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A WATCHDOG OVER EUROPE'S POLICEMEN: THE NEW JOINT PARLIAMENTARY SCRUTINY GROUP FOR EUROPOL

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SUMMARY

The Joint Parliamentary Scrutiny Group for Europol (JPSG) will meet for the first time in Brussels in the autumn of 2017. Its creation was agreed by the EU Speakers Conference (the Presidents of the EU's national parliaments and the European Parliament) in April 2017. With this decision, the idea of a body to ensure parliamentary scrutiny of the European Police Office (Europol) finally manifests itself in the JPSG.

In the emerging Security Union that the EU seeks to create, also in reaction to recent terror attacks, the responsible actors at the EU level must be subject to parliamentary scrutiny. According to Article 51 of the new Europol Regulation No. 2016/794, the JPSG will play an essential role to “politically monitor Europol’s activities in fulfilling its mission, including as regards the impact of those activities on the fundamental rights and freedoms of natural persons.”

In its first part, the Policy Paper examines the political difficulties to move forward with respect to intentions and provisions for enhancing the parliamentary scrutiny over Europol. The in-depth analysis of the positions of national parliaments and EU institutions is based on reports, resolutions, publicly available minutes and amendments to draft conclusions as well as other texts. This paper evaluates the agreement on the JPSG for Europol as promising.

The second part of the Policy Paper presents concrete proposals in order to make the JPSG work efficiently: The JPSG should complement the existing scrutiny of Europol by the Committee on Civil Liberties, Justice and Home Affairs in the European Parliament and it should adopt ambitious Rules of Procedure at its first meeting in order to clarify and fix its internal functioning. The new body could subsequently become a blueprint for interparliamentary scrutiny in the EU.

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INTRODUCTION

Europe's "policemen" are more than 900 officials in the European Police Office (Europol) in The Hague who work to help national law enforcement authorities fight serious international crime and terrorism. **Over the last few years, the powers of Europol were strengthened** in order to achieve a safer Europe for the benefit of all EU citizens. Nevertheless, promoting cooperation that is capable of acting effectively against criminals and terrorists by rapidly mobilising member states' police forces must still be a priority for European and national authorities.¹

Since both the Lisbon Treaty and the new Europol Regulation No. 2016/794 contain an obligation to involve national parliaments in **politically monitoring Europol**, it was necessary to decide upon the precise institutional design of joint parliamentary scrutiny over Europol. This happened via the decision of the EU Speakers Conference (the Presidents of the EU's national parliaments and the European Parliament) to set up a new body, the Joint Parliamentary Scrutiny Group for Europol (JPSG) in April 2017.

” THE DECISION TO SET UP AN INTERPARLIAMENTARY BODY IS AN OLD SOLUTION FOR A NEW PROBLEM”

But the decision to set up an interparliamentary body is actually an old solution for a new problem and the idea has been discussed since 2001 when the European Commissioner for Justice and Home Affairs, António Vitorino, concluded a keynote speech on the democratic control of Europol as follows:

“What seems to be missing at the moment is first of all an institutionalised information exchange between the national parliaments and the European Parliament on this subject. If all the measures at national or European levels as regards parliamentary control were known by all the other parliaments, this would already improve the situation notably.”²

16 years later the joint parliamentary scrutiny is now finally created. The agreement on key provisions about the JPSG³ is promising, but leaves some important questions unanswered. The Rules of Procedure of the JPSG should provide some responses in the future, but it is now important to ensure that the new JPSG for Europol will be able to work effectively, to give the new body a high profile and to enhance parliamentary scrutiny at every level. This would allow parliaments to keep up with further integration in the area of Justice and Home Affairs when the EU institutions have accelerated their work on a **Security Union** in reaction to recent terror attacks.

This Policy Paper has the objective to evaluate the decision to create the JPSG. Even though Europol is unlikely to become a “European FBI” in the near future⁴, joint parliamentary scrutiny helps to ensure political accountability when cooperation between national law enforcement bodies is becoming more integrated. It has the advantage to pool (and maybe share) parliamentary expertise when sovereignty is pooled or shared already. **Parliamentary scrutiny of Europol can neither be exercised solely by the European Parliament, nor individually by national parliaments.** Only an interparliamentary body, where Members of Parliament (MPs) and Members of the European Parliament (MEPs) meet regularly, as a place for discussion and joint

1. Delors Jacques *et al.*, “The EU and our collective security: stronger together!,” *Tribune*, Jacques Delors Institute (2016).

2. Vitorino António, “Democratic Control of Europol. Europol Conference organised by the Senate and House of Representatives of the Dutch States General. SPEECH/01/274, The Hague, 8 June 2001, 8.

3. The EU Speakers Conference established the JPSG in April 2017 and adopted an *Annex to its Conclusions* that sets out key provisions about how the JPSG should function.

4. Interestingly, however, EU capacity in the field of policing seems to be growing far more rapidly than federal policing powers did historically in Switzerland. See Kelemen R. Daniel, “Building the new European state? Federalism, core state powers, and European integration,” in *Beyond the Regulatory Polity. The European Integration of Core State Powers*, ed. Philipp Genschel and Markus Jachtenfuchs (Oxford University Press, 2014), 218.

scrutiny, if designed in an ambitious way and if nurtured properly, can help to reduce an existing gap in parliamentary scrutiny of Europol.

At interparliamentary conferences and meetings MPs and MEPs come together in an organised and recurrent setting to discuss topics of common interest. **Interparliamentary conferences and meetings can fulfil four main functions**⁵:

- to control decisions taken at the EU level,
- to counter-weight the decline of national parliamentary sovereignty,
- to find an institutional expression of political support and opposition,
- to socialise MPs in order to Europeanise the control exercised at the national level.

Interparliamentary cooperation often concerns policy areas that are partly within the realm of national parliaments and where the interdependence between member states is high. MPs and MEPs can meet regularly in interparliamentary bodies, as a place for discussion and as a bridge between the democratically legitimised institutions of the EU level and the national level. But, until now, interparliamentary conferences and meetings have primarily been places for dialogue and the exchange of best practices and have not been able to fulfil more far-reaching functions.⁶ The **JPSG** with its explicit task to “scrutinise” **is a different kind of interparliamentary body** and has the potential to change the status-quo of interparliamentary cooperation.

5. Krelinger Valentin, “The new Inter-parliamentary Conference on Economic and Financial Governance”, Policy Paper No. 100, Jacques Delors Institute, 2013, 4.

