



## Parliamentary control of Europol

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### Summary

In accordance with Ch.9, Art. 20 of the Riksdag Act, the Committee has examined a document from a working group consisting of representatives of the Parliaments in Luxembourg, Slovakia and Estonia and of the European Parliament, containing a proposal on the establishment of a Joint Parliamentary Scrutiny Group for Europol.

According to the proposal, the members of the Scrutiny Group shall be appointed by each of the Parliaments/Chambers. Each national parliament may nominate two members, and the European Parliament ten members. According to the proposal, the Scrutiny Group shall meet twice a year. The Presidency shall be shared by the European Parliament and the country currently holding the Presidency of the Council.

The Committee can, with a certain degree of hesitation, accept the proposal. However, it is important that the number of members in the JPSG does not exceed the proposed number, and that the number of ordinary meetings per year does not exceed the two proposed meetings. The Committee would also like to stress that scrutiny of Europol should be simple, quick and concrete, and that it is opposed to the establishment of a new institution or secretariat to assist the JPSG.

#### *The examined documents*

Europol Joint Parliamentary Scrutiny Group. Draft Text of Troika Working Group for the Conference of Speakers of EU Parliaments, 23-25 April 2017.

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# The Committee's proposal for a decision by the Riksdag

## **A Joint Parliamentary Scrutiny Group for Europol**

The Riksdag puts the Statement on file.

Stockholm 26 January 2017

On behalf of the Committee on Justice

*Beatrice Ask*

The following members participated in the decision: Beatrice Ask (Moderate Party), Annika Hirvonen Falk (Green Party), Helene Petersson i Stockaryd (Social Democratic Party), Elin Lundgren (Social Democratic Party), Krister Hammarbergh (Moderate Party), Arhe Hamednaca (Social Democratic Party), Anti Avsan (Moderate Party), Susanne Eberstein (Social Democratic Party), Johan Hedin (Centre Party), Anders Hansson (Moderate Party), Petter Löberg (Social Democratic Party), Adam Marttinen (Sweden Democrats), Roger Haddad (Liberal Party), Linda Snecker (Left Party), Andreas Carlson (Christian Democrats), Lawen Redar (Social Democratic Party) and Runar Filper (Sweden Democrats).

## Account of the matter

### The matter and its consideration

After consulting the party group leaders, the Speaker decided that a document from the European Union on the establishment of a Joint Parliamentary Scrutiny Group for Europol would be considered by the Riksdag (cf. Ch.9, Art. 20 of the Riksdag Act). The document contains a draft text from a working group (the Troika), consisting of representatives of the Parliaments in Luxembourg, Slovakia and Estonia and of the European Parliament. A final adoption of the Scrutiny Group's working procedures etc. is planned for the Conference of Speakers of EU Parliaments in Bratislava on 23-25 April.

The Chamber referred the matter to the Committee on Justice for examination on 11 January 2017.

# The Committee's examination

## A Joint Parliamentary Scrutiny Group for Europol

### **The Committee's proposals in brief**

The Riksdag puts the Statement on file.

### **Background**

The Europol Regulation came into force in May 2016 and will start to apply on 1 May 2017. Article 51 deals with the subject of joint parliamentary scrutiny. It opens as follows:

Pursuant to Article 88 TFEU, the scrutiny of Europol's activities shall be carried out by the European Parliament together with national parliaments. This shall constitute a specialised Joint Parliamentary Scrutiny Group (JPSG) established together by the national parliaments and the competent committee of the European Parliament. The organisation and the rules of procedure of the JPSG shall be determined together by the European Parliament and the national parliaments in accordance with Article 9 of Protocol no. 1.

Further, the article states that the JPSG shall politically monitor Europol's activities in fulfilling its mission. The article also lists the documents that are to be submitted to the JPSG for its information and with regard to obligations regarding discretion and confidentiality.

