring the opinion of the Prosecutors General and Directors of Public Prosecutions to the attention of the COSI, thus reinforcing its judicial dimension. This will require, undoubtedly, mechanisms to ensure the relation between the Forum and the College of Eurojust, as well as to provide adequate follow up to the activities of the Forum.



Therefore, as stressed so far, proper integration of the Forum into the wider Internal Security Strategy is crucial. But, at the same time, I think we should not lose the perspective of the added value we can bring as heads of the prosecution services throughout the EU, and thus we should leave open the possibility to go beyond the contribution to this internal security process, in order to become eventually a sort of Prosecutorial Advisory Council, from which the Institutions of the Union could benefit in many aspects and fields connected to the criminal area. This is why, in addition to the objectives I mentioned before, and as proposed by the Commission at the Madrid Meeting, the Madrid paper suggested the Forum *“could contribute with its experience in relation with new legislative initiatives, in particular, those related to the principle of mutual recognition in criminal matters, possible harmonization of specific forms of crime and further developments of Articles 85 and 86 TFEU and, eventually, could also actively participate in the “impact assessment” launched by the European Commission in view of the preparation of new legislative initiatives”*. Although this possibility is not ruled out in the current paper, and could be deduced from it –in particular from point 3.3-, I think it would be much better to expressly include a specific mention to this in the final version, either following the wording of the Madrid paper, or reformulating it in some other way.

And, if you allow me to insist on this, I would like to stress how important this wider advisory role of ours could be, in particular in situations as the current one, under a global economic crisis, in which we have witnessed situations where the Union has not had the legal tools to react against certain scenarios (like concerted attacks on the Euro carried out by economic agents), potentially very harmful to the basic structures of the EU. Just like criminal tools were devised and developed to react against certain offences that affected directly the sound functioning of markets, maybe the time has come for us, as Prosecutors General and Directors of Public Prosecutions, to play a role in helping define ways to protect Union structures in a coordinated manner from



those attacks launched against common institutions and common interests. This is an issue I believe deserves serious consideration on our part.

This said and coming back to the discussion paper prepared by the Board of prosecutors General of Belgium, which I fully support, let me share with you, on a more practical and concrete note, some reflections on certain details which could be taken as a starting point for further discussions throughout the day.

The paper defines the Forum as an “*informal dialogue structure*”. This is a crucial point if we want to avoid the creation of new unnecessary and costly structures that would add up to the existing ones. In Madrid we were very clear about that, stating that “*the Forum must be and remain an informal structure. It cannot and shall not substitute any existing Working Group or other structure. It shall not constitute a new network or similar group. (...) The Consultative Forum would not require any secretariat and should not entail any specific costs from the Member States*”.

However, the Forum cannot survive based exclusively on the meetings of the Prosecutors General and Directors of Public Prosecutions, because the activities of the Forum require a certain follow up and preparatory work that cannot be expected to be undertaken by each new rotating Presidency. This is why it was agreed in Madrid to invite the Prosecutors General and Directors of Public Prosecution to “*nominate a contact person to ensure that the necessary proceedings are established at national level, for the appropriate execution of the objectives of the Consultative Forum*”. I firmly believe this is the best way forward and that is why I see some risks of misinterpretation in the sentence included in the paper mentioning that the head of the prosecution service “*shall be the sole point of contact with the Forum*” (point 2.1, second paragraph). If you agree with my view, we should make clear that this sentence does not exclude the possibility to appoint the contact persons in the way foreseen by



the Madrid paper, in particular because of the important consequences this may bring in relation with points 2.2 and 2.3, as we will see immediately.

Indeed, points 2.2 and 2.3 state that the Forum will meet twice per year, and that the representatives of the Trio Presidency will hold a preparatory meeting. In my personal experience, and I think all of you will agree, meeting too often is as bad as not meeting often enough. Our agendas are quite busy already, and I cannot imagine any of us easily adding two meetings per year (four in the case of those of us belonging to a Trio of Presidencies) to the already existing international summits (like the Eurojustice Conference, the Network of Prosecutors before Cassation Courts, IAP Conferences, World Summit, etc.). In my opinion, and depending on the needs derived from the EU policy cycle, it would be much more feasible to reduce the meetings of the Prosecutors General and Directors of Public Prosecutions to one per year, and leave the preparatory meetings –also to be considered activities of the Forum, of course- to the contact persons appointed in each prosecution service. This could be a point to be discussed and decided later today.

To finalise, and despite these comments I have made on some concrete details, I would like to once again state my agreement with the draft paper that has been submitted to us, to thank Mr Visart de Bocarmé for his excellent work, and to offer the full support of the Spanish General Prosecutor's Office to this initiative, which I hope we will all manage to make it operational immediately.

It will not be an easy task, not only because of the inherent difficulties of setting up a new mechanism, informal though it maybe, but also because of the need to overcome obstacles that, sometimes, are simply embedded in human nature. I could not find a



better support for this than the words used by Machiavelli in his masterpiece *The Prince*:

*“It ought to be remembered that there is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things, because the innovator has for enemies all those who have done well under the old conditions, and lukewarm defenders in those who may do well under the new. This coolness arises partly (...) from the incredulity of men, who do not readily believe in new things until they have had a long experience of them”.*

Let us do our best to prove him wrong and let us move forward together in the development of this new mechanism whose birth we are all witnessing.

Thank you very much.