



Council of the
European Union

Brussels, 15 January 2015

5334/15

PE 4
JUR 31
JAI 26
CSC 11

NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	Summary of the meeting of the European Parliament Committee on Civil Liberties, Justice and Home Affairs, held in Brussels on 8 January 2015

The LIBE meeting was chaired by Mr MORAES. The meeting broke at 10.45 for a minute of silence in memory of victims of the Charlie Hebdo shooting in Paris the previous day. LIBE discussed its opinions for the 2014 discharge procedure. Ombudsman O'Reilly presented the case in which she was not granted access to a document on the implementation of the EU-US Terrorist Finance Tracking Programme (TFTP) due to US objections. The EP Legal Service presented its opinion on the Data Retention Directive 2006/24/EC ECJ judgment of 8 April in Cases C-293/12 and C-594/12.

4-14. Joint debate on Discharge 2013

Discharge 2013: EU general budget - European Commission

Discharge 2013: European Union Agency for Fundamental Rights

Discharge 2013: EU general budget - European Data Protection Supervisor

Discharge 2013: European Monitoring Centre for Drugs and Drug Addiction

Discharge 2013: European Police College

Discharge 2013: FRONTEX

Discharge 2013: European Police Office (Europol)

Discharge 2013: European Asylum Support Office

Discharge 2013 : European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice

Discharge 2013: EUROJUST

The Rapporteur for opinion, Ms Guillaume (ALDE, FR) presented an overview of the 11 opinions, recalling that discharge was at the end of the budgetary process. The opinions were based on the Court of Auditors reports. Overall the conclusions were positive, nevertheless an even more effective financial management was necessary for the future. She also referred to specific issues in relation to specific agencies.

During the discussion MEPs raised the following issues : lack of control over Frontex revenue coming from Member State budgets; Commission financing of pilot projects for national PNR systems; the need to focus more on high risk beneficiaries and on diminishing the error rates.

Deadline for amendments: 13 January 2015

Vote in LIBE : 5 February 2015

15. Annual Report 2013 on the Protection of the EU's Financial Interests - Fight against fraud
2014/2155(INI) COM(2014)0474

Rapporteur for the opinion:	Monica Macovei (PPE)	PA – PE541.595v01-00 AM – PE544.273v01-00
Responsible:	CONT – Georgi Pirinski (S&D)	PR – PE539.821v02-00 AM – PE544.118v02-00

The draft opinion was adopted as amended with 40 votes in favour (6 against and 11 abstentions).

16. Letter of the European Ombudsman on access to the second inspection report of Europol's Joint Supervisory Body (JSB) on EU-US Terrorist Finance Tracking Program (TFTP)

The first invited speaker, Ms O'Reilly, European Ombudsman, presented the situation that arose in relation to the Ombudsman request to inspect official documents held by Europol under TFTP. The inspection was a routine follow-up after an unsuccessful request for access to documents by an MEP. The Ombudsman explained that initially Europol did not raise any objections and was very cooperative, until the moment it sought a US permission to grant access to the document in question. It was stressed that the Ombudsman's request was not a request for public access, but access in relation to its functions under appropriate security arrangements. Europol was obliged to seek the permission of the US side pursuant to a technical arrangement concluded between the Commission and the US on the modalities of TFTP implementation. Although Europol had explained the Ombudsman's role and function to the US side as well as the security arrangements that would be applied, the US side had taken a position that the "need-to-know" principle had not been satisfied. In Ms O'Reilly's view this interfered with the work of the Ombudsman, who had to conclude the inquiry unable to exercise its oversight and fulfil its institutional role. She pointed out that technical arrangements had never been approved by the co-legislators, despite having far reaching consequences. In practice the US had the right of veto over Europol's ability to share with third parties any information provided by the US.

The second invited speaker, Ms Palumbo, Vice-Chairman of the Europol Joint Supervisory Body, confirmed that access by MEPs to classified information was indeed problematic due to unclear rules and that in her view reviewing the existing rules would allow to clarify the issue of parliamentary access to classified information held by Europol.

The Commission representative explained that the principle of obtaining the consent of the data originator before any dissemination of classified information was a founding principle in the security rules in EU Institutions, including Europol. This key principle was also included in the relevant Inter-institutional Agreement between the Council and the European Parliament. He rejected the Ombudsman's claim that the technical arrangements negotiated between the Commission and the US created any new rights or obligations or that Commission in any way overstepped its prerogatives. He expressed the Commission's openness to support efforts to improve EP's access to classified information.

During the discussion there was consensus among MEPs that this issue should be addressed in the future, also taking into account what the EP Legal Service was going to suggest in its opinion. In the future the EP should be vigilant to obtain more suitable arrangements. Ms In t'VELD (ALDE, NL), Ms CORAZZA-BILDT (EPP, SE) and Ms SIPPEL (S&D, DE) were particularly critical of the present situation.

17. Data retention Directive 2006/24/EC - Judgment of the Court of 8 April in cases C-293/12 and C-594/12

The EP LS presented its opinion on cases C-293/12 and C-594/12. The document is not available to the public. They presented what were in their view the implications of the judgment for EU law and for national law implementing the directive that was invalidated. The ECJ based its reasoning on the Charter of Fundamental Rights (Articles 7, 8 and 52) and ECtHR case-law. It was stressed that measures need to be justified, by applying the necessity and proportionality test. It was stressed that the ECJ aligned itself closely with the ECtHR line of reasoning and the principles that would be upheld so that this was an indication of implications for EU legislation that went beyond data retention issues. The ECJ was setting up a method indicating that it would expect high standards therefore placing considerable responsibility on legislators. Existing and future acts should be assessed against this method. On the other hand the validity of national rules implementing the directive has not been affected. Member States however no longer had an obligation to retain data and could adapt their legislation.

During the discussion Mr SIPPEL (ECR, UK) pointed out that the ECJ's judgment was unhelpful to the extent that it did not indicate what an appropriate time-limit for storing data would be. He explained that the UK had already adopted the necessary adaptations in its legislation. Mr VOSS (EPP, DE) said that clearly a balance need to be stricken between individual rights and public security in order to be able to gather sufficient data for prosecution. He stressed the focus should not only be on the rule of law issue but also on addressing the security concerns of citizens. According to Ms SIPPEL (S&D, DE) increasing collection of data places a huge burden on overstretched police and judicial authorities that were not able to follow-up due to financial and personnel constraints. She called on the Commission to present its analysis of existing legislation in the light of these judgments. Ms IN T'VELD (ALDE, NL) highlighted that the basic issue was to have evidence-based policy on the issue. The law enforcement authorities should present their arguments to the lawmakers. The Chair reacted by saying that this was not a legal question, but a political one and that the situation would differ from one Member State to another. Mr ALBRECHT (Greens, DE) said that the necessity and proportionality test should be fully observed in order to safeguard the Rule of Law and Civil Liberties. He stressed that it was inadmissible to have unrestricted retention of personal data and moreover provide no exceptions for lawyers, doctors, and journalists. The fact that profiles can be created about any individual, including politicians, posed a significant threat. Ms KELLER (Greens, DE) was concerned that a "generalized suspicion system" could be created through the Smart Borders Project registering all foreign travellers and then allowing law enforcement access.

Next LIBE meetings

- 21 January 2015, 9.00 – 12.30 and 14.00 – 18.30 (Brussels)
- 22 January 2015, 9.00 – 12.30 and 15.00 – 18.30 (Brussels)