6. See e.g. Heffttler Claudia and Gattermann Katjana, “Interparliamentary Cooperation in the European Union: Patterns, Problems and Potential,” in *The Palgrave Handbook of National Parliaments and the European Union*, ed. Claudia Heffttler, et al. (Palgrave Macmillan, 2015); Crum Ben, *The EU as Multilevel Democracy: Conceptual and Practical Challenges*, (2016); Lupo Nicola and Fasone Cristina, *Interparliamentary Cooperation in the Composite European Constitution* (Hart Publishing, 2016); Rozenberg Olivier, *The Role of the National Parliaments after Lisbon: Potentialities and Challenges* (European Parliament, 2017).

1. From launching the debate to establishing the Joint Parliamentary Scrutiny Group for Europol

Since the entry-into-force of the Lisbon Treaty in 2009 and of Europol Regulation No. 794/2016, there are four **legal provisions regarding the (joint) parliamentary scrutiny of Europol** which emerged over time and shaped the discussions about the kind of parliamentary scrutiny that should be established. The general underlying assumption is that national parliaments “consider the supervision process via the control of their governmental representative on the [Europol] Board or in the [Justice and Home Affairs] Council to be cumbersome.”⁷

First of all, **Article 12 TEU** on national parliaments contains an explicit reference to Europol:

“National Parliaments contribute actively to the good functioning of the Union [...] 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.”⁸

The JPSG itself has a threefold legal basis in primary and secondary EU law:

- **Article 88 TFEU**, which empowers the European Parliament and the Council to determine Europol’s structure, operation, field of action and tasks by means of regulations adopted in accordance with the ordinary legislative procedure, says that “[t]hese regulations shall also lay down the procedures for scrutiny of Europol’s activities by the European Parliament, together with national Parliaments.”⁹
- **Protocol N°1 to the Lisbon Treaty** on the Role of National Parliaments in the European Union, in particular Article 9, according to which “[t]he European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular interparliamentary cooperation within the Union.”¹⁰
- **Article 51 of Regulation 2016/794**, which assigns the following task to a “Joint Parliamentary Scrutiny Group”: to “politically monitor Europol’s activities in fulfilling its mission, including as regards the impact of those activities on the fundamental rights and freedoms of natural persons.”¹¹

But establishing a parliamentary scrutiny mechanism that involves national parliaments and the European Parliament encountered some **political difficulties** and lasted for nearly 16 years. The following in-depth analysis of the different positions of the main political actors is based on selected speeches, position papers, reports and communications, letters, publicly available minutes and amendments to draft legislative texts or Presidency conclusions as well as on other written texts.¹²

1.1. Early deliberations about the parliamentary control of Europol (2001-2011)

Europol had been created in 1999 as an international body by the Europol Convention¹³ which meant that the European Parliament “lacked the power to exert any effective scrutiny.”¹⁴ The issue of parliamentary control of Europol was first discussed in the early 2000s when the Dutch Parliament organised an **interparliamentary**

7. European Commission, *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*, COM(2010) 776, 17 December 2010, 14.

8. Article 12 TEU, emphasis added.

9. Article 88(2) TFEU.

10. Article 9 of Protocol N°1 to the Lisbon Treaty on the Role of National Parliaments in the European Union.

11. Article 51(2) of *Regulation (EU) No 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol)*.

12. Available on the IPEX website.

13. Council of the European Union, Council Act of 26 July 1995, drawing up the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention) [95/C 316/01].

14. Busuioac Madalina, Curtin Deirdre, and Groenleer Martijn, “Agency growth between autonomy and accountability: the European Police Office as a ‘living institution’,” *Journal of European Public Policy* 18, no. 6 (2011): 855.

conference on Europol.¹⁵ At this conference, Justice and Home Affairs Commissioner António Vitorino declared that

“Assuming that Europol, in the coming years, will get more powers, I am of the opinion that it is only reasonable to launch the debate now and to start a process of gradual enhancement of parliamentary control.”¹⁶

Alongside the Dutch Parliament, some of the EU's 14 other **national parliaments** also expressed their preferences regarding the control of Europol, but the overall interest in the topic was rather low.¹⁷

Subsequently, in 2002, the **European Commission** published a Communication on the “Democratic Control over Europol” which recommended setting up a formal mechanism for information exchange and co-ordination between national parliaments and the European Parliament.¹⁸ It did, however, conclude that the current scrutiny system could not be regarded as legally insufficient, since the powers of Europol were limited in comparison to the powers of national law enforcement authorities.¹⁹ The **European Parliament** affirmed that “as a European organ, Europol must be monitored by another European organ – the European Parliament – and not by national parliaments.”²⁰

The question of parliamentary control over Europol was discussed between 2001 and 2003, but without taking concrete steps, except for the constitutionalisation of parliamentary and judicial control over Europol in the Constitutional Treaty adopted by the **European Convention**.²¹ Ideas to create a joint parliamentary supervisory committee were again discussed in the **Justice and Home Affairs Council** in 2006²², but not included into Council Decision 2009/371/JHA that made Europol an EU agency.²³

After the **Lisbon Treaty** entered into force on 1 December 2009, there was a risk that the provisions on the parliamentary control of Europol (Article 12c TEU and Article 88 (2) TFEU) would be forgotten, but the topic was an agenda item at four COSAC meetings between 2008 and 2010; furthermore, between 2005 and 2011, there were at least six interparliamentary meetings during which national parliaments and the European Parliament discussed Europol.²⁴ The European Commission and the EU Speakers Conference also used their influence to move forward with efforts to determine the organisation and promotion of parliamentary control of Europol.

In 2010, the **European Commission** presented another Communication which did not only provide an extensive overview of the different positions on the issue of parliamentary scrutiny over Europol, but – with a view to its forthcoming proposal for a Europol Regulation – also formulated a number of conclusions and recommendations on this subject.²⁵ These included the idea of a permanent joint or interparliamentary forum composed of Members of national parliaments and the European Parliament from the committees that are responsible for police matters.²⁶

Shortly afterwards, concrete questions and practical arrangements (e.g. the aspects that should be covered in an interparliamentary framework for the control of Europol, the frequency and place of meetings, membership as well as the composition and administrative support) were discussed at the **EU Speakers Conference** in Brussels on 4 and 5 April 2011.²⁷

15. Larhant Morgan, *La coopération interparlementaire dans l'UE. L'heure d'un nouveau départ?* (Policy Paper, Notre Europe, 2005), 25-26.

16. Vitorino António, *Democratic Control of Europol. Europol Conference organised by the Senate and House of Representatives of the Dutch States General*. SPEECH/01/274, The Hague, 8 June 2001, 7.

17. Fijnaut Cyrille, “Europol and the parliaments of the member states of the European Union,” in *From Europol to ParPolop; interparliamentary conference on democratic control of Europol*, ed. Dutch Parliament 2002.

18. Commission of the European Communities, *Communication from the Commission to the European Parliament and the Council on the Democratic Control over Europol*, COM(2002) 95, 26 February 2002, 13.

