

8th meeting of the Joint Parliamentary Scrutiny Group on Europol

Summary conclusions by the Co-Chairs

On 1 and 2 February 2021, the European Parliament (EP) and the Portuguese Parliament jointly organised the Eighth Meeting of the Joint Parliamentary Scrutiny Group on Europol (JPSG) at the premises of the Portuguese Parliament in Lisbon and by remote participation, due to the pandemic. The meeting was co-chaired by Ms Isabel Oneto, Co-Chair of the JPSG and Head of the Delegation of the Portuguese *Assembleia da República* to the JPSG and Mr Juan Fernando LÓPEZ AGUILAR, Co-Chair of the JPSG and Chair of the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament (LIBE).

64 Members from national parliaments, representing 38 chambers of 26 national Parliaments. The European Parliament was represented in the JPSG by 14 Members.

1 February 2021

Adoption of the agenda and opening remarks

The Co-Chairs underlined the importance of the political scrutiny carried out by the JPSG.

The Co-Chairs reported to JPSG Members on the results of the meeting of the Presidential Troika, which preceded the JPSG meeting. Mr LÓPEZ AGUILAR informed delegations about ongoing activities of the Troika Working Group on pending matters concerning our Rules of Procedure that was established after the 7th meeting of the JPSG. The Working Group is comprised by 15 delegations, which are currently discussing different options for the JPSG representation at the Europol Management Board meetings and future procedures for revisions of the Rules of Procedure.

Delegates were informed that the Troika decided to extend the Working Group's mandate. The Working Group will meet again in the next months to agree on solutions and submit them to the Troika. Ideally, if agreed within the Troika, the final proposals will be sent to all JPSG delegations ahead of the next JPSG meeting in October 2021.

Reporting on Europol Activities September 2020 - February 2021

Europol's Executive Director, Ms Catherine DE BOLLE, gave a presentation on Europol's activities in the period between September 2020 and January 2021, its action plan concerning the issue of "big data" processing and the EDPS admonishment letter on the matter, as well as the state of play in terms of cooperation with the United Kingdom. The action plan aims at compliance with the legal framework and operative needs. Europol's relationship with UK will be implemented by several working arrangements.

Ms DE BOLLE reported that, in spite of Covid-related restrictions, Europol's supporting activities remained high. In addition, Europol has taken more steps towards the implementation of the Europol Strategy 2020+, particularly the adoption of the information management strategy. Moreover, in December 2020, Europol launched the decryption platform, which will significantly increase Europol's and Member States' capabilities to decrypt information lawfully obtained in criminal investigations. Ms DE BOLLE reported also about recent key operations and argued that enhanced future cooperation with private partners and third countries, including data transfers are indispensable for Europol to fulfil its tasks.

Lastly, Ms DE BOLLE addressed the issue of the Commission's proposal for the amendment of the Europol Regulation and explained it aims at ensuring that Europol upholds its key operational support capabilities, while addressing the risks identified by the EDPS.

Report by Wojciech WIEWIÓROWSKI, European Data Protection Supervisor

Mr Wojciech WIEWIÓROWSKI reported on the recent activities of the EDPS in its supervisory activity towards Europol. He focused on the follow-up to the EDPS admonishment decision in the context of the use of Big Data, initial comments on Commission's new proposal to amend the Europol Regulation and the joint initiative of Europol and the Joint Research Centre of the Commission on the decryption platform. The Action Plan, submitted by Europol, was carefully analysed and the EDPS considers that the plans contain strong elements to address the risk posed by the processing of large datasets by Europol. He clarified that there were nevertheless some elements that need to be clarified, specified or added. In this respect he pointed to a missing data protection risk assessment in the Action Plan.

On the recast of the Europol Regulation, Mr WIEWIÓROWSKI reported about his involvement in the discussion about Europol's mandate, namely by providing feedback and an opinion on the legislative proposal. He welcomed the proposed direct application of Chapter IX and Article 3 of the EU Data Protection Regulation to data processing by Europol. Moreover, the regulation should aim at the full harmonisation of the EDPS vis-a-vis Europol regarding the general powers of the EDPS.

