



## European Scrutiny Committee

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From: Mr William Cash MP

27 April 2011

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**Commission Communication on the procedures for the scrutiny of Europol's activities by the European Parliament together with national Parliaments (COM (2010) 776; Council doc. 5659/11)**

I am writing as the Chairman of the European Scrutiny Committee in the House of Commons to inform you of the outcome of the Committee's consideration of the Commission's Communication on the scrutiny of Europol's activities by the European Parliament together with national Parliaments.

The Committee examines EU documents and reports to the House on their legal and political importance.

We first considered the Communication at our meeting on 9 February. I set out the main elements of the Committee's conclusion below<sup>1</sup>:

**The Committee's Conclusion on the Communication**

"We think it is important to emphasise that the ideas contained in the Commission's Communication would be in addition to our existing scrutiny procedures. Any future changes to Europol which would require legislation – for example, to amend the 2009 Decision establishing Europol as an EU

<sup>1</sup> Taken from our Report of 9 February 2011 – see HC 428-xvi (2010-11), chapter 10 (9 February 2011).

agency, or to propose a new Regulation on Europol in 2013 – would therefore be subject to scrutiny in the usual way and the Government would be accountable to Parliament for the positions it takes in the Council of Ministers.

“The type of scrutiny which the Communication appears to envisage would operate at a different level (European, rather than national), would involve a different set of actors (members of the European Parliament and, potentially, members of specialist national parliamentary committees responsible for police matters) and would cover aspects of Europol’s strategic planning and activities which this Committee would not routinely consider. In considering how to give effect to the procedures for joint scrutiny of Europol contemplated in Article 88(2) TFEU, we think it is essential to adhere to the principles set out in Articles 9 and 10 of Protocol 1 that, first, it is for the European Parliament and national parliaments to determine together how to organise and promote effective and regular inter-parliamentary cooperation and, second, that any views expressed within the framework of inter-parliamentary cooperation should not bind national parliaments or prejudge their positions.

“It is difficult to envisage how, in practical terms, Article 88(2) TFEU could be implemented without establishing some form of inter-parliamentary forum, but we think the emphasis should be on exchanging information and best practice and strengthening cooperation. We do not accept that it is a feasible, or desirable, aspiration for the forum to create a mechanism “for coordination between national parliaments and the European Parliament with a view to unifying parliamentary control at European Union level”, as the Commission suggests. National parliaments must remain free to express their own views and concerns. Nor do we accept that the way in which national parliaments are represented in the forum, for example, by specifying that only members of specialist national parliamentary committees responsible for police matters may attend, should be prescribed in advance. Each national parliamentary chamber should be free to determine whether and how it wishes to be represented.

“We accept that there is a risk that an inter-parliamentary forum involving all 27 national parliaments and the European Parliament could be unwieldy and cumbersome but do not see how a smaller body could claim to be representative. We think that the risk could be mitigated by making procedures as light and flexible as possible and minimising the call on resources. One possibility might be to use the mechanisms already established for inter-parliamentary meetings between the European Parliament and national parliaments using the format of Joint-Committee meetings.”

The Committee also invited the Home Affairs Committee to provide an Opinion on the Commission Communication. We considered their Opinion at our meeting today and concluded as follows:

“We share the [Home Affairs] Committee’s view that establishing a new, formal forum or mechanism to unify parliamentary control or scrutiny of Europol at European Union level is neither necessary nor desirable, not least because it could not make decisions which would bind national Parliaments. We agree that there is scope to build into existing mechanisms, such as inter-parliamentary meetings involving the European Parliament and national Parliaments, more systematic discussions on Europol’s activities, and to exchange information and share best practice on scrutiny at both EU and national Parliamentary levels.”

We added:

“We trust that the Commission, in formulating proposals for a Regulation in 2013 establishing a new legal framework for Europol, and the Council, in considering the content of the draft Regulation, will be mindful of Article 9 of the Protocol on the Role of National Parliaments which provides that “the European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular inter-parliamentary cooperation within the Union.” In our view, neither the Commission nor the Council have any locus to determine the format, frequency and procedures applicable to such inter-parliamentary cooperation; any future arrangements for scrutiny of Europol should, therefore, be determined by the European Parliament and national Parliaments.”

I enclose copies of the Committee’s relevant Reports and look forward to your response.