19. *Ibid.*

20. European Parliament, *Recommendation of the European Parliament to the Council on the future development of Europol and its automatic incorporation into the institutional system of the European Union*, 16 May 2002, A5-0173/2002.

21. Wagner Wolfgang, “Guarding the guards. The European Convention and the communitization of police co-operation,” *Journal of European Public Policy* 13, no. 8 (2006).

22. Ruiz de Garibay Daniel, “Coordination Practices in the Parliamentary Control of Justice and Home Affairs Agencies: The Case of Europol,” in *Practices of inter-parliamentary coordination in international politics the European Union and beyond*, ed. Ben Crum and John E. Fossum (ECPR Press, 2013), 92.

23. Council of the European Union, *Council Decision of 6 April 2009 establishing the European Police Office (Europol) (2009/371/JHA)*.

24. Ruiz de Garibay, “Coordination Practices in the Parliamentary Control of Justice and Home Affairs Agencies: The Case of Europol,” 98-99.

25. European Commission, COM(2010) 776, *op. cit.*

26. *Ibid.*, 15.

27. Federal Parliament of Belgium, Note for the 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*.

”THERE SEEMS TO BE A DIVISION BETWEEN FEDERALIST AND INTERGOVERNMENTALIST VIEWS”

Similar to debates in the European Convention of 2002/2003²⁸ and about the role of national parliaments in the EU in general²⁹, there seems to be a **division between federalist and intergovernmentalist views**. The preferences of the actors involved in the process - EU institutions, member states and their national parliaments - were shaped by these views about the nature and direction of European integration.

1.2. Inter-institutional negotiations on the Europol Regulation (2012-2015)

From 2012 onwards the focus of attention shifted to the **Europol Regulation** which had to be negotiated **under the ordinary legislative procedure** in order to fulfil the requirement of Article 88(2) TFEU.

On 27 March 2013 the **European Commission** tabled its proposal for a Europol regulation to replace *inter alia* Council Decision 2009/371/JHA. The Commission's phrasing in Article 53 of the draft regulation was relatively vague on the issue of parliamentary control over Europol.³⁰ In the following weeks and months, a few **national parliaments** reacted to the proposal for a new Europol Regulation: There were three Reasoned opinions under the Early Warning Mechanism (Belgian House of Representatives, German Bundesrat and Spanish Cortes Generales) and six opinions in the Political Dialogue (Cyprus House of Representatives, Czech Senate, German Bundesrat, Italian Senate, Romanian Chamber of Deputies, Dutch Senate).³¹

The **European Parliament** demanded in its first reading position on 25 February 2014 to set up a Joint Parliamentary Scrutiny Group following its own preferences:

“The mechanism for the control of Europol's activities by the European Parliament, together with national parliaments, shall take the form of a specialised Joint Parliamentary Scrutiny Group, to be established within the competent committee of the European Parliament, comprising the full members of the competent committee of the European Parliament and one representative of the competent committee of the national parliament for each Member State and a substitute. Member states with bicameral parliamentary systems may instead be represented by a representative from each chamber.”³²

Finally, during the 10th trilogue meeting on 26 November 2015, a **compromise** on the text of the draft Europol Regulation was found and subsequently approved by the Council and the Parliament.³³ Regulation No. 2016/794 states that the JPSG shall be established together by the national parliaments and the competent committee of the European Parliament and that its organisation and Rules of Procedure shall be determined by them in accordance with Article 9 of Protocol N°1.³⁴

1.3. Interparliamentary negotiations on the arrangements for the JPSG (2016-2017)

As a follow-up to the **EU Speakers Conference** in Luxembourg from 22 to 24 May 2016, in view of defining the modalities of the JPSG for Europol, a Working Group (composed of the Parliaments of Luxembourg, Slovakia, Estonia and the European Parliament) consulted all EU parliaments with a questionnaire about their preferences regarding the specific arrangements for the JPSG.

This was the basis for discussion at an **Interparliamentary Committee Meeting** in Brussels on 28 November 2016³⁵ for which the Working Group prepared a **draft text**. It suggested, for example, that the delegation to the

28. Wagner, “Guarding the guards. The European Convention and the communization of police co-operation.”

29. See Winzen Thomas, *Constitutional Preferences and Parliamentary Reform: Explaining National Parliaments' Adaptation to European Integration* (Oxford University Press, 2017).

30. See European Commission, *Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA*, 8229/13, 27 March 2013, COM(2013) 173 final, in particular Article 53.

31. See IPEX website: Scrutiny status for COM/2013/0173.

32. European Parliament, *Legislative resolution of 25 February 2014 on the proposal for a regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol)*, at first reading (P7_TA(2014)0121).

33. See Council of the European Union, *Statement of the Council's reasons: Position (EU) No 8/2016 of the Council at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation (Europol)* (2016/C 169/02).

34. Regulation (EU) No 2016/794, *op. cit.*

35. European Parliament, *Interparliamentary Committee Meeting “Europol and its parliamentary scrutiny in the framework of EU Internal Security policies”*, Brussels, 28 November 2016.

JPSG should be composed of two members per national parliament and six MEPs; the body should meet once a year and be hosted by the European Parliament.³⁶

After the meeting, the Working Group revised its text and submitted a **second draft** to all EU parliaments on 16 December 2016.³⁷ In this text, the number of annual meetings rose from one to two (hosted by the Presidency Parliament in the first half of the year and by the European Parliament in the second half of the year), the delegation size for national parliaments remained at two members; the European Parliament was now allowed to send ten MEPs (instead of six).

” ONLY VERY FEW NATIONAL PARLIAMENTS EXPRESSED THEIR WISH FOR AN INCREASE IN THE SIZE OF DELEGATIONS TO THE JPSG ”

Subsequently, many **national parliaments** expressed their views in written form. The Swedish Riksdag's Justice Committee accepted the proposal “with a certain degree of hesitation”, but stressed that the number of members in the JPSG should not exceed the proposed number. In its view, the scrutiny should be “simple, rapid and concrete [...] and not develop into a disproportionately large and costly activity”. The Committee also wrote that it was opposed to the establishment of a new institution or Secretariat to assist the JPSG.³⁸ Only very few national parliaments expressed their wish for an increase in the size of delegations to the JPSG: The German Bundestag justified its preference for four members per national parliament with the need to represent the opposition and by seeking equal treatment with the European Parliament whose delegation size (ten members) allowed representation of all its political groups.³⁹ It was supported by the German Bundesrat.⁴⁰ The Polish Sejm proposed an amendment to give each national parliament the right to nominate six members, as in the case of interparliamentary *conferences*.⁴¹