On the Europol Decryption Platform, Mr WIEWIÓROWSKI underlined that while the EDPS supported the development of such tools in general, it still has to assess the information provided by Europol to ensure that it will be in line with the requirements of the Europol Regulation and fundamental rights.

The Co-Chairs referred to the written contributions by Mr Oliver RÜß, Chairperson of the Europol Management Board, by Professor Francois PELLEGRINI, Chair of the Europol Cooperation Board and to the written report by Mr. Kris PEETERS, former Vice-Chair of the EP Delegation to the JPSG on the participation at the Management Board meeting of October 2020. Due to agenda-related constraints these contributions were circulated ahead of the meeting without presentations during the meeting.

In the ensuing debate, JPSG delegates from the European Parliament, the German *Bundesrat*, the *Vouli Ton Ellinon* of Greece, the *Chambre des Représentants* of Belgium and the *Assembleia Da República* of Portugal took the floor. Their questions concerned the activities of the *Working Group on Covid-19 crime threats*, Covid-related crimes, the reorganisation of the European Serious and Organised Crime Centre, the use of artificial intelligence tools, the EU information management strategy, OLAF, risk impact assessments, the cooperation between Europol and the United Kingdom after Brexit, the increase environmental crimes and the cooperation between Europol and Frontex. Other issues raised include the fight against right-wing extremism and terrorism, the oversight on Europol's projects, inter-agency cooperation in the field of JHA, drugs trafficking activities in the EU, the European Financial and Economic Crime Center, the political cycle of the fight against organised and serious crime, the European Agenda for Security and Europol's action plan.

In her replies, Ms DE BOLLE informed about the reform of the European Serious Organised Crime Centre, where different new units were created to tackle the most lucrative and high-target crimes, such as drugs trafficking. She also underlined the strong cooperation with the other EU agencies and bodies, such as EPPO and OLAF. Regarding the information management, she reported that a strategy was presented to the Management Board, which ensured that the data protection rules and privacy rules were respected. She stressed that the issues highlighted by the EDPS regarding data processing were not per se based on the misuse of data, but on violations of restrictions stemming from the Europol Regulation. On right-wing extremism, she reported that the threat had increased. Nevertheless, Europol continued working with Member States to have multinational solutions for this phenomenon. Ms DE BOLLE provided a concise overview of the developments of tools on artificial intelligence, which aim to support the Member States better.

In his replies, Mr WIEWIÓROWSKI reiterated Ms DE BOLLE's comment that measures that may have an impact on rights and obligations of citizens should be followed by a data impact assessment. He provided legal bases for the data impact assessment, such as the GDPR. On Brexit, he noted that the EU-UK TCA is an international agreement, which provided grounds for data transfers by Europol. He

stressed that the EDPS is waiting for the proposal concerning the adequacy provision and the Commission's assessment.

Thematic debate I: Cybercrime and digital resilience

Mr Pedro VERDELHO, Coordinator of the Cybercrime Office, Portuguese Prosecutor General's Office highlighted the difficulty of prosecuting cybercrimes, given their transnational nature and the difficulty to gather evidence. He emphasized that the inconsistent legal framework among countries was one of the issues that should be addressed.

Mr VERDELHO highlighted some positive developments in the field of cybercrime and digital resilience, such as the European Investigation Order and the future Additional Protocol to the Budapest Convention. On the EU *E-Evidence package*, he expressed his expectations for the successful finalization of the work on that initiative in the near future.

Mr Edvardas ŠILERIS, Head of the European Cybercrime Centre at Europol, reiterated Mr VERDELHO's statement that new rules and agreement on how to work in the digital areas were needed. He reported that ransomware was the number one threat in the digital world. Cooperation with Member States was necessary, given the scale of the problem. The second area of priority was combating child sexual abuse online. Referrals concerning that matter increased during Covid-19 pandemic. He highlighted that payment fraud remained problematic to detect. Moreover, he reported that the EncroChat investigation was still ongoing. He stressed that cooperation between private companies and law enforcement was crucial in order to ensure cyber resilience. He concluded his address by stressing the importance of information sharing. The legal framework should find the right balance between privacy and efficient tools for law enforcement to react properly.

