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Democratic accountability of the ISS and the role of Europol

Interparliamentary Committee Meeting

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by
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Introduction

Honourable Chairman,

Distinguished members of the European Parliament and of national Parliaments,

Thank you very much for inviting Europol to this meeting. We're here to discuss democratic accountability and I think meetings such as this one are an important element of that.

The purpose of my presentation today is to describe the relations between Europol, the European parliament and national parliaments and to share with you some thoughts on how the democratic accountability of Europol could be implemented in practice in the future.

To put that topic in its proper context, I will briefly present Europol's main activities, how the agency has evolved to where it is today, and how our activities fit into the overall EU Internal Security Strategy.

I will then discuss the impact of the Treaty of Lisbon on Europol's parliamentary scrutiny and the added value of the Europol Council Decision.

Finally I will share some ideas about how Europol's legal basis might develop and how we can strengthen Europol's relations with European and national parliaments.

Europol's activities

As an introduction, I would like to recall what Europol is and what our main activities are.

- Europol is the EU law enforcement agency.
- We coordinate an effective response to international serious crime and terrorism in Europe.

- We facilitate the exchange of criminal intelligence between police, customs and other law enforcement authorities.
- Europol's new headquarters, which was opened by Her Majesty the Queen of the Netherlands on 1 July this year, houses over 700 experts, analysts, and law enforcement officers.
- Law enforcement agencies throughout Europe rely on Europol's 24/7 operational centre to coordinate over 14,000 cross-border investigations each year.
- Although Europol does not have any coercive powers, our crime-fighting capabilities have led to the disruption of many criminal and terrorist networks, the arrest of thousands of dangerous criminals, the recovery from harm of hundreds of trafficked victims, including children, and the return of millions of Euros.
- Following the attacks which took place in Norway on 22 July, Europol activated the "First Response Network" and convened counter-terrorist experts from relevant EU member states to provide dedicated support to the Norwegian investigation and to provide an assessment of the threat posed by violent extremism.
- A recent example of the added value Europol can provide was last year's "Operation Rescue", which was perhaps the biggest international child sexual exploitation case we have seen. Europol's technical expertise, analytical capabilities and links to trusted law enforcement partners led to the identification of 705 suspects, of whom 190 were arrested, and the identification of 230 victims who could be removed from harm.
- By providing assessments of the threats posed by organised crime and terrorism, and by offering the tools and expertise to counter those threats, Europol enables law enforcement agencies to have maximum impact in protecting EU citizens.

Europol's role in the Internal Security Strategy

- More so than in the past, EU priorities are identified based on a clear understanding of the threats, formed by a systematic assessment process, coordinated by Europol.
- Strategies are developed to address priority threats, through the engagement of the relevant EU agencies and Member States. COSI and the Commission are coordinating this right now.
- Resources and the appropriate tools should be provided for operational cooperation – here Europol and the other JHA agencies will play important roles.
- Effective information sharing is a necessary precondition, to support both the production of threat assessments and the coordination of operations.
- Europol is well placed as an information hub with unique analysis capabilities.
- It can also help to translate strategies into action, from Brussels to the EU agencies and to national level.
- I am determined to maximise the contribution of Europol, developing our unique capabilities and becoming a more regular operational partner for the Member States.

From intergovernmental body to EU agency

- Since the nineties, Europol has developed from an intergovernmental organisation into a fully-fledged EU agency.
- Its accountability has been heavily debated ever since its creation, perhaps more so than for any other EU agency.
- The entry into force of the treaty of Lisbon has brought many changes to the functioning of the EU on JHA matters and it paves the way for a new era of cooperation in Justice and Home Affairs, in which Europol can play an ever more important role.

Treaty of Lisbon

- The Treaty puts European parliament and national parliaments at the heart of EU decision-making process but it also combines with the new legal framework of Europol to increase direct scrutiny over Europol.
- Europol is still accountable to its Management Board but it is now governed by the European Parliament as well as the Council.
- Any new act in the policy area of Freedom, Security and Justice is now adopted by means of the “co-decision procedure”
- European Parliament is involved right at the start of the procedure and has a right of veto.
- National parliaments must receive various documents for information, including draft legislative acts and annual reports from the Court of Auditors.
- European and national parliaments are also informed of JHA policy developments and the proceedings of the standing committee for operational cooperation on internal security (COSI).

The Europol Council Decision

- Since 1 January 2010, the Europol Convention has been replaced by the Europol Council Decision (also known as the ECD).
- This is coincidental to the Lisbon Treaty but the two are mutually reinforcing and both benefit our democratic scrutiny.
- The ECD transformed Europol into an EU body and reinforced the control of the European Parliament “to ensure that Europol remains a fully accountable and transparent organisation.” (ECD)
- The European Parliament and the Council now stand as Europol’s budgetary authority.
- But the parliament’s role is not limited to budget matters. The implementation of the ECD has also reinforced Europol’s overall accountability to the European Parliament.