I am copying this letter to Lord Roper and Andrew Makower in the House of Lords, and to Keith Vaz, Chair of the Home Affairs Committee.

Yours sincerely,



**CHAIRMAN**

## 10 National parliaments' scrutiny of Europol

(32420) 5659/11 COM(10) 776	Commission Communication on the procedures for the scrutiny of Europol's activities by the European Parliament together with national parliaments
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<i>Legal base</i>	—
<i>Document originated</i>	17 December 2010
<i>Deposited in Parliament</i>	11 January 2011
<i>Department</i>	Home Office
<i>Basis of consideration</i>	EM of 20 January 2011
<i>Previous Committee Report</i>	None
<i>To be discussed in Council</i>	No date set
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Not cleared

### Background

10.1 Europol — or the European Police Office — is the Hague-based EU law enforcement organisation responsible for the collection, exchange and analysis of criminal intelligence. It was originally established by means of an intergovernmental Convention and became fully operational on 1 July 1999. Each subsequent change to the Convention has required a lengthy process of negotiation and ratification in each Member State. This made it difficult to adjust Europol's objectives and activities to changing circumstances. The Council therefore decided to adopt an EU Decision in 2009 ("the 2009 Decision") which took effect on 1 January 2010 and which replaces the Convention and establishes Europol as an EU agency.<sup>50</sup> This has a number of consequences. The Decision itself is easier to amend; Europol is financed from the EU budget, rather than by contributions from Member States, and is subject to the EU's Financial Regulations; and EU Staff Regulations apply to Europol staff.

10.2 Europol's objective is to support and strengthen the work of national law enforcement authorities in preventing and combating organised crime, terrorism and other forms of serious crime affecting two or more Member States which require a common approach because of the scale, significance and consequences of the offences concerned.<sup>51</sup> Europol provides criminal intelligence analysis, expertise and technical support for investigations and operations carried out by Member States, and generates its own strategic reports (for example on organised crime). Europol is also active in providing training, crime analysis, advice on crime prevention and on investigative techniques.

10.3 Europol is politically accountable to the Council which appoints (and may also remove) its Director. The Director is accountable to Europol's Management Board which

<sup>50</sup> See Council Decision 2009/371/JHA, OJ L 121, 15.05.2009, p. 37.

<sup>51</sup> See Articles 3 and 4 of the 2009 Council Decision.

is made up of one representative from each Member State and the Commission. Each year, the Management Board is required to agree an annual budget for Europol and to produce two reports, one reviewing Europol's activities in the previous year and the other setting out a work programme for Europol's future activities. All three documents must be endorsed by the Council and sent to the European Parliament for information.

10.4 The Lisbon Treaty, which entered into force on 1 December 2009, introduced a number of changes which will affect Europol. First, it amended the Treaty on the European Union (TEU) to include a new Article 12 on national parliaments. This Article sets out the different ways in which national parliaments may “contribute actively to the good functioning of the Union,” including through involvement in the “political monitoring of Europol.”<sup>52</sup> Second, a new Article 88 in the Treaty on the Functioning of the European Union (TFEU) says that, in future, the legal framework establishing Europol's structure, operation, field of action and tasks will be jointly agreed by the European Parliament and the Council by means of Regulations which will “also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national parliaments.”<sup>53</sup> Finally, Article 9 of Protocol 1 on the role of national parliaments in the European Union provides that “the European Parliament and national parliaments shall together determine the organisation and promotion of effective and regular inter-parliamentary cooperation within the Union.”

10.5 In the Stockholm Programme, which establishes the EU's multi-annual programme for the area of freedom, security and justice for the period 2010–14, the European Council invites the Commission to “issue as soon as possible a reflection document on how best to ensure that the activities of Europol may be scrutinised by the European Parliament, together with national parliaments in line with Article 88 TFEU”.<sup>54</sup>

## The Commission Communication

10.6 The purpose of the Communication is to stimulate ideas and, eventually, “concrete proposals as to how mechanisms of parliamentary scrutiny can be put in place and efficiently implemented in practice, in line with Article 88 TFEU.”<sup>55</sup> These proposals are likely to form part of a broader legislative initiative by the Commission in 2013 to establish a new legal framework for Europol based on an EU Regulation.

10.7 The Communication sets out the ways in which the 2009 Decision enables the European Parliament to exercise oversight of Europol at EU level. These include:

- budgetary oversight, as part of the EU's budgetary authority;
- a right to require the Director or the Chair of the Management Board to appear before it; and

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52 See Article 12(c) TEU.