JPSG delegates from the European Parliament, the Belgian *Senate*, the *Sénat* and *Assemblée Nationale* of France, the *Državni Zbor* of Slovenia, the *Assembleia Da República* of Portugal, the *Congreso de los Diputados* of Spain, the *Bundestag* and *Bundesrat* of Germany, the *Vouli Ton Antiprosopon* of Cyprus, the *Országgyűlés* of Hungary, the *Vouli Ton Ellinon* of Greece and the *Senato della Repubblica* of Italy took the floor. They were in particular interested in Europol's action on cybercrime in general, international cooperation on security within the cyberspace, information exchange, currency on the dark web, the EU *E-Evidence* proposal, cooperation with private services, data protection, compliance with fundamental rights, legal gaps, preventing child sexual abuse online, the use of artificial intelligence, combating the threat of fake news, encryption, identity theft and Covid-related crimes.

In his replies, Mr ŠILERIS reiterated the necessity to improve and facilitate cooperation with third countries and private parties to share information quickly. He also argued that prevention and awareness were crucial. He stressed the need to educate society and referred to the agency's various campaigns on raising awareness on cyber threats. On encryption, he reported that Member States could lawfully obtain access to encrypted data.

In his replies, Mr VERDELHO agreed that the protection of data and respecting fundamental rights was crucial when applying any instrument. In addition, he highlighted that the operational and legislative means were not sufficient for combating cybercrimes. New means had to be designed, as the current EU-system could not respond to all cross border investigation requests and did not involve third countries. Moreover, the current judicial cooperation system could not respond quickly enough to obtaining *e-evidence* as this evidence could easily disappear. Additionally, he emphasized the issue of private ownership of data, leaving obtaining data subject to the will of the operators. He also pointed out that the rules on too short data retention periods caused many failures of investigations.

2 February 2021

Keynote interventions on the revision and strengthening of the Europol mandate

In her keynote address, **Ms Ylva JOHANSSON**, EU Commissioner for Home Affairs, presented the Commission's proposal for a new Europol mandate. First, she highlighted that Europol must be able to propose investigations even if only one single Member State but common interests of the Union are concerned. Secondly, she pointed out that the proposal would enhance Europol's capabilities to cooperate directly with private companies by sharing information. This would in particular be of importance to counter child sexual abuse and fighting terrorism. As a third point, Ms JOHANSSON highlighted her intention to strengthen Europol's responsibilities of using third country information, including those stemming from other international organisations, via the Schengen Information System. Another point to be included in the proposal is that Europol can support and share information with the European Public Prosecutor's Office. Moreover, the new mandate Europol would enable to further develop artificial intelligence to increase its efficiency, including the processing of "Big Data" sets. Furthermore, she stressed that all provisions comply with fundamental rights, including data protection.

Mr Eduardo CABRITA, Minister for Home Affairs of the Portuguese Government, underlined the priority the Portuguese Presidency to strengthen Europol's mandate. He pointed to several new threats and their transnational and digital nature. It was therefore necessary for Europol to be able to keep up with the technological

developments. He also highlighted the importance for cooperating with private companies and third countries. This cooperation needed to be aligned with Member States' needs, while respecting EU law and the laws of the Member States. Moreover, he underlined as well that Europol needed artificial intelligence to fulfil its tasks.

Following the previous interventions, **Ms Catherine DE BOLLE** welcomed the proposed amendments to the Europol Regulation presented by the European Commission, which embody the strengthening of Europol's mandate, giving the agency greater analytical capacity and technological tools to fight emerging criminal activities. Catherine DE BOLLE also highlighted the importance of the measures related to information exchange with private parties, data protection and cooperation with third countries and underlined that the proposed amendments respect the 10 principles of the Council Resolution on the Future of Europol, adopted during the German Presidency.

JPSG delegates from the *European Parliament*, the *Bundesrat* of Germany, the *Vouli Ton Antiprosopon* of Cyprus, the *Congreso De Los Diputados* of Spain, the *Državni Zbor* of Slovenia, the *Sejm* of Poland, the *Vouli ton Ellinon* of Greece, the *Sénat* of France, the *Országgyűlés* of Hungary and the *Senato Della Repubblica* of Italy took the floor and during the discussion round presented questions on the following topics: Europol's new mandate and its relation with the data protection regulation and fundamental rights; funding of Europol; the relationship with the UK under the new mandate and respect for Member States' sovereignty; data exchange with private parties and cooperation with third countries and other EU Agencies; the role of the GCPC; the fight against corruption crimes not related to European funds; limitation on freedom of expression and the relationship with the Roxxane project.