### *The process for defining the JPSG's working procedures*

The conclusions from the Conference of Speakers of EU Parliaments in Luxembourg from May 2016 propose a step-by-step procedure for defining the JPSG's working procedures. A working group (the Troika), comprising representatives of the Parliaments of Luxembourg, Slovakia and Estonia and the European Parliament was given the task of preparing a proposal after obtaining the opinions of the other parliaments.

On 23 September 2016, the Troika sent a questionnaire to all national parliaments and the European Parliament. The Troika wanted answers to the following questions:

1. Who should participate in the JPSG?
2. How many members should the Group have?

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<sup>1</sup> 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.

### 3. How often should the group meet and who should be Chair?

All together, 34 parliaments/Chambers representing 25 member states and the European Parliament answered the questionnaire. On the basis of the replies, the Troika presented a draft proposal on 22 November 2016, which was subsequently discussed at the inter-parliamentary committee meeting at the European Parliament on 28 November 2016. From the Riksdag, two members of the Committee on Justice participated in the meeting.

Following the opinions from both consultations (the questionnaire and the inter-parliamentary committee meeting), the Troika presented a compromise proposal on 16 December 2016. The intention is that the proposal shall be adopted at the Conference of Speakers of EU Parliaments in Bratislava on 23-25 April 2017. It is this text that will be considered in this Statement.

As stated above, the Europol Regulation will start to apply on 1 May 2017.

### **Proposal regarding the work procedures of the Joint Parliamentary Scrutiny Group for Europol**

In the current document, the Troika presents, on the basis of the opinions submitted in response to earlier drafts, the reasoning that has led to the current proposal. One point of departure has been to prioritise the basic modalities of the JPSG so that the Group can convene as soon as possible. Furthermore, the Troika notes that the JPSG's tasks are already set out in the Europol Regulation and that they are specific to Europol's function as a body for cooperation in police matters. Finally, it is stated that it is important to ensure efficiency and workability in the newly created body.

The explanatory text also mentions a number of further issues and questions, in addition to the question of the basic modalities of the JPSG, which was discussed at the inter-parliamentary committee meeting in the European Parliament on 28 November 2016. This includes, for example, the need for the establishment of a secretariat for the JPSG as well as sub-committees and working groups. The Troika considers that these matters fall within the scope of the rules of procedure, which the JPSG should decide on itself once constituted.

On the basis of this reasoning, the following modalities are proposed for the JPSG.

1. Members of the JPSG shall be selected individually by each Parliament/Chamber, bearing in mind the necessity to ensure substance matter expertise as well as long-term continuity and recommending to draw from the responsible committee/committees in Parliaments/Chambers.
2. Each Parliament shall have the right to nominate 2 members of the JPSG, in the case of bicameral parliaments each Chamber shall have the right to nominate 1 member of the JPSG

(unless otherwise agreed between the two Chambers). The European Parliament shall have the right to nominate 10 members of the JPSG.

3. The JPSG shall be presided jointly by the Parliament of the country holding the rotating presidency of the Council of the European Union and the European Parliament.
4. The JPSG shall meet twice a year. In the first half of the year, the JPSG shall meet in the Parliament of the country holding the rotating presidency of the Council of the European Union. In the second half of the year, the JPSG shall meet in the European Parliament. If necessary, an extraordinary meeting can be convened upon agreement of the Parliament of the country holding the rotating presidency of the Council of the European Union and the European Parliament, to address matters of urgency or matters that cannot be reasonably included in the agenda of the ordinary meetings.

Finally, it is recommended that a constituent meeting of the JPSG should be held as soon as possible in order to adopt its rules of procedure so as to enable full work to begin in the second semester of 2017.

### **The position of the Committee**

Firstly, the Committee would like to refer to what it has said earlier about parliamentary scrutiny of Europol (Statement 2010/11:JuU21 p. 10 f). The Committee considered that it is important that there is parliamentary monitoring of activities directed towards combating crime, in particular because these types of activities often impinge on the fundamental rights and freedoms of citizens, for example, the protection of personal privacy. This also applies to Europol. In the view of the Committee, it is important that there is parliamentary scrutiny to ensure that a balance between measures intended to protect citizens and measures intended to protect the rights of the individual is maintained.

