

## Summary

In the report, the All-party EU Committee describes its task to examine the Riksdag's work on EU matters: The inquiry included work on both theory and practice with the aim of determining whether the division of roles between the Riksdag and the Government has changed. The latest parliamentary commission of inquiry on the Riksdag's work on EU matters was carried out over ten years ago. Since then, cooperation with the EU has developed, particularly as a result of the Treaty of Lisbon, but also as a result of the fact that the forms of cooperation have been continuously adapted. As far as the Riksdag is concerned, it is crucial in the light of these developments to ensure that the forms for the Riksdag's work with EU matters continue to be appropriate. One question of particular interest to the Riksdag is the role of national parliaments in the EU and the initiatives that have been discussed to strengthen this role.

The Committee's assessment is that Riksdag's working procedures are mainly adequate concerning both how they are regulated and how the regulations have been applied. However, the Committee has seen the need for certain adjustments, above all to create clarity in connection with the way in which the Riksdag's work on EU matters is actually carried out.

### Contact between the Riksdag and the Government on EU matters

The Riksdag's work on EU matters is based on extensive contacts with the Government in order to monitor and influence the positions Sweden takes in its EU cooperation. The Committee notes that contacts with the aim of giving the Riksdag influence over Swedish positions must be concentrated to earlier stages of the EU process if these positions are also going to have an impact in the EU. In the view of the Committee, it is of central importance in this connection to attempt to influence the Commission via the Government in its preparation of new initiatives. As the decision-making process continues, the Riksdag and the Government need to be in contact in order to establish the Swedish position prior to and during negotiations in the Council. This is done by means of deliberations ahead of negotiations in the Council's preparatory bodies and by means of consultations prior to Council meetings.

The Riksdag committees have an independent responsibility to follow EU work and to take a position on the need to request deliberations with the Government. At the same time, the Government has a considerable obligation to provide the Riksdag and its various bodies with information. It is crucial that the Government fulfils this obligation to enable the committees and the Committee on EU Affairs to perform their duties. The Committee wishes to underline what the Committee on the Constitution has said – that the possibility for the committees to request deliberations with the Government is dependent on

the fact that the Government is thoroughly aware of the need to inform the committees of situations in which it may be necessary to obtain broad support for a new politically significant position to be taken in the Riksdag. In the Committee's view, this must be understood as a demand vis-à-vis the Government to inform the committees of the needs that the Government sees for the committees to request deliberations.

The Committee notes that the Riksdag's ambition to refine deliberations in the Riksdag committees on circumstances during the early stages of the EU decision-making process on the one hand, and consultations in the Committee on EU Affairs on negotiating strategy to give the Government a final mandate prior to decisions in the Council on the other, has not had an impact in practice overall. The Committee's view is that the only reasonable and suitable thing to do is to take the current application of working procedures as a basis for the Riksdag's future work. The ambition to see deliberations and consultations as completely separate procedures should thus be abandoned. The way procedures are applied today enables broad support for EU issues to be obtained since both the committees and the Committee on EU Affairs are able to follow and influence EU issues over time and in a way that facilitates the taking of well-informed positions in different phases of the consideration of an EU matter. In connection with their deliberations in this part, the Committee proposes two amendments to the Riksdag Act. The first would mean that the provision in Chapter 7, Article 14, second paragraph on the possibility for the Committee on EU Affairs to request deliberation with the Government instead of a committee would be deleted. The second would mean that the supplementary provision 7.15.5 on which legible records shall be kept during meetings of the Committee on EU Affairs would be amended to the effect that a record would be kept of what is said at the Government's consultations with the Committee, instead of today's deliberations. This would also lead to an amendment to Chapter 41, Section 1 of the Public Access to Information and Secrecy Act.

In the case of consultations with the Committee on EU Affairs, the Committee has noted in particular the application that states that decisions in the Council on "A items" have come to be included in the Government's obligation to inform and consult the Riksdag. Since A items are characterised by the fact that the Council's negotiations have in practice been concluded, the Committee has found this consultation to be problematic from the perspective of the ambition to focus contacts between the Riksdag and the Government on the earlier stages of the EU decision-making process. The Committee has given thorough consideration to various models to limit this extensive handling of A items. However, it has not succeeded in identifying a solution which to a sufficient extent can satisfy various interests when it comes to simplifying and making contacts between the Riksdag and the Government more effective on the one hand and safeguarding the Riksdag's control over the Government in the other. The Committee's conclusion is thus not to propose any change to consultations on the Council's A items. In the opinion of the Committee, there

should however be scope for the Government and the Committee on EU Affairs to develop the forms for consultation on A items.