53 See Article 88(2)(b) sub-paragraph 2 TFEU.

54 See Council document 17024/09, paragraph 4.3.1.

55 See page 3 of the Communication.

- access to annual reports on Europol’s budget, past activities and future work programme and to activity reports produced by the Joint Supervisory Body responsible for monitoring Europol’s compliance with data protection rules.

10.8 By contrast, the Commission explains that oversight of Europol by national parliaments is determined “in accordance with the constitutional rules of each Member State.” Member State representatives on Europol’s Management Board report to the Justice and Home Affairs Council; and each Government Minister participating in the Council “is responsible for providing adequate information on the functioning of Europol to his/her national parliament, where he/she can be held accountable for the Ministry’s policy regarding Europol.”<sup>56</sup>

10.9 The Commission says that a number of suggestions for enhancing scrutiny of Europol have been suggested within the Conference of Parliamentary Committees for EU Affairs (“COSAC”). These have included:

- using COSAC as a forum for exchanging ideas, information and best practice on national parliamentary scrutiny of Europol;
- establishing a Joint Committee with members drawn from the relevant specialist committees at EP and national level; or
- using existing inter-parliamentary meetings involving members of the European Parliament and of national parliaments to strengthen cooperation on Europol.

10.10 The Commission notes that one of the factors driving the demand for greater parliamentary (and judicial) oversight of Europol in the past has been a concern that Europol might eventually acquire autonomous powers to initiate investigations and carry out operations on the territory of a Member State, including, for example, powers to make an arrest, perform a house search or tap communications. The Commission says that Article 88(3) TFEU expressly rules out this possibility by making clear that any operational action by Europol officers “must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned” and by specifying that “the application of coercive measures shall be the exclusive responsibility of the competent national authorities.”

10.11 It follows, in the Commission’s view, that the opportunities for scrutiny of Europol by the European Parliament are “legally appropriate”. The Commission would not support deeper involvement by, for example, including provision in a future Regulation for the European Parliament to designate members of Europol’s Management Board or to participate in the appointment of Europol’s Director. The Commission adds, however, that existing arrangements do not meet the requirements of Article 88(2) TFEU which suggest a need for coordination between the European Parliament and national parliaments in scrutinising Europol.

10.12 The Commission says that EU institutions and other stakeholders — notably, national parliaments — will need to determine “the shape and content of forthcoming

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56 See page 6 of the Communication.

procedures for the democratic scrutiny of Europol” but that it would favour the establishment of a permanent joint or inter-parliamentary forum which would:

- bring together members of the relevant European Parliament and national parliamentary committees responsible for police matters;
- meet regularly;
- invite Europol’s Director and Chair of the Management Board to discuss questions relating to Europol’s work; and
- possibly, establish a sub-group to liaise directly with Europol.

10.13 The Commission contemplates that this new inter-parliamentary forum would establish a mechanism for “information exchange and coordination between national parliaments and the European Parliament with a view to unifying parliamentary control at European Union level (without prejudice to national parliamentary procedures).”<sup>57</sup> The forum could also facilitate a more regular exchange of views with Europol’s governing bodies on overall strategy as well as on reports evaluating Europol’s performance. It would provide a new channel of communication to enable information on Europol to be transmitted swiftly to national parliaments

### **The Government’s view**

10.14 The Minister for Crime Prevention (James Brokenshire) says that the Government “fully supports the need for accountability” but considers that existing procedures allow for stringent scrutiny of Europol by Parliament and remain appropriate. He continues:

“The Government would need to be confident that any additional scrutiny process is proportionate and adds value. A proposal for an inter-parliamentary forum was first raised in 2002 by the Commission in their Communication on Democratic Control over Europe, and the House of Lords European Union Committee stated in their November 2008 report on Europol that the notion of a joint Committee involving 27 Member States would be almost unworkable. We agree with that view and see no added value in establishing such a forum.”

10.15 Notwithstanding, the Minister adds that the Government would welcome the Committee’s views. He notes that the inter-parliamentary forum could be established without the need for further legislation but that, if new forms of scrutiny are introduced, they are likely to be reflected in the new Regulation on Europol which the Commission intends to propose in 2013. He adds that the inter-parliamentary forum would have financial and resource implications.