Another face-to-face discussion about the issue took place at the highest level of parliamentary officials in the EU, the meeting of **Secretaries General of the EU Parliaments** in Bratislava on 20-21 February 2017. At that time, the state of play was as follows: **Four amendment proposals** had been received (from the German Bundestag, German Bundesrat, Polish Sejm and Cypriot Parliament) and **further parliaments or chambers** including the French National Assembly, the parliaments of Sweden, Portugal, Lithuania, Croatia, the Czech Chamber, the UK House of Lords and both Chambers of the Dutch Parliament **had submitted their positions on the text**.⁴²

The French National Assembly supported the second draft of the Working Group as well as the specific proposals of the German Bundestag, including the creation of sub-groups (*see below, 2.2*), except for the size of delegations where it considered two members per national parliament as sufficient. The representative of the Dutch Senate outlined a **possible compromise** along the lines of “up to four members per parliament” while every country would have two votes. This suggestion was explicitly supported by the Austrian parliament and the Italian Chamber of Deputies. Representatives of the national parliaments of Sweden and Cyprus expressed their concerns that JPSG would develop into a big and costly activity (Swedish Riksdag) or were not in favour of a secretariat due to financial restrictions (Cyprus House of Representatives). The European Parliament supported the current text. If the sizes of delegations were changed, however, the European Parliament would want 16 members for the European Parliament. The Secretary General of the European Parliament also stressed that the JPSG is not a voting body and should operate on the basis of consensus.⁴³

Finally, a compromise was found and the establishment of the JPSG was agreed at the meeting of the **EU Speakers Conference** in Bratislava from 23 to 25 April 2017. The Speakers also noted that they “expect that the Europol Joint Parliamentary Scrutiny Group itself will define further details of its work, including information rights vis-à-vis Europol and possible participation of observer parliaments. In principle, the Europol Joint Parliamentary Scrutiny Group will work on the basis of consensus.”⁴⁴

36. Troika Working Group, Draft Proposal for the Interparliamentary Committee Meeting, 28 November 2016.

37. Troika Working Group, [Second] Draft Text for the Conference of Speakers of EU Parliaments, 23-25 April 2017, tabled at the Meeting of Secretaries General of the EU Parliaments, Bratislava, 20-21 February 2017.

38. IPEX, *Additional positions on the Troika Draft Text on Europol JPSG*, Written submission of the Swedish Riksdag's Committee on Justice, 7-9.

39. IPEX, *Amendments to Troika Draft Text on Europol JPSG*, Proposals on the second draft produced by the Troika working group on 16 December 2016 – Joint Parliamentary Scrutiny Group for Europol (Deutscher Bundestag), 2.

40. IPEX, *Amendments to Troika Draft Text on Europol JPSG*, Letter by the President of the German Bundesrat to the Speaker of the National Council of the Slovak Republic, 2 February 2017.

41. IPEX, *Amendments to Troika Draft Text on Europol JPSG*, Amendment to the Conclusions proposed by the Sejm.

42. IPEX, *Final Minutes of the Meeting of Secretaries General of the EU Parliaments*, Bratislava, 20-21 February 2017, 5.

43. *Ibid.*, 5-7.

44. EU Speakers Conference, *Presidency Conclusions*, Bratislava, 23-25 April 2017, para. 18.

In addition to that, in Annex I to the Presidency Conclusions, key provisions about how the JPSG should function were set out. Compared to the second draft of the Working Group, it was finally agreed that delegations are composed of **up to four members for each national parliament and 16 MEPs**.

BOX 1 ► Key provisions on the Europol JPSG in Annex I to the Presidency Conclusions of the EU Speakers Conference in Bratislava on 23-25 April 2017

- **Membership:** Members of the JPSG shall be selected individually by each Parliament or Chamber, bearing in mind expertise, long-term continuity and nominating them – where possible – for the duration of their parliamentary mandate;
- **Composition:** Each Parliament shall have the right to nominate up to four members of the JPSG; the European Parliament shall have the right to nominate up to 16 members of the JPSG. The number of members nominated by each Parliament/Chamber does not affect the equality of Parliaments/Chambers. Substitute members may be nominated (to replace full members in case of absence).
- **Presidency:** The JPSG shall be presided jointly by the Parliament of the country holding the rotating presidency of the Council of the European Union and the European Parliament;
- **Frequency of Meetings:** The JPSG shall meet twice a year. In the first half of the year, the JPSG shall meet in the Parliament of the country holding the rotating presidency of the Council of the European Union. In the second half of the year, the JPSG shall meet in the European Parliament.⁴⁵

Source: Own elaboration.

” THE JPSG IS INNOVATIVE: IT DOES NOT DUPLICATE THE ‘STANDARD MODEL’ ”

To sum up, even though the JPSG is an old solution for a new problem,⁴⁶ it **does not follow the characteristics of an interparliamentary conference**. The JPSG is innovative: It does not duplicate the “standard model” that worked more (or less) well in the past, but it invents a format that seems sufficiently adapted to the needs of scrutinising a European Union agency in the area of Justice and Home Affairs.

The main compromise on the composition (four members per national parliament instead of two) means a **larger setting than initially intended**. There are still some other ambiguities with respect to the JPSG’s future functioning, i.e. room to make the new body work in a more effective way, as the next part shows.

2. How to make the Joint Parliamentary Scrutiny Group for Europol work effectively?

For a long time, EU Internal Security Cooperation operated “in an international environment relatively free from parliamentary structures,”⁴⁷ and accountability structures seemed to be “hampered by the logic of intergovernmentalism.”⁴⁸ But new scrutiny mechanisms have been gradually taking shape.⁴⁹ In 2009, the European Parliament obtained budget rights when the **EU budget became the source of funding for Europol** through Council Decision 2009/371/JHA⁵⁰ and also received some limited scrutiny rights.⁵¹ At the same time, the Decision no longer allowed a direct involvement of national parliaments through the ratification of amendments to the Europol Convention.⁵² The new Regulation 2016/974 again handed more Europol scrutiny powers to the European Parliament, but also to the JPSG.

45. “If necessary, extraordinary meetings can be convened upon agreement of the Parliament of the country holding the rotating presidency of the Council of the European Union and the European Parliament, or upon agreement by at least one third of the Parliaments/Chambers, to address matters of urgency or matters that cannot be reasonably included in the agenda of the ordinary meetings. Time and place of the extraordinary meetings shall be decided by the Parliament of the country holding the rotating presidency of the Council of the European Union and the European Parliament[.]” (EU Speakers Conference, Annex I to the Presidency Conclusions, Bratislava, 23-25 April 2017)

46. Kreiling, *The new Inter-parliamentary Conference*, 19.

47. McGinley Marie and Parkes Roderick, “Rights vs. Effectiveness? The Autonomy Thesis in EU Internal Security Cooperation,” *European Security* 16, no. 3-4 (2007): 246.

