



FEDERAL PARLIAMENT OF BELGIUM

Conference of the Speakers of the Parliaments of the EU Brussels, 4 – 5 April 2011

**Topic: Role of the parliaments in the oversight of the European
Area of Freedom, Security and Justice**

Subtopic 2: Role of the parliaments in the monitoring of Europol

On 1 January 2010, pursuant to Council Decision 2009/391/JHA of 6 April 2009 on creation of the European police office (Europol)¹, Europol became a EU agency in its own right.

Article 88.2, paragraph 1 of the Treaty on the Functioning of the European Union stipulates that *"The European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Europol's structure, operation, field of action and tasks (...)."*

This implies that the current legal basis (i.e. the Council Decision) for Europol must be replaced by a new legal basis (i.e. a regulation).

In its communication COM(2010)0171 "Delivering an area of freedom, security and justice for Europe's citizens - Action Plan Implementing the Stockholm Programme", the European Commission announced its proposal for a regulation about Europol in 2013.

At their conference in Stockholm (14-15 May 2010), the EU Speakers stated that the national parliaments should be consulted in the elaboration of regulations regarding parliamentary oversight of Europol and Eurojust.

In the Contribution (= resolution) which it adopted at the end of its meeting in Brussels (24-26 October 2010), the XLIV COSAC *"in the light of the forthcoming consultation documents and legislative proposals on Europol and Eurojust, underscores the utmost need for a broad and timely preliminary consultation with national parliaments by the European Commission."*²

¹ Official Journal L121 of 15 May 2009

² DOC. 53 0865/001 – p. 48

Indeed, article 12 of the aforementioned treaty mentions that “*National Parliaments contribute actively to the good functioning of the Union: (c) by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with Article 70 of the Treaty on the Functioning of the European Union, and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles 88 and 85 of that Treaty*”.

On 16 December 2010 the European Commission published its communication COM(2010)0776 “on the procedures for the scrutiny of Europol’s activities by the European Parliament, together with national Parliaments”.

Content of the communication COM(2010)0776

The communication provides not only an overview of the issue of parliamentary control but – with a view to the proposal for a regulation – it also formulates a number of conclusions and recommendations on this subject.

In the first section of its overview, referring to the note of 14 May 2001 by the Presidency of the Council of the European Union of the time on “Europol and democratic control”³, to the conferences Parlopol I and II⁴ and to its communication on Democratic Control over Europol⁵, the European Commission shows that this issue is not new. However, following the modification of the institutional landscape, the value of these documents is purely documentary.

In the second section of this overview, the Commission goes through the powers granted to the European Parliament pursuant to Decision 2009/391/JHA as well as the points of view already expressed by that assembly on the subject of parliamentary control of Europol. Moreover, it recommends that national parliaments should exercise their control over Europol mainly by controlling their respective governments and points out that they made their points of view known essentially through COSAC.

Moreover, the communication contains the following conclusions:

- 1. Pursuant to Article 88.2., second paragraph of the TFEU, the national parliaments should set up together a system to oversee Europol;**
2. Article 88.3. of the TFEU precludes Europol taking on coercive means of action or autonomous investigation;
3. some questions remain unanswered, such as: the impression among national parliaments that they lack information about the work of Europol and the European Parliament’s wish to exercise closer and more detailed oversight of the activities of Europol.

³ Document 8677/01 of the Council of the European Union

⁴ 7-8 June and 15-16 October respectively in The Hague and Brussels

⁵ COM(2002)0095 of 26 February 2002

Finally, the Commission puts forward the following proposals:

1. an inter-parliamentary or joint permanent forum should be set up in order to coordinate exchange of information between national parliaments and the European Parliament;
2. a new strategy of communication with the European Parliament and national parliaments should lead to greater transparency.

Having regard to the above, questions have to be asked about the concrete aspects that should be covered by the parliamentary control of Europol such as frequency of meetings, place of meetings, membership of delegations and breakdown between national parliaments and the European Parliament, and the secretariat of this new mechanism for parliamentary control.

In order to prepare our debate during the Conference of Speakers, could you notify us of the point of view of your Assembly concerning the practical arrangements according to which the parliamentary control of Europol should take place?