10.16 Finally, the Minister agrees with the Commission that, in order to protect Europol’s political independence, there should be no role for the European Parliament on Europol’s Management Board or in appointing Europol’s Director.

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57 See page 15, paragraph 5.1 of the Communication.

## Conclusion

10.17 We think it is important to emphasise that the ideas contained in the Commission's Communication would be in addition to our existing scrutiny procedures. Any future changes to Europol which would require legislation — for example, to amend the 2009 Decision establishing Europol as an EU agency, or to propose a new Regulation on Europol in 2013 — would therefore be subject to scrutiny in the usual way and the Government would be accountable to Parliament for the positions it takes in the Council of Ministers.

10.18 The type of scrutiny which the Communication appears to envisage would operate at a different level (European, rather than national), would involve a different set of actors (members of the European Parliament and, potentially, members of specialist national parliamentary committees responsible for police matters) and would cover aspects of Europol's strategic planning and activities which this Committee would not routinely consider. In considering how to give effect to the procedures for joint scrutiny of Europol contemplated in Article 88(2) TFEU, we think it is essential to adhere to the principles set out in Articles 9 and 10 of Protocol 1 that, first, it is for the European Parliament and national parliaments to determine together how to organise and promote effective and regular inter-parliamentary cooperation and, second, that any views expressed within the framework of inter-parliamentary cooperation should not bind national parliaments or prejudice their positions.

10.19 It is difficult to envisage how, in practical terms, Article 88(2) TFEU could be implemented without establishing some form of inter-parliamentary forum, but we think the emphasis should be on exchanging information and best practice and strengthening cooperation. We do not accept that it is a feasible, or desirable, aspiration for the forum to create a mechanism “for coordination between national parliaments and the European Parliament with a view to unifying parliamentary control at European Union level”, as the Commission suggests. National parliaments must remain free to express their own views and concerns. Nor do we accept that the way in which national parliaments are represented in the forum, for example, by specifying that only members of specialist national parliamentary committees responsible for police matters may attend, should be prescribed in advance. Each national parliamentary chamber should be free to determine whether and how it wishes to be represented.

10.20 We accept that there is a risk that an inter-parliamentary forum involving all 27 national parliaments and the European Parliament could be unwieldy and cumbersome but do not see how a smaller body could claim to be representative. We think that the risk could be mitigated by making procedures as light and flexible as possible and minimising the call on resources. One possibility might be to use the mechanisms already established for inter-parliamentary meetings between the European Parliament and national parliaments using the format of Joint-Committee meetings.

10.21 The ideas contained in the Communication are likely to be of interest to the Home Affairs Committee, not least because its 2007 Report on Justice and Home Affairs Issues at the European Union level suggested that provision should be made for scrutiny of Europol by national parliaments in conjunction with the European



**Parliament. The role of the European Scrutiny Committee, set out in Standing Order No. 143, is to examine all EU documents and to express its opinion on their legal and political importance. We cannot consider proposals in the same depth as Departmental Scrutiny Committees. We therefore invite the Home Affairs Committee to provide its opinion on the possible establishment, membership and role of an inter-parliamentary forum on Europol. We will report further on the Commission's Communication in light of that opinion and so hold the document under scrutiny.**

## 11 Right to information in criminal proceedings

(32327)	Draft Directive of the European Parliament and of the Council on
—	the right to information in criminal proceedings
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<i>Legal base</i>	Article 82(2) TFEU; co-decision; QMV
<i>Document originated</i>	—
<i>Deposited in Parliament</i>	—
<i>Department</i>	Justice
<i>Basis of consideration</i>	EM of 14 December 2010
<i>Previous Committee Report</i>	None; but see (31834) 12564/10: HC 428–ii (2010–11), chapter 15 (15 September 2010); (31834) 12564/10: HC 428–iv (2010–11), chapter 6 (20 October 2010); (31834) 12564/10: HC 428–ix (2010–11), chapter 3 (24 November 2010)
<i>To be discussed in Council</i>	No date set
<i>Committee's assessment</i>	Legally important
<i>Committee's decision</i>	Not cleared; further information requested

### Background

11.1 This proposal is the second step of the procedural rights Roadmap, which was adopted by the Council in November 2009<sup>58</sup> and subsequently included in the Stockholm Programme. The Roadmap gave a mandate to the EU to bring forward legislative and non-legislative measures to safeguard procedural rights in criminal proceedings.