48. Puntser Riekman Sonja, “Security, freedom and accountability: Europol and Frontex,” in *Security versus justice*, ed. Elspeth Guild and Florian Geyer (Ashgate, 2008), 32; see also, for a more detailed discussion, Maricut Adina, “With and without supranationalisation: the post-Lisbon roles of the European Council and the Council in justice and home affairs governance,” *Journal of European Integration* 38, no. 5 (2016). Puntser Riekman, “Security, freedom and accountability: Europol and Frontex,” 32.

49. Trauner Florian, “The European Parliament and Agency Control in the Area of Freedom Security and Justice,” *West European Politics* 35, no. 4 (2012): 785.

50. Decision 2009/371 was deliberately not yet made subject to Article 88 TFEU by the Council. It was adopted shortly before the entry-into-force of the Lisbon Treaty.

51. Busuic, Curtin, and Groenleer, “Agency growth between autonomy and accountability: the European Police Office as a ‘living institution,’” 860.

52. Hillebrand Claudia, “Guarding EU-wide Counter-terrorism Policing: The Struggle for Sound Parliamentary Scrutiny of Europol,” *Journal of Contemporary European Research* 7, no. 4 (2011): 511, 514.

In the relations between national parliaments and the European Parliament more competences for one do not mean less competences for the other and interparliamentary scrutiny does not take away competences – it is not a zero-sum game, but can rather help to fill a scrutiny gap. This is only possible if the constituting parliaments overcome their old reflexes. Making the JPSG work effectively now depends, above all, on the **concrete burden-sharing** between the European Parliament (with its existing scrutiny of Europol) and the new JPSG in which 16 MEPs will participate alongside up to 112 national parliamentarians. In addition to that, a quick adoption of ambitious **Rules of Procedure** is necessary. If these two conditions are met, the JPSG could become a model for interparliamentary scrutiny.

2.1. A clear division of labour between the European Parliament and the JPSG

The Committee on Civil Liberties, Justice and Home Affairs (LIBE) is the committee that has been responsible for Europol matters in the European Parliament. In accordance with Article 51(1) of the Europol Regulation, the **political monitoring of Europol activities**, including the impact of these activities on the fundamental rights and fundamental freedoms of natural persons, will now be carried out by the **JPSG**.

This **changes the conduct of scrutiny over Europol as it has developed at least since 2009**. “In the early stages of Europol’s development the European Parliament was concerned with increasing its own parliamentary powers. Interparliamentary solutions for the parliamentary control of Europol were perceived more as a threat to the position than anything else.”⁵³ But over the years, the position of the European Parliament towards involving national parliaments into scrutinising Europol became more open. In 2009, for instance, it asked the Commission to submit “a framework legislative proposal outlining the involvement of the European Parliament and national parliaments”⁵⁴ in the evaluation of Justice and Home Affairs policies and agencies. In a new environment with national parliaments collectively scrutinising Europol alongside 16 MEPs in a group that meets twice a year, it is necessary to **think about the division of labour between the European Parliament’s LIBE committee and the JPSG**.

In general, the European Parliament has scrutinised EU Security Agencies actively, as data for the years 2006 to 2015 show (see Table 1). Europol has been a regular agenda item in the LIBE committee and MEPs have regularly asked questions (about 30 questions per year).⁵⁵

TABLE 1 ▶ Controlling EU Security Agencies in practice 2006-2015

AGENCY	TOPIC IN THE EUROPEAN COUNCIL	TOPIC IN THE COUNCIL OF THE EU	AGENDA ITEM IN COMMITTEES OF THE EUROPEAN PARLIAMENT	WRITTEN QUESTIONS BY THE EUROPEAN PARLIAMENT
European Defence Agency	2	43	120	32
Europol	10	36	578	335
Frontex	19	50	343	508

Source: Kietz and von Ondarza, 2013, 22 (European Union Satellite Centre excluded).

The JPSG is entitled to **information rights** and has the right to **conduct hearings**⁵⁶, which largely corresponds to the same rights that the European Parliament had under Article 48 of Decision 2009/371/JHA. In addition to that, pursuant to Article 12(1) and Article 51(3) of the Europol Regulation, Europol’s planning document is sent to the JPSG which is thus consulted on the multiannual programming of Europol.⁵⁷ Decision 2009/371/JHA did not provide for a consultation of the European Parliament or any of its bodies. By contrast, under the new Regulation the JPSG may also request other relevant documents necessary for the performance of its tasks⁵⁸ with regard to the political monitoring of the activities of Europol (see Table 2).⁵⁹

53. Ruiz de Garibay, “Coordination Practices in the Parliamentary Control of Justice and Home Affairs Agencies: The Case of Europol,” 102.

54. Ibid.; European Parliament, *Resolution of 25 November 2009 on the Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen – Stockholm programme*, P6_TA(2009)0090, point 148. See also Wills Aidan and Vermeulen Mathias, *Parliamentary oversight of security and intelligence agencies in the European Union* (European Parliament, 2011).

55. Kietz Daniela and von Ondarza Nicolai, *Sicherheit delegieren: EU-Agenturen in der inneren und äußeren Sicherheit* (Stiftung Wissenschaft und Politik, 2016), 22.

56. Article 51(2) of the Regulation.

57. Ibid.

58. Article 51(4) of the Regulation.

59. See, for a comparison, Deutscher Bundestag, “Parlamentarische Kontrolle unter der Europol-Verordnung (EU) 2016/794,” in *Unterabteilung Europa, Fachbereich Europa, PE 6 - 3000 - 154/16* (2016); Abazi Vigileca, “The Future of Europol’s Parliamentary Oversight: A Great Leap Forward,” *German Law Journal* 15 (2014).

Furthermore, the JPSG may draw up **summary conclusions** on the political monitoring of the activities of Europol and, pursuant to Article 51(5) of the Europol Regulation, forward these conclusions to the European Parliament and national parliaments. The European Parliament shall then transmit these conclusions, for information purposes, to the Council, the Commission and Europol.⁶⁰

TABLE 2 ▶ Scrutiny instruments of the European Parliament and the JPSG in comparison