In the case of the Government continually keeping the Riksdag informed of what is happening in the EU, the Committee has not had the impression that the Riksdag has suffered from any appreciable lack of information. The Committee has, however, indicated that the provision of information could be improved regarding the Commission's consultations and informal meetings with ministers. The Government should, according to the Committee, also consider submitting documents within the framework of multiannual and annual programme planning in accordance with the new Inter-institutional Agreement on Better Law-making to the Riksdag.

In addition to the Government's continuous supply of information to the Riksdag, the Riksdag committees have an unlimited opportunity to request information and comments from the Government on the work of the EU. Each committee is thus able to express special needs as regards information for its work. In connection with this, the Committee considers that it could be of considerable advantage if the committees were to develop a more uniform view of the Government's provision of information and the need for deliberations. The Committee therefore wishes to encourage the committees and the Committee on EU Affairs to formulate more uniform working routines and to document these so that they can be made available in the Riksdag and also to the Government. The Committee recommends that the Riksdag Administration take suitable measures to support the committees and the Committee on EU Affairs in this work.

In its review of the constitutional practice that has been developed in connection with contacts between the Riksdag and the Government regarding EU issues, the Committee has seen reason to develop and clarify how these contacts are viewed in some respects. The Committee has devoted extensive discussion to the Government's obligation to inform and consult the Riksdag in connection with formal and informal aspects of EU cooperation. The Committee notes that the statements by the Committee on the Constitution indicate that the Government cannot, in an informal context, represent a standpoint that does not have the broad support of the Riksdag. The Committee considers this to be sufficient, and it therefore does not propose any change to current procedures that require that neither informal parts of Council meetings nor informal meetings of ministers should be included in the Government's obligation to consult the Committee on EU Affairs. In the case of informal EU summits, however, the Committee sees reason to have a slightly different procedure. Informal discussions between heads of state and government in connection with meetings of the European Council should in the opinion of the Committee be included in the Government's obligation to consult the Committee on EU Affairs provided the discussions can be regarded as significant for the formulation of future common positions. Informal EU summits that do not take place in conjunction with the meetings of the European Council should however only be preceded by a consultation if a joint statement is to be made by the

summit meeting or if the Government intends to represent a standpoint that has not previously had the broad support of the Riksdag.

The Committee has further considered whether summits between the EU and third countries should be preceded by consultations. The Committee has however not found reason to propose that such international summits be included in the obligation to consult the Committee on EU Affairs.

In the case of the Government's background materials for its consultation with the Committee on EU Affairs, the Committee notes that it is inevitable that all documentation is not always available in Swedish. The Committee's impression is that the demand for the addition of explanations and comments on the part of the Government to the background materials increases when the materials for the consultation are not available in Swedish. The same should apply for the background materials for deliberations with the committees.

The Committee also comments on the occurrence of what are known as "literal mandates", that is that the Committee on EU Affairs supplies additions to the Swedish position with the exact wording of what is to be said, the intention being that these points should be put forward at the Council meetings. The Committee stresses how unsuitable it could be to supply such mandates if they conflict with the Government's expressed recommendations, particularly if the mandate raises questions that are outside the scope of the matters to be considered by the Council. The Committees emphasises in this connection that the Government and the Committee on EU Affairs have a joint responsibility in their deliberations to arrive at mandates that are appropriate for fulfilling their purpose, that is that the Swedish positions should have an impact. Furthermore, it is the Committee's view that the opportunity for the Government to seek renewed contact with the Committee while a Council meeting or a meeting of the European Council is in progress in order to obtain an adjusted mandate should only be made use of when essential Swedish interests are at stake and when it has not been possible to predict that the results of negotiations would be different to those expected when the original mandate was given.

## EU matters at the Riksdag – examination of strategic documents and subsidiarity checking

As regards the procedure for the examination of documentation, that is the Riksdag's consideration of strategic EU documents, the Committee considers that the application of procedures appears to be in line with the original purpose and that this purpose is still relevant. The examination procedure has proved to be helpful when it comes to putting forward important points of view to enable a particular issue to be further dealt with, which in turn boosts the Riksdag's readiness to deal with clear-cut proposals later, and it also helps make differences of opinion between parties in the Riksdag more visible, which can serve as guidance for the Government and other interested parties.

The Committee proposes that it should no longer be obligatory for the Riksdag to consider green and white papers that have been submitted to the Riksdag by the Commission. The Committee believes that the Riksdag should be able to determine on a case by case basis whether a green or white paper should be examined or not. Furthermore, the Committee proposes that the formal area of application for the examination procedure should be adapted to highlight the fact that documents within the framework of interparliamentary cooperation can also be the object of examination. The Committee emphasises how important it is that draft legislative acts are exempt from the area of application. The Committee proposes, however, that this exemption should instead apply to proposals for EU legal acts, which is a broader concept that better agrees with the original intention of the exemption. The Committee also proposes that the term “scrutiny” is reintroduced into the Riksdag Act. These proposals would mean amendments to Chapter 9, Article 20, first paragraph of the Riksdag Act.

