

## **Statement 2012/13:KU15**

### **The position of the Committee on the Constitution**

The Committee would like to begin by pointing out that it is the Government that has chief responsibility for the task of representing Sweden internationally. Existing Swedish constitutional conditions thus determine that political dialogue between the Commission and Sweden is conducted through the Government, which is accountable to the Riksdag. The preliminary points of view of a constitutionally non-binding nature that are stated in the Riksdag's scrutiny statements do not bind the Riksdag, the Government or any of the Riksdag bodies in any legal sense. The Riksdag's consideration of a scrutiny statement is concluded by the Chamber filing the statement. The fact that the Riksdag Administration sends the statements to the Secretariat-General of the Commission for its information does not, according to existing Swedish constitutional conditions, constitute dialogue in an international legal or constitutional sense. It is only through the framework of the subsidiarity check mechanism that the Riksdag, supported by the competencies given to national parliaments in the treaties, is given the opportunity to communicate directly with institutions such as the Commission in the way that is stated in the Riksdag Act.

As regards the dialogue with the national parliaments that the Commission intends to deepen within the framework of the European Semester, the Committee on the Constitution considers in common with the Committee on Finance that it is important that there is a national democratic process prior to decisions in the EU. Given that this dialogue should occur at the same time as the Commission presents country-specific recommendations, the Committee on the Constitution underlines in common with the Committee on Finance that that they constitute recommendations to take suitable action and that they are therefore not binding. The Committee on the Constitution shares the assessment of the Committee on Finance on what constitutes suitable action, namely a political choice. In Sweden it is ultimately the Riksdag that decides on the formulation of Swedish economic policy. In the opinion of the Committee on the Constitution, it is up to the Riksdag to choose itself whether and how it should follow these recommendations within the framework of the national budget process. If the Riksdag wishes to deepen the dialogue on the recommendations, the Committee on the Constitution, in common with the Committee on Finance, considers that the initiative should come from a particular member state, for example by the national parliament of the member state arranging public hearings with people from the Commission. In the opinion of the Committee on the Constitution, it is important that the national budget process in every member state is respected as part of the obligations stated in the treaties and the needs resulting from EU cooperation.

As regards the forthcoming proposed law on the scrutiny of the activities of Europol, the Committee on the Constitution shares the assessments submitted by the Committee on Justice in its statement of opinion, in particular how important it is that the Commission adopts a proposal during early 2013. The Committee on the Constitution would also like to recall the overall points of view expressed by the Committee on Justice in an earlier context, for example in its statement on the Commission's communication on the scrutiny of Europol's activities. It is thus important that there is parliamentary monitoring of the activities of both Europol and Eurojust, in particular because these types of activities often impinge on the fundamental freedoms and rights of

citizens, for example the protection of personal privacy. Furthermore, 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 privacy of the individual is maintained. As regards the form of this scrutiny, it should be simple, fast and tangible, and it should not require any new authorities to be established. It should focus primarily on following up results and strategies, rather than on scrutinising individual decisions. While the establishment of a joint interparliamentary forum for this objective is appropriate, it is at the same time important that each and every one of the national parliaments and the European Parliament participate on equal terms and that this body really is a joint body. In addition to this, it is important that a future regulation should ensure adequate separation between legislative and executive powers, and for this reason it is not appropriate that the European Parliament should appoint members to Europol's Management Board. To avoid the appointment of the Director of Europol becoming a political process, the Director should be appointed by its Board and not by the Council or the European Parliament. In conclusion, the Committee on the Constitution, in common with the Committee on Justice, expects the Commission in its continued legislative efforts to take into account the conclusions in the evaluation of the Council decisions now in effect regarding Europol and that the forthcoming proposal is followed by both an impact assessment and a clear formulation concerning the principles of subsidiarity and proportionality.