11.2 This proposal aims to set common minimum standards regarding the right to information in criminal proceedings throughout the EU. The aim is to improve the rights of suspects and accused persons by ensuring that they receive information about their rights in the criminal process; it is also to ensure that they receive information about the

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58 See (30985) —: HC 19–xxviii (2008–09), chapter 15 (21 October 2009).

## 15 National Parliaments' scrutiny of Europol

(32420) 5659/11 COM(10) 776	Commission Communication on the procedures for the scrutiny of Europol's activities by the European Parliament together with national Parliaments
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<i>Legal base</i>	—
<i>Document originated</i>	17 December 2010
<i>Deposited in Parliament</i>	11 January 2011
<i>Department</i>	Home Office
<i>Basis of consideration</i>	Opinion of Home Affairs Committee
<i>Previous Committee Report</i>	HC 428–xvi (2010–11), chapter 10 (9 February 2011)
<i>Committee's assessment</i>	Politically important
<i>Committee's decision</i>	Cleared

### Background and previous scrutiny

15.1 Europol is the Hague-based EU law enforcement organisation responsible for the collection, exchange and analysis of criminal intelligence. Its principal objective is to support and strengthen the work of national law enforcement authorities in preventing and combating organised crime, terrorism and other forms of serious crime affecting two or more Member States which require a common approach because of the scale, significance and consequences of the offences concerned.<sup>56</sup>

15.2 The Lisbon Treaty introduced a number of changes which will affect Europol and which are set out in our Eighteenth Report.<sup>57</sup> They include:

- a new role for national Parliaments in monitoring Europol;<sup>58</sup> and
- a requirement to include in a future Regulation on Europol “procedures for scrutiny of Europol’s activities by the European Parliament, together with national Parliaments.”<sup>59</sup>

15.3 A Protocol on the Role of National Parliaments in the European Union makes clear that it is for the European Parliament and national Parliaments to determine together “the organisation and promotion of effective and regular inter-parliamentary cooperation within the Union.”<sup>60</sup> However, the Stockholm Programme establishing the EU’s priorities in the Area of Freedom, Security and Justice for the period 2010–14 invited the Commission to produce a “reflection document” on how best to ensure scrutiny of Europol’s activities by the European Parliament and national Parliaments.

56 See Articles 3 and 4 of Council Decision 2009/371/JHA, OJ L 121, 15.05.2009, p.39.

57 HC 428–xvi, (2010–11), chapter 10 (9 February 2011).

58 See Article 12 of the Treaty on the European Union.

59 See Article 88(2) of the Treaty on the Functioning of the European Union.

60 See Article 9 of the Protocol: OJ C 310, 16.12.2004, p. 206.

15.4 The Commission Communication seeks to stimulate ideas for effective scrutiny of Europol at EU level which could then be incorporated within a broader legislative initiative, probably in 2013, establishing a new legal framework for Europol based on an EU Regulation. After considering existing opportunities for scrutiny of Europol, the Commission proposes the creation of a permanent joint or inter-parliamentary forum, comprising members of the relevant European Parliament and national Parliamentary committees responsible for police matters, which would meet regularly and could invite Europol's Director and the Chair of the Management Board to discuss questions relating to Europol's work.

15.5 The Commission contemplates that the new joint or inter-parliamentary forum would establish a mechanism for "information exchange and coordination between national Parliaments and the European Parliament with a view to unifying Parliamentary control at European Union level (without prejudice to national Parliamentary procedures)." The forum could also facilitate a more regular exchange of views with Europol's governing bodies on overall strategy as well as on reports evaluating Europol's performance. It would provide a new channel of communication to enable information on Europol to be transmitted swiftly to national Parliaments.

15.6 The Government, while supporting the need for accountability, considered that existing procedures allow for stringent scrutiny of Europol and remain appropriate, without further need for a new inter-parliamentary forum.

15.7 We noted that the type of scrutiny envisaged in the Communication would be in addition to our existing scrutiny procedures, would operate at a different level (European, rather than national), would involve a different set of actors (members of the European Parliament and, potentially, members of specialist national Parliamentary committees responsible for police matters), and would cover aspects of Europol's strategic planning and activities which we would not routinely consider. We thought that it would be difficult to implement the requirement in Article 88(2) of the Treaty on the Functioning of the European Union (TFEU) to "lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments" without contemplating some form of inter-parliamentary forum but suggested that it might be possible to use the existing format of Joint Committee meetings (involving members of the relevant European Parliament Committee and national Parliamentary committee) or inter-parliamentary meetings (involving the European Parliament and national Parliaments) rather than creating a new mechanism.