	EUROPEAN PARLIAMENT UNDER REGULATION 2016/794	JOINT PARLIAMENTARY SCRUTINY GROUP UNDER REGULATION 2016/794
Task	In particular the provision to establish the JPSG (Article 51(1))	Politically monitor the activities of Europol, including the impact of these activities on the fundamental rights and fundamental freedoms of natural persons (Article 51(1))
Information rights	<p>Consolidated annual report (Article 11(1)), evaluation report, annual report of the EDPS (Article 43(5)), JPSG conclusions which are transmitted to the EP and to national parliaments (Article 51(5))</p> <p>Access to sensitive non-classified information processed by or through Europol for the purpose of enabling the EP to exercise parliamentary scrutiny of Europol's activities (Article 52(1))</p> <p>Access to EU classified information, if consistent with the Interinstitutional Agreement of 12 March 2014 and complying with Article 67 and rules on the protection of sensitive non-classified and classified information (Article 52(2))</p>	<p>Consolidated annual report, annual work programme, threat assessments, strategic analyses and general situation reports relating to Europol's objective; the multiannual programming; and the evaluation report drawn up by the Commission (Article 51(3))</p> <p>The JPSG may request other relevant documents necessary for the performance of its tasks with regard to the political monitoring of the activities of Europol without prejudice to Articles 52 and 67 (Article 51(4))</p>
Multiannual programming of Europol	EP not mentioned	The JPSG shall be consulted in relation to the multiannual programming of Europol (Article 51(2))
Right to conduct hearings	Before appointment, the candidate selected by the Council for the post of Executive Director may be invited to appear before the competent committee of the EP, which shall subsequently give a non-binding opinion (Article 54(2))	<p>The Chairperson of the Management Board, the Executive Director or their Deputies shall appear before the JPSG at its request; the JPSG may decide to invite to its meetings other relevant persons, where appropriate (Article 51(2))</p> <p>The EDPS shall appear before the JPSG at its request, and at least once a year (Article 51(2))</p>
Budget rights	The EP (together with the Council) is the budgetary authority for Europol as well as its discharge authority	None

Source: own elaboration.

” THE NEW JPSG AND THE LIBE COMMITTEE OF THE EUROPEAN PARLIAMENT WILL NEED TO CLARIFY THEIR RESPECTIVE ROLES TO AVOID OVERLAPS”

Consequently, the new JPSG and the LIBE committee of the European Parliament will need to clarify their respective roles to avoid overlaps or competing authority claims⁶¹, to cooperate fruitfully and to have the necessary administrative support for their work. Three broad considerations must be kept in mind:

- Firstly, as one of the most powerful tools of the European Parliament is its budget power (see Table 2), the **linkage between the “political monitoring” by the JPSG and the budgetary control by the European Parliament** is particularly important. The European Parliament will remain the budgetary authority for Europol as well as its discharge authority.⁶² The 16 double-hatted MEPs who sit in the LIBE committee and in the JPSG will perform a key role.
- Secondly, with respect to the **nomination of the Executive Director**, who is appointed by the Council⁶³, the European Parliament has the possibility to invite the candidate to appear before its competent

60. Article 51(5) of the Regulation.

61. Herranz-Surrallés Anna, “The EU’s Multilevel Parliamentary (Battle)Field: Inter-parliamentary Cooperation and Conflict in Foreign and Security Policy,” *West European Politics* 37, no. 5 (2014).

62. Busuioac, Curtin, and Groenleer, “Agency growth between autonomy and accountability: the European Police Office as a ‘living institution,’” 860.

63. The European Parliament tried to become more involved in the appointing process of the Executive Director, see Piquet Agathe, “Supranational activism and intergovernmental dynamics: the European Police Office as a supranationalist opportunist?,” *Journal of Contemporary European Research* 13, no. 2 (2017): 1197.

committee, which “shall subsequently give a non-binding opinion” (Article 54(2) of the Regulation) while the JPSG is not involved at all.

- Thirdly, the JPSG will need a **secretariat for administrative support** in order to relieve the Presidency Parliament and the European Parliament of that burden and to generate expertise on the matter of Europol scrutiny. In the broader context of strengthening national parliaments, this secretariat could later be integrated into a new and independent “General Secretariat for Inter-Parliamentary Coordination.”⁶⁴

These issues will require well-adapted formal provisions in the Rules of Procedure (see below, 2.2) as well as good informal working practices between the two bodies (JPSG and LIBE committee) and their members.

2.2. A quick adoption of ambitious Rules of Procedure

” THE COMPROMISE OF THE EU SPEAKERS CONFERENCE IN APRIL 2017 PROVIDES A PROMISING FRAMEWORK, BUT LEAVES SOME IMPORTANT QUESTIONS UNANSWERED ”

The compromise of the EU Speakers Conference in April 2017 provides a promising framework, but leaves some important questions unanswered and does not give enough teeth to the JPSG. Unlike previous compromises of the EU Speakers Conference⁶⁵, however, it meets two basic elements that are necessary for the smooth functioning of an interparliamentary body: a clear composition and a comprehensive definition of competences. National parliaments and the European Parliament have reached a **solid agreement** in this case of setting up joint parliamentary scrutiny and have been able to act together.

Adopting the Rules of Procedure at the first meeting of the JPSG should now be the priority in order to avoid that the early years of existence of this new body are overshadowed by disagreements about procedural issues.

The four possible functions of interparliamentary cooperation⁶⁶ (see above: *Introduction*) should guide the further elaboration of the JPSG's functioning in the Rules of Procedure:

- Ensure a **higher level of parliamentary scrutiny** over Europol – by politically monitoring Europol's activities in fulfilling its mission, including as regards the impact of those activities on the fundamental rights and freedoms of natural persons⁶⁷;
- **Counter-weight the overall decline of national parliamentary sovereignty** on internal security and Justice and Home Affairs issues by strong scrutiny prerogatives;
- Find an **institutional expression of political support and opposition** for EU policies and plans in the context of law enforcement when Europol's multi-annual programming is discussed⁶⁸;
- **Socialise MPs for a Europeanisation of national scrutiny over Europol** – as suggested by the provision to nominate members of the JPSG for their entire parliamentary mandate⁶⁹.

In order to achieve this, the Chairperson of Europol's Management Board and the Executive Director **should be heard, questioned and criticised by the members of the JPSG**⁷⁰ and this should happen **as publicly and as transparently as possible**: “The rules of procedure should specify in a restrictive manner the occasions where the management of Europol may invoke discretion and/or confidentiality.”⁷¹

Some issues were not addressed in the Annex to the Conclusions of the EU Speakers Conference and **still need to be agreed** (overall tasks, the right to conduct hearings and ask oral and written questions and the internal organisation), if they are not laid down in Regulation 2016/974:

64. Rozenberg, *The Role of the National Parliaments after Lisbon: Potentialities and Challenges*, 41.

65. Kreilinger, *The new Inter-parliamentary Conference*.

66. *Ibid.*, 4.

67. Article 12 TEU and Article 51(1) of the Regulation.

68. Article 51(3) of the Regulation.

69. EU Speakers Conference, *Annex I to the Presidency Conclusions*, Bratislava, 23-25 April 2017.

70. As foreseen in *Annex I to the Presidency Conclusions* of 23-25 April 2017 and in Article 51 of the Regulation.

71. Meijers Committee, “Note on the interparliamentary scrutiny of Europol,” in *Standing committee of experts on international immigration, refugee and criminal law. CM1702*, 4.