Furthermore, the Committee still considers, regarding the forms for parliamentary scrutiny, that these should be simple, rapid and concrete and that no new authorities need be established for this purpose. It should focus primarily on following up results and strategies, rather than on scrutinising individual decisions.

As regards the current proposal on the modalities of the Joint Parliamentary Scrutiny Group for Europol, the Committee can, with a certain degree of hesitation, accept the proposal. The proposal is, essentially compatible with what the Committee has previously expressed, for example, about the scrutiny being simple, rapid and concrete and that no new authorities should be established for the purpose. The Committee maintains this position, and would like to stress how important it is that the JPSG does not develop into a disproportionately large and costly activity. On the basis of this position, the Committee would like to express the following opinions about the proposal.

In similarity with what the Troika proposes regarding the matter of representation in the JPSG, the Committee considers that in view of the need to ensure subject matter expertise, it is reasonable that each Parliament/Chamber determines its representatives in the Group. As previously stated by the Committee, it is natural for the national parliaments (and the European Parliament) to be represented by representatives of the committee responsible for police matters. The insight of the national parliaments into Europol can also contribute to securing the legitimacy of European cooperation, especially in the field of police cooperation. The Committee agrees with the Troika's assessment that the members should be chosen for a longer period in order to guarantee continuity.

As regards the number of members in the JPSG, the Committee considers that the Group should not be too big as this could have a negative impact on the efficiency of its work. The Committee would like to stress how important it is that the JPSG is an efficient and result-oriented body which plays an active role in scrutiny of Europol's activities, with a focus on following up results and strategies. With the right composition and a well-balanced size, the JPSG should also be able to carry out its scrutiny without excessive costs for the EU's taxpayers.

According to the current proposal, each national parliament shall have the right to nominate two members for the JPSG. The Committee supports the proposal and considers that it is well-balanced to achieve efficiency and at the same time to reflect the composition of the parliaments and their diversity in a fair manner. The proposal also meets the needs of the parliaments with two chambers, which can nominate one member per chamber. The Committee is opposed to having a greater number of members.

The Troika proposes that the European Parliament should nominate ten members for the JPSG. This is an increase of four members compared with the previous proposal of 28 November 2016. Even though the Committee considered that six members was a reasonable number, it can with a certain degree of reluctance, accept the increase to ten members. However, it is important that there are no further increases, as this could have a negative impact on the efficiency of the Group's work. In light of the fact that Europol's primary task is to support the member states' law enforcement authorities and to facilitate their opportunities for cooperation, it is, in the opinion of the Committee, also reasonable that the member states have a greater representation in the JPSG than the European Parliament does.

As regards the frequency of meetings, the Committee prefers the previous proposal of one meeting per year, with the opportunity to call an extraordinary meeting. Increasing the number of ordinary meetings to two per year is not in line with the Committee's view that scrutiny should be conducted simply and without generating unnecessary additional costs. At the same time, the Committee notes that several member states have said that one meeting per year is not sufficient. In view of this, the Committee can accept the new proposal.

Furthermore, the Committee notes the proposal on a joint Presidency between the European Parliament and the parliament of the country holding the Presidency of the Council. If the JPSG is to meet twice a year, the Committee has no objections to holding the meetings in the first half of the year in the national parliaments, and the meetings in the second half of the year in the



European Parliament, but it would like once again to stress that Europol's task is to support the member states' law enforcement authorities.

Finally, the Committee would like to clarify that it is strongly opposed to the establishment of a new institution or a new secretariat for the purpose of examining Europol's activities. This is admittedly not mentioned in the current proposal, but the Committee still feels it appropriate to express its opinion in light of the opinions that were presented at the inter-parliamentary committee meeting in the European Parliament in November 2016.

## APPENDIX

# List of examined documents

Europol Joint Parliamentary Scrutiny Group. Draft Text of Troika Working Group for the Conference of Speakers of EU Parliaments, 23-25 April 2017.