

## **Assembly of the Republic**

### **Committee for Constitutional Affairs, Rights, Freedoms and Guarantees**

#### **Report**

**COM(2010) 776 final** Communication from the Commission to the European Parliament and the Council on the procedures for the scrutiny of Europol's activities by the European Parliament, together with national Parliaments

#### **1. Objective**

Under the procedure for the monitoring, assessment and delivery of opinions by the Assembly of the Republic in connection with the construction of the European Union, the Committee for Constitutional Affairs, Rights, Freedoms and Guarantees was sent the EU initiative COM(2010) 776 final — Communication from the Commission to the European Parliament and the Council on the procedures for the scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

With Council Decision 2009/391/JHA of 6 April 2009, Europol ceased to be an intergovernmental organisation and became an EU agency. The European Parliament's powers of scrutiny over the organisation were thus strengthened.

In this connection, Article 88 of the Treaty on the Functioning of the European Union provides for the establishment of control mechanisms on the part of the European Parliament and national Parliaments. Article 88(2) states '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. ... These regulations shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments'.

The Commission Communication takes stock of reflections and opinions about parliamentary supervision of Europol and explains the controls over the organisation's activities currently in place. It goes on to formulate proposals with a view to the adoption of a new regulation on Europol, planned for 2013.

The Communication highlights a number of outstanding issues in the debate about parliamentary oversight that were recently discussed at an interparliamentary meeting organised by the Committee on Civil Liberties, Justice and Home Affairs in October 2010: 'Firstly, existing controls through the Parliaments, the national data supervisory bodies, Europol's Joint Supervisory Body and the Management Board are perceived as being exercised in a manner which is indirect, fragmented and not easy to understand. National Parliaments in particular consider the supervision process via the control of their governmental representative on the Board or in the Council to be cumbersome. Moreover, they have found it difficult to coordinate their efforts among each other. National Parliaments may still feel they that they lack information about Europol's work. Secondly, in the absence of an incisive legislative role, the EP has for some time wished to exercise a closer and deeper scrutiny of Europol's activities.'

To address these issues, the Communication makes two proposals and suggests that they be put into practice before a new regulation is adopted:

- **Setting up of a permanent joint or interparliamentary forum**

The forum would be made up of the national and EP parliamentary committees responsible for security matters. It could meet at regular intervals and establish a special subgroup to liaise directly with Europol. It could thus unify parliamentary control at European Union level without prejudice to national parliamentary procedures.

- **Increased transparency: a new communication strategy with the EP and national Parliaments**

Europol should transmit systematically to the EP and the national Parliaments a regular update of its operational achievements and the results of the user survey (which measures customer satisfaction with Europol's overall performance and selected products and services). To consolidate communication between a future interparliamentary forum and the governing bodies of Europol, a regular exchange of views could also be envisaged on the occasion of the submission of Europol's strategic documents or the reports by the Director and/or the Chair of the Management Board.

## **2. Comments by the Rapporteur**

This matter will take on major significance for national parliaments in the coming years. There will be a need not only for inter-European coordination but also for a capacity to respond on the part of national parliaments. The Rapporteur accordingly proposes that consideration be given to setting up a working group within the Assembly of the Republic, comprising members of the Committee for Constitutional Affairs, Rights, Freedoms and Guarantees and of the Committee on European Affairs. The working group would be a forum for discussing issues restricted to the parliamentary scrutiny of Europol (Article 88 TFEU) and Eurojust (Article 85 TFEU) and as such could play a key role in making a constructive and effective contribution to the debate at European level. It could also act as the forum for assessing communications and documents from Europol if the proposal on a new communication strategy as described above is approved.

As regards the parliamentary scrutiny of Europol and, specifically, the proposal to set up a permanent interparliamentary forum, national parliaments were asked for suggestions on practical aspects such as the frequency of meetings, the location and the composition of delegations and the secretariat. The Rapporteur proposes that ordinary meetings be held at least twice a year, with the additional possibility of calling an extraordinary meeting at any time. The location could vary according to which country holds the Council Presidency and the secretariat could be organised along the same lines as for COSAC meetings. As for the forum's composition, the Communication suggests that it be made up of members of national and EP parliamentary committees responsible for police matters. This is the best option in this case. The Rapporteur proposes that the national delegations comprise at least two members of parliament from different parties.

## **3. Opinion**

In the light of the foregoing, the Parliamentary Committee for Constitutional Affairs, Rights, Freedoms and Guarantees is of the opinion that this report on the EU initiative COM(2010) 776 final — Communication from the Commission to the European Parliament and the Council on the procedures for the scrutiny of Europol's activities by the European Parliament, together with national Parliaments should be forwarded to the Committee on European Affairs.

[Signed by Rapporteur João Serrano and Committee Chairman Osvaldo de Castro on 9 March 2011]