The Committee does not propose any change to the practice that the Riksdag Administration sends scrutiny statements to the Secretariat-General of the Commission to inform the Commission of the Riksdag's consideration of a particular document from the Commission. In the Committee's opinion, it should be possible for the Riksdag to accept the view that the statements of which the Commission has been made aware can be regarded as contributions to a dialogue between the Commission and the Riksdag in its capacity as a national parliament. This means that the Riksdag would be assuming a partly new perspective of the way it participates in dialogues with the Commission. After thorough consideration, the Committee has dismissed any thoughts of formalising procedures by submitting scrutiny statements to the Commission by means of a written communication from the Riksdag.

As regards subsidiarity checks, the Committee considers the Riksdag's examination of the application of the principle of subsidiarity in draft legislative acts to be meaningful and that it is carried out in a suitable way. However, the Committee would urge the Riksdag committees to take into account the set framework for subsidiarity checking, and wishes to underline the fact that the committees have the possibility to channel views that do not refer directly to the application of the principle of subsidiarity through deliberations about the EU with the Government. The Committee proposes an amendment to supplementary provision 6.13.2 in the Riksdag Act in order to ensure that records of the committees' decisions in matters of subsidiarity are always notified to the Chamber at meetings of the Chamber,

The Committee considers that the Riksdag can improve its information to the other national parliaments regarding the Riksdag's reasoned opinions so as to improve the possibility of reaching the threshold at which a particular draft legislative act may be reviewed. The Committee points out the possibility for information exchange through the representatives of the national parliaments in Brussels. The Committee also wishes to encourage the Riksdag committees to carry out supplementary exchanges of information at the political level on

what to a reasonable degree of certainty can be expected to be a committee's conclusion in a particular subsidiarity check.

## Interparliamentary cooperation in the EU and the Joint Parliamentary Scrutiny Group for Europol

The Committee considers that provisions on national parliaments in the EU Treaties imply that a certain degree of expectation rests on the Riksdag to participate in interparliamentary cooperation between the national parliaments and the European Parliament. The Committee also notes that the members of the Riksdag are both actively and extensively involved in this. With reference to this, the Committee proposes that participation in interparliamentary EU cooperation should be made visible in the Riksdag Act by including a generally formulated provision to this effect in Chapter 7.

In the case of the special question of the Joint Parliamentary Scrutiny Group for the European Union Agency for Law Enforcement Cooperation (Europol), the Committee considers that this supervisory body differs in several important respects from other interparliamentary EU bodies and networks. The Committee therefore proposes that the Riksdag's participation in the control group should be specially regulated. The Committee recommends that a new article be introduced into Chapter 13 of the Riksdag Act stating that the Riksdag should appoint four members to participate in a delegation to the Scrutiny Group. To ensure continuity in the Riksdag's participation, the delegation should be appointed for a full electoral period of the Riksdag. It has also been proposed that the delegation should present a report of its activities to the Riksdag every year.

## Political dialogue and green cards

The Committee emphasises that contacts with the Government in order to monitor and influence Sweden's positions constitute the basis of the Riksdag's work on EU issues and what the Riksdag does otherwise should supplement these contacts without hindering them. In the opinion of the Committee, it is not appropriate to further extend the possibilities for the Riksdag to participate in a dialogue with the Commission, apart from the changed perspectives that the Committee recommends in connection with the fact that scrutiny statements should in practice be regarded as part of a dialogue with the Commission.

In connection with this, the Committee has considered what stance the Riksdag should take regarding "green card initiatives", by means of which national parliaments come together to urge the Commission to undertake particular measures. The Committee has found that the Riksdag should not make use of the mechanism for green cards as it does not provide any added value

to speak of for the Riksdag on EU issues or Swedish interests in the EU decision-making process. The Committee's assessment in this case can serve as a guiding principle for how the Riksdag should react to similar suggestions regarding coordinated action from national parliaments.

## Transparency in the Riksdag's work on EU matters

The Committee notes that questions of public insight and participation in connection with Sweden's work on EU matters are of vital importance. The contact the political parties and the members have with their voters is of central importance in this regard, and for this reason the Committee wishes to underline the importance that all Riksdag members are involved in dealing with EU issues. The Riksdag as an institution creates scope for openness, primarily through debates and decisions in the Chamber. The Committee believes that the Riksdag should consider whether there is scope for more independent debates connected to the EU, in addition to the information the Prime Minister presents to the Chamber after meetings of the European Council. The Committee considers that it could be valuable to have a special debate every year, preferably at party leader level, with the Government on EU matters based on a more overall strategic perspective.