- Above all, “political monitoring” should not *a priori* exclude Europol’s operational activities.⁷²
- Furthermore, the Rules of Procedure could enshrine a right for members of the JPSG to **ask oral and written questions**, as proposed by the German Bundestag: “The right of the JPSG to hold [...] hearings should be accompanied by a right vested in each individual member of the Group to obtain oral answers to his or her questions.”⁷³ These questions would be submitted to the JPSG chair in advance and forwarded to the competent Europol departments to prepare well-founded answers. Each member should also be allowed to address an appropriate number of written questions to the Management Board and the Executive Director.⁷⁴
- With respect to the internal functioning of the group, even though the key activity of the JPSG lies in its capacity to implement a genuine accountability mechanism and not in taking binding decisions, **rules for adopting the summary conclusions**⁷⁵ need to be agreed. According to the German Bundestag, they should be adopted by a majority of the members: “Unlike the interparliamentary conferences held for the purpose of exchanging good practices, such an arrangement seems necessary for a group that exercises the rights of scrutiny enshrined in primary legislation and in the new Europol Regulation.”⁷⁶ The Conclusions of the EU Speakers Conference, however, clearly say that the JPSG “will work on the basis of consensus.”⁷⁷
- There are obviously matters that are better treated in a smaller committee-like setting than in a group with up to 128 MPs and MEPs. The JPSG should therefore, in the view of the German Bundestag, consider providing for a steering committee and two to three other **sub-groups**, possibly ad hoc bodies⁷⁸, or for an operational core group.⁷⁹
- The JPSG will also need a **secretariat** for administrative support (*see above, 2.1*).
- In terms of **timing** (i.e. when the JPSG should convene), meetings of the Justice and Home Affairs Council that address Europol issues constitute an opportunity to give input on its agenda – or an opportunity to discuss and scrutinise the results and Council conclusions, if they concern Europol or related bodies. Extraordinary meetings could be convened in this context.⁸⁰ The example of the COSAC indicates how crucial it is to position interparliamentary activities in the overall agenda of the EU. Timing and visibility are strong incentives for MPs to participate actively in an interparliamentary setting.
- Finally, Annex I to the Presidency Conclusions of the EU Speakers Conference recommends conducting a **review of the arrangements for the JPSG** after two years from its first meeting, i.e. in 2019. This provision is inspired from a similar provision in the Rules of Procedure of the interparliamentary conference on CSFP/CSDP.

To sum up, making the JPSG work effectively now depends on two conditions: On the one hand, it depends on an **agreement about burden-sharing** between the LIBE committee of the European Parliament and the new JPSG in terms of “*Who does what?*” This should be possible thanks to the 16 double-hatted MEPs as members of both bodies. The JPSG should essentially *complement* the existing scrutiny of Europol in the European Parliament – with its important budgetary (and legislative) powers over Europol – through political monitoring.

72. *Ibid.*, 3. Depending on the number of questions being asked, this might require to increase the staff in the Secretariat of the Management Board and/or the Office of the Executive Director of Europol.

73. IPEX, *Amendments to Troika Draft Text on Europol JPSG, Proposals on the second draft produced by the Troika working group on 16 December 2016 – Joint Parliamentary Scrutiny Group for Europol* (Deutscher Bundestag), 4.

74. *See ibid.*

75. Article 51(5) of the Regulation.

76. IPEX, *Amendments to Troika Draft Text on Europol JPSG, Proposals on the second draft produced by the Troika working group on 16 December 2016 – Joint Parliamentary Scrutiny Group for Europol* (Deutscher Bundestag), 3.

77. EU Speakers Conference, *Presidency Conclusions*, Bratislava, 23-25 April 2017, para. 18.

78. *See IPEX, Amendments to Troika Draft Text on Europol JPSG, Proposals on the second draft produced by the Troika working group on 16 December 2016 – Joint Parliamentary Scrutiny Group for Europol* (Deutscher Bundestag), 5.

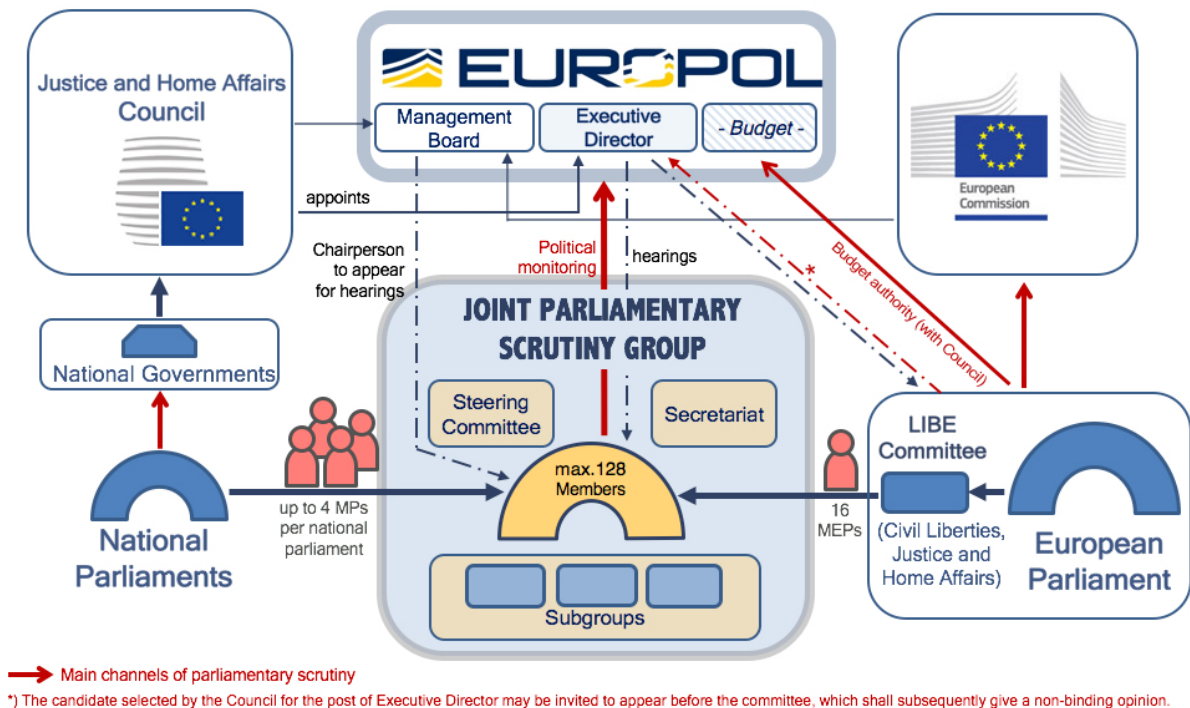
79. Meijers Committee, “Note on the interparliamentary scrutiny of Europol,” 4.