Looking forward: the Europol Regulation

- The Commission has proposed a new legal basis for Europol on the basis of Article 88 of the Lisbon Treaty.
- I believe this is a great opportunity to further improve Europol's democratic accountability but also to make Europol more effective as an agency.
- An independent evaluation of Europol's current legal basis, the ECD, is just getting underway, under the supervision of the Commission and the Europol Management Board.
- The evaluation is important because significant energy and resources have gone into implementing the ECD and I think it should not be discarded without drawing the necessary lessons from its implementation and identifying further opportunities for improvements in Europol's work.
- The Regulation will probably constitute the last major reorganisation of Europol's legal framework for several years. We have to ensure that we implement something that is fit for purpose for the European police agency.
- A number of improvements to our working arrangements are possible.
For example:
 - I mentioned earlier the importance of turning strategy into action, and of aligning national and European crime-fighting efforts. One way to achieve this is through **financial support for operational activities**.
 - The EU is accustomed to achieving many of its objectives through funding programmes but I must say that in the Justice and Home Affairs domain there is sometimes a disconnect between certain policy instruments.

- This situation could be improved in the next multi-annual financial framework by involving the agencies more closely in funding programmes.
- The creation of an internal security fund, as foreseen in the Stockholm Programme, could provide a more flexible means to support operational work, thus giving weight to EU crime-fighting priorities.
- Allowing Europol to develop our **regional support**, within and potentially outside the EU, which would allow for more effective inter-agency cooperation (for example with Frontex), make Europol more responsive to Member States needs, and also provide greater synergies between internal and external security policies.
- Building on our positive experience as the central office for combating the counterfeiting of the euro I see opportunities for Europol to be given a greater role in **coordinating collective EU efforts** in key areas
- In addition to these more operational ideas, we should explore further arrangements to **enhance the cooperation between Europol and the national parliaments** as well as the **European Parliament**.
- People sometimes talk about a balance between effectiveness and accountability. But I do not subscribe to the view that one can only be achieved at the expense of the other. Accountability is an important means of achieving effectiveness.
- A recent article in the Journal of European Public Policy found that, while Europol's autonomy remains limited, its accountability has been expanded.
- A report for the European Parliament on "Parliamentary Oversight of Security and Intelligence agencies in the European Union" quotes an academic expert as saying "Europol is perhaps the most controlled police agency in Europe".
- And most recently, at the International Data Protection conference in Warsaw on 21 September 2011, the Statewatch representative referred

to Europol as ""a model for data protection in the police and justice sector of the EU".

- We need to make sure the accountability arrangements add value by strengthening the legitimacy of the agency without creating a disproportionate regulatory burden.
- For instance:
 - Firstly, the cooperation with the members of the parliaments can be strengthened by **providing parliamentarians with more information on Europol's activities**.
 - Each year, in April, the MEPs already receive the TE-SAT (Terrorism Trend and Situation Report). This is a valuable document but they should also receive the OCTA (Organised Crime Threat Assessment), Europol's most important strategic product.
 - In addition to the yearly presentation of the general report on Europol's activities, the Annual Activity Report (AAR) could be presented to the LIBE Committee.
 - In order for every national parliament to get the same information, all these documents could be transmitted to the COSAC too. (1)
 - **Regular meetings** should take place **between the members of the parliaments and Europol's officials** to discuss issues of mutual interest and enhance understanding.
 - My meetings with MEPs so far have always been very positive and, in the rare instances that MEPs have had concerns about Europol's work, it has typically been the result of a lack of information.
 - I would be happy to appear more frequently before the MEPs.
 - In particular circumstances, I could also appear before national parliaments or during meetings of COSAC.

¹ **COSAC** (*Conférence des organes spécialisés dans les affaires communautaires*), is a Conference of the committees of the national parliaments of the European Union Member States dealing with European affairs as well as representatives of the European Parliament.

- o This latter proposal would be particularly valuable if COSAC could establish a dedicated joint committee on internal security.

Conclusion

Law enforcement is closely related to national sovereignty and the protection of the fundamental rights so the EU Justice and Home Affairs is a sensitive issue for our citizens and parliaments.

Europol is funded by EU tax payer money so we have a duty, as servants of the public, to be transparent and we welcome any changes which will improve this transparency.

Europol appreciates the interest, advice and support of parliamentarians to make the agency more efficient and effective.

The future Europol's Regulation is an excellent opportunity to increase democratic accountability. But it is also an opportunity to improve the way in which Europol support the member states police.

In the end, accountability is a means to an end, and the desired end result is greater effectiveness. For Europol, effectiveness means helping EU law enforcement to track down criminals and make the EU a safer place. And we look forward to the growing engagement of national and European parliamentarians in helping us to achieve that goal.

Thank you very much for your attention.