In his replies Minister CABRITA underlined that he fully supports the Commission's initiative to strengthen Europol's mandate. The Portuguese Presidency was fully committed to finish that legislative process within its term. He reported that in the dedicated JHA meeting expressed its general support for the proposal, as long as the data protection safeguards were guaranteed. He concluded his replies by stressing the importance of cooperation with third countries, especially with the UK and the US.

In her replies, Commissioner JOHANSSON thanked the participants for their strong support to the proposal. On data retention, she underlined that the proposal incorporated all current data protection requirements. She was confident that Europol and UK would have a close future cooperation. The Commission was in the process of assessing the legal basis to ensure such a cooperation. Finally, she pointed the

upcoming new agenda for fighting organised crime and new action plan to fight human trafficking. Both will be submitted in 2021.

Thematic debate II: The impact of COVID-19 in the EU's internal security - the role of police cooperation

Ms Catherine DE BOLLE, Executive Director of Europol indicated the reports presented by Europol on this matter, noting the creation of working groups to address the security challenges posed by the pandemic, particularly those related to the digital age. Ms DE BOLLE listed the areas most affected by criminal activity in this area, namely counterfeiting, fraud and the clandestine market related to health products and the fight against COVID-19 (fake personal protective materials, tests and vaccines), financial crime, cybercrime and the online distribution of child sexual abuse content, and concluded her speech by emphasizing the importance of international cooperation both with member states and with international organizations.

Mr Vittorio RIZZI, Deputy Director General of Public Security of Italy, and Co-Chair of the COVID-19 Chiefs of Police Working Group noted the work developed by the Police Chiefs Working Group on COVID-19, stressing the importance of information sharing and an interoperable approach, pointing out as a common challenge the construction of a homogeneous base of information and analysis. He confirmed that health crime, infiltration of organized crime into the legal economy and digital exposure of children have marked the agendas of the working group and welcomed the implementation of the Europol Strategy 2020+, reinforcing the essentiality of an adequate legal framework and information sharing and operational tools to ensure a Secure Europe.

JPSG delegates from the European Parliament, the Senado of Spain, the Országgyűlés of Hungary, the Assembleia da República of Portugal, the Sénat of France, the Sejm of Poland, the Chambre Des Représentants of Belgium, the Državni Zbor of Slovenia, the Bundestag of Germany and the Vouli ton Ellinon of Greece took the floor and during the discussion round presented questions on the following topics the strengthening of cooperation, information sharing and analysis mechanisms, the common strategy, the new innovation and research laboratory, Europol's technological autonomy, critical infrastructures, environmental crime, far-right terrorism, human trafficking as a consequence of increased migration, new forms of crime and planned operations

As final notes, Ms De Bolle stressed the importance of the innovation hub that is being created for the knowledge and development of different technologies to meet the challenges of internal security and Mr Vittorio Rizzi stressed the enormous risk of

infiltration by criminal organizations and the importance of continuous monitoring to anticipate criminal action and ensure timely intervention.

Closing remarks by JPSG Co-Chairs

Juan Fernando LÓPEZ AGUILAR, Co-Chair of the JPSG and Chair of the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament thanked the parliamentarians for their participation and the organization of the meeting, while regretting that, due to the pandemic, the meetings still had to take place in virtual format, and informed that the next JPSG meeting would take place in the European Parliament, on October 25 and 26, 2021

Isabel ONETO, Co-Chair of the JPSG and Head of the Delegation of the Portuguese Assembleia da República to the JPSG, presented a brief summary of the conclusions of the thematic debates, highlighting the importance of the use of artificial intelligence and access to reliable information, as a means of combating crime, while respecting data protection, which justifies agreements with third countries and private entities, as well as the revision of Europol's mandate, with a view to intensifying cooperation with these entities but also with the other European Union agencies, ensuring the security of Union citizens. The Co-Chair thanked the speakers and the parliamentarians for their participation, praising the quality of the debate, and the session was closed.