15.8 We highlighted the following key principles:

- any views expressed within the framework of inter-parliamentary cooperation should not bind national Parliaments or prejudice their positions;
- national Parliaments should remain free to express their own views and concerns; therefore the creation of a mechanism to coordinate the views of national Parliaments and the European Parliament in order to unify Parliamentary control of Europol at European Union level was neither feasible nor desirable; and

- each national Parliament should be free to determine how it is represented within the framework of inter-parliamentary cooperation.

15.9 We also invited the Home Affairs Committee to give its Opinion on the possible establishment, membership and role of an inter-parliamentary forum on Europol.

### **The Opinion of the Home Affairs Committee**

15.10 The Chairman of the Committee (Keith Vaz) tells us that the Home Affairs Committee is already active in scrutinising the work of Europol. He explains:

“In the last Parliament, the Director of Europol gave formal oral evidence to the Committee in relation to two inquiries, one into human trafficking and the other on the work of Europol. Committee members made several visits to Europol in The Hague, and the Committee had a number of informal discussions with Europol officers, British officers seconded to Europol and police and customs bodies in both the UK and overseas about the intelligence analysis and operational support work provided by Europol in relation to various areas of crime, including the cocaine trade.

“Where other national Parliaments are less frequently engaged in such work, this is likely to be attributable at least in part to the varying roles played by subject-related committees within Parliaments and the different constitutional arrangements within Member States for scrutinising EU issues. There is no reason to believe that Europol would not fully co-operate with other national Parliaments wishing to scrutinise aspects of its work, as it has done with this Committee.”

15.11 The Home Affairs Committee nevertheless considers that there is scope to make scrutiny of Europol by national Parliaments more methodical and to develop best practice:

“To achieve this, it is neither necessary nor desirable to create a mechanism ‘with a view of unifying parliamentary control at European Union level’. It is difficult to see what value this would add in terms of quality of scrutiny and, in practical terms, a formal forum of representatives of 27 Member States plus the European Parliament would be unwieldy and, because of different national constitutions, could not anyway make any decisions binding on national Parliaments.

“Two informal fora already exist in relation to policing issues: the meetings of representatives of the Home Affairs Committees of national Parliaments which take place most years and the ad hoc inter-parliamentary meetings involving both national Parliaments and the European Parliament, often hosted by the LIBE Committee of the European Parliament. One or both of these could be used as a mechanism for discussing Europol on a regular basis and exchanging ideas about best practice.”

### **Conclusion**

15.12 We thank the Home Affairs Committee for its Opinion and welcome the active interest which the Committee has taken in Europol’s work and Europol’s willingness to

cooperate fully with national Parliaments. We note that the ideas contained in the Commission Communication are not intended to supplant the existing scrutiny function of national Parliaments, but to develop an additional layer of scrutiny and oversight at European Union level involving both the European Parliament and national Parliaments.

15.13 We think that the views expressed by the Home Affairs Committee are broadly consistent with those set out in the Conclusion of our last Report on the subject.<sup>61</sup> We share the Committee's view that establishing a new, formal forum or mechanism to unify parliamentary control or scrutiny of Europol at European Union level is neither necessary nor desirable, not least because it could not make decisions which would bind national Parliaments. We agree that there is scope to build into existing mechanisms, such as inter-parliamentary meetings involving the European Parliament and national Parliaments, more systematic discussions on Europol's activities, and to exchange information and share best practice on scrutiny at both EU and national Parliamentary levels.

15.14 Whilst we are now content to clear the Communication from scrutiny, we trust that the Commission, in formulating proposals for a Regulation in 2013 establishing a new legal framework for Europol, and the Council, in considering the content of the draft Regulation, will be mindful of Article 9 of the Protocol on the Role of National Parliaments which provides that "the European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular inter-parliamentary cooperation within the Union." In our view, neither the Commission nor the Council have any locus to determine the format, frequency and procedures applicable to such inter-parliamentary cooperation; any future arrangements for scrutiny of Europol should, therefore, be determined by the European Parliament and national Parliaments.

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61 HC 428–xvi (2010–11), chapter 10 (9 February 2011).