80. EU Speakers Conference, *Annex I to the Presidency Conclusions*, Bratislava, 23-25 April 2017.

On the other hand, a quick adoption of ambitious **Rules of Procedure** for the JPSG at the first meeting of the group in the autumn of 2017 is necessary. In particular, issues related to the overall tasks, to the right to conduct hearings, to ask oral and written questions and to the internal organisation should be addressed.

The overall set-up of parliamentary scrutiny of Europol by the JPSG and the LIBE committee would then look as follows (Figure 1).

FIGURE 1 ► Parliamentary Scrutiny of Europol by the JPSG and the LIBE committee



Source: Valentin Kreilinger.

If the framework for parliamentary scrutiny of Europol emerges in such a way, and if national parliaments and the European Parliament manage to make the JPSG work effectively, it could serve as a model for interparliamentary scrutiny over EU Internal Security Cooperation⁸¹ and its agencies (e.g. FRONTEX) or possibly even beyond Justice and Home Affairs (e.g. Ideas and Proposals for a Eurozone Parliament⁸²). The new body could then become a **blueprint for interparliamentary scrutiny** in the EU.

The JPSG could make an important contribution to what has been termed “throughput legitimacy”.⁸³ With respect to *efficiency* and adequacy of the rules governing Europol, the JPSG now provides **additional checks and balances**. Hearings of the Executive Director and the Chairperson of the Management Board mean that they can be held responsible for their decisions and outputs (*accountability*), even though the Executive Director is still appointed by the Council. Furthermore, depending on the degree of *transparency* of the JPSG, citizens have access to information about the political monitoring of Europol.

81. Notwithstanding the individual scrutiny by national parliaments, see e.g. Tacea Angela, “Towards More Security? The Involvement of the National Parliaments in the Reform of the Schengen Agreements,” in *EU Borders and Shifting Internal Security: Technology, Externalization and Accountability*, ed. Raphael Bossong and Helena Carrapico (Springer International Publishing, 2016).

82. See Kreilinger Valentin and Larhant Morgan, *Does the Eurozone need a Parliament?* (Policy Paper, Jacques Delors Institut - Berlin, 2016).

83. Schmidt Vivien A., “Democracy and Legitimacy in the European Union Revisited: Input, Output and ‘Throughput’,” *Political Studies* 61, no. 1 (2013).

CONCLUSION

Within the European Parliament, multi-parliamentarism has often been perceived as an attempt to impede the European Parliament from a drive for full parliamentary control.⁸⁴ On the contrary, the very notion of inter-parliamentary cooperation and **joint parliamentary scrutiny** is something that **should be considered as “normal”**.

In former second and third pillar agencies, the **European Parliament** gained influence over time and the Council retained a more important role. But “[n]one of the existing agencies can be depicted as a mere instrument in the hands of any one of the ‘political’ institutions.”⁸⁵

The JPSG now represents a **major step forward for interparliamentary scrutiny** and has even been called a “revolutionary development for the evolving multi-level accountability system (of EU agencies)”⁸⁶, because, as noted by the Meijers Committee, “[a]ppropriate parliamentary control may enhance the transparency of a sector which has inherent characteristics of secrecy.”⁸⁷ Considering the proliferation of EU Justice and Home Affairs bodies and agencies,

“[e]nhanced scrutiny and inter-parliamentary co-operation is essential given the potentially far-reaching consequences action in the fields covered by these bodies may entail and the considerable potential gap in the examination of operational and management action by these bodies. Establishing cooperative scrutiny mechanisms becomes all the more relevant given the increasing difficulties to precisely ‘pin down’ what exactly these EU bodies do in practice.”⁸⁸

For **national parliaments**, scrutiny begins at home⁸⁹: Their enhanced involvement in the scrutiny of Europol means that they are no longer solely dependent on national scrutiny procedures over their own government, but as “multi-arena players”⁹⁰ they must now – also in the area of EU Internal Security Cooperation – combine domestic scrutiny activities with the new possibilities offered by the JPSG.

Finally, with respect to **differentiated integration**, it is important to note that the Conclusions of the EU Speakers Conference state that the JPSG itself will “define further details of its work, including [...] possible participation of observes parliaments.”⁹¹

In the discussions about the specific arrangements for the body in early 2017, the Parliament of **Norway** suggested that – similar to other interparliamentary conferences – parliaments of European non-EU member states who are Europol partner countries and members of Schengen should be allowed to participate as permanent observers to the JPSG, each with two members.⁹² **Denmark** (which in the meantime negotiated its new relationship with Europol⁹³) also expressed its interest “to be associated to the group as closely as possible.”⁹⁴ The **United Kingdom** made an *opt-in* into the Europol Regulation⁹⁵ and it remains, as of 1 May 2017, covered by it, but after its withdrawal from the EU, the **post-Brexit relationship with Europol** and, connected to this, an arrangement for a possible participation in the JPSG will have to be discussed.

84. See, for EU economic governance: Deubner Christian and Kreilinger Valentin, *The role and place of Parliaments in a genuine Economic and Monetary Union* (Notre Europe - Jacques Delors Institute, 2013), 6.

85. Dehousse Renaud, “Delegation of powers in the European Union: The need for a multi-principals model,” *West European Politics* 31, no. 4 (2008).

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87. Meijers Committee, “Note on the interparliamentary scrutiny of Europol,” 3.

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89. See Ruiz de Garibay, “Coordination Practices in the Parliamentary Control of Justice and Home Affairs Agencies: The Case of Europol,” 103.

90. Auel Katrin and Neuhold Christine, “Multi-arena players in the making? Conceptualizing the role of national parliaments since the Lisbon Treaty,” *Journal of European Public Policy* (2016).

91. EU Speakers Conference, *Presidency Conclusions*, Bratislava, 23-25 April 2017, para. 18.

92. IPEX, *Additional positions on the Troika Draft Text on Europol JPSG*, *Position of the Norwegian Parliament*, submitted in writing.

93. European Commission, 15 December 2016, *Declaration (by the President of the European Commission, Jean-Claude Juncker, the President of the European Council, Donald Tusk and the Prime Minister of Denmark, Lars Løkke Rasmussen) to minimise the negative effects of the Danish departure from Europol, following the referendum in Denmark on 3 December 2015*.

94. IPEX, *Additional positions on the Troika Draft Text on Europol JPSG*, *Position of the Danish Parliament*, submitted in writing.

95. UK Government, *Parliament notified of Europol opt-in intention*, 14 November 2016.

ANNEX

Article 88 TFEU

1. Europol's mission shall be to support and strengthen action by the member states' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more member states, terrorism and forms of crime which affect a common interest covered by a Union policy.

2. 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 tasks may include:

(a) the collection, storage, processing, analysis and exchange of information, in particular that forwarded by the authorities of the member states or third countries or bodies;

(b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the member states' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.

These regulations shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

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