The Committee believes that the far-reaching opportunities enjoyed by the Riksdag committees and the Committee on EU Affairs to have public meetings when dealing with EU matters should remain. At the same time, the Committee wishes to point out that there is a risk that extensive utilisation of these opportunities can defeat their object, since the need to develop alternative forms of dialogue that are lacking in transparency may then arise outside the meetings themselves. However, the Committee does not exclude the fact that there is scope for the committees and the Committee on EU Affairs to hold more public meetings than has previously been the case. The Committee believes, for example, that the committees can gather information to a greater extent within the framework of public hearings.

The Committee recalls that the comprehensive documentation of deliberations and consultations provides relatively favourable opportunities for insight into meetings held behind closed doors after the event. According to the Committee, this information, in common with other information about the Riksdag's work on EU matters, can be made more accessible.

## The Riksdag Administration's support to members in their work on EU matters

The Committee notes that Riksdag's work on EU matters demands that members acquire a good understanding of how the EU system works and how the division of roles between the Riksdag and the Government works. The need for knowledge varies between members and for each individual member over

time. This places great demands on the training courses that the Riksdag Administration provides for the members. An important constituent part of this training is the responsibility committee secretariats and the secretariat of the Committee on EU Affairs have to introduce their members to the work of the committees and to ensure that they are familiar with the various policy issues. In addition to this, the Committee has identified a need to create scope for a standardised, recurring training programme on the EU system and more general aspects of the Riksdag's work on EU matters. The Committee also believes that the Administration should review the possibility of offering an in-depth study visit to the EU institutions and the Permanent Representation of Sweden to the EU during each electoral period. The purpose could be to provide members with assignments strongly linked to the EU with the opportunity to acquire more in-depth knowledge on the functioning of the EU system.

## The division of roles between the Riksdag and the Government on EU matters

The Committee has made an assessment of the extent to which there are aspects in the Riksdag's work on EU matters which in practice affect the intended division of roles between the Riksdag and the Government in the way they deal with EU matters. In the first instance, it is a question of the Government's role – which is to represent Sweden in the EU and that of the Riksdag, which is to exercise influence through the Government. The Committee wishes to underline the fact that a precondition to enable the Riksdag to exercise its role is that the Government should live up to its extensive constitutional obligation to provide information. Otherwise, in its review of theory and practice in the Riksdag's work on EU matters, the Committee has identified two factors that may be of significance for its assessment. The first concerns developments regarding the extent and effect of consultations with the Committee on EU Affairs. All in all, over time these developments have meant stronger and more detailed control of the Government's actions in the Council. As a consequence of its assessment, the Committee has in this part in its considerations of the contacts between the Riksdag and the Government stated how it believes that the Riksdag should view the consultation procedure as regards “literal mandates” and telephone meetings occurring at a later stage of negotiations.

The second question concerns the Riksdag's at times rather extensive view of the scope of subsidiarity checking. In the Committee's view, it is questionable whether an excessively extensive view of subsidiarity checking and what can be expressed in reasoned opinions is compatible with the intended division of roles employed when the Government represents Sweden and Sweden's position in negotiations in the EU. The Committee's assessment in this connection has given reason to recall the nature of the set framework for subsidiarity checking and that the Riksdag's reasoned opinions are directed at the EU's institutions, and thus do not have any direct impact in relation to the Government.

## Reservations and separate statements of opinion

Member Jens Holm (Left Party) has submitted a reservation in opposition to the fact that the Committee has not proposed that the meetings of the Committee on EU Affairs should be kept open to the public.

Member Patrick Reslow (–), who represents the Sweden Democrats in the Committee, has submitted a reservation in opposition to the proposal to abolish the Riksdag’s obligatory scrutiny of the Commission’s green and white papers. The reservation also maintains that the Committee should proceed with proposals that in different ways increase the transparency of the Riksdag’s work on EU issues, and which clarify that the Riksdag is able to carry out a proportionality check of drafts of legal acts during the subsidiarity check. According to the reservation, the Government should be bound by viewpoints contained in the Riksdag’s reasoned opinions during the subsidiarity check. Furthermore, it maintains that the Government’s duty to provide information to the Riksdag should be extended and regulated more clearly, and that the obligation to consult the Committee on European Union Affairs should involve informal meetings at the European Council and the Council of Ministers, without exception. The reservation also states that the Riksdag’s role in political dialogue should be reinforced and that the Committee’s deliberations regarding the “literal mandates” are too far-reaching.

The special adviser to the Committee Johan Krafft (Prime Minister’s Office) has submitted a separate statement of opinion in connection with the Committee’s deliberations on the scrutiny procedure and the Riksdag’s participation in a dialogue with the Commission.