DRAFT PROGRAMME

Hearing

AN EU APPROACH TO CRIMINAL LAW

Thursday 8 December 2011, 9.00 – 12.30

Brussels

Room Paul Henri Spaak (PHS) A1 002
INTRODUCTION

With the entry into force of the Treaty of Lisbon, the EU has obtained wider competences in the field of criminal law than it had in the past, the most relevant provisions being Articles 82 and 83 TFEU. In addition, the legislative power is now shared between the European Parliament and the Council.

Criminal law remains however a sensitive subject. Traditionally, it was seen as directly related to national sovereignty. Only gradually did Member States accept that for an effective fight, notably against organised crime, closer co-operation was essential. Thus, they adhered to numerous conventions of the Council of Europe and of the United Nations and started adopting European legislation on the subject. Still, the interpretation of the principles of subsidiarity and proportionality deserve careful consideration.

As criminal law can come up in very different policy areas, e.g. environmental law, the protection of EU's financial interests, and competition law, safeguards have to be developed ensuring consistency and coherence of EU criminal law legislation. During the hearing we shall focus on the principles underlying criminal law (e.g. legality, extrema ratio) as well as on current and yet to be introduced institutional arrangements to safeguard high quality legislation.

The hearing will focus on the following questions:

1. When should the EU adopt criminal legislation? Or, to put it differently: when should the EU not adopt criminal legislation and should it leave it up to Member States’ national legislation? Which criteria should be used to make this distinction?

2. When it is decided that European criminal law is required, how can the EU ensure that this legislation is of the highest possible quality? How can the basic principles, underlying criminal law, be guaranteed?

3. How can the EU institutions work to make sure that EU criminal legislation upholds the basic principles? Is there or should there be a central unit in each of the three EU institutions that screens legislation on this subject? Where should such a central unit be located?
INTRODUCTION

9.00-9.15  Cornelis de Jong, MEP and Rapporteur of the report 'on an EU approach to criminal law'

FIRST SESSION

National criminal law versus European criminal law  
9.15 - 10.20

9.15 - 9.35  Hans Nilsson, Professor at the Bruges College of Europe and Head of Division, Judicial Cooperation, Council of the European Union since 1996


9.35 - 9.50  André Klip, Professor in criminal law, criminal procedure and transnational criminal law at the Maastricht University

Under what conditions is European substantive criminal law desirable/required and when does national criminal law suffice? In this regard, which overriding principles should be upheld?

9.50 - 10.05  Adán Nieto Martín, Professor in criminal law at Castilla la Mancha University

Economic criminal law in the EU (corruption, competition law, money laundering, insider trading, protection of the financial interest of the EU) is an example of policy area which spontaneously led to the development of European criminal law. Is this kind of development problematic for the coherence of European criminal law?

10.05- 10.20 Discussion
SECOND SESSION

Guiding principles underlying European criminal law

10.20 - 11.25

10.20- 10.40  Raimo Lahti, Professor of Criminal Law at the University of Helsinki

Criminal law or maybe something else? (proportionality-legitimate purpose- *extrema ratio*). Introducing criminal law is the most intrusive measure, which a government can take when it wants to attain a policy objective. How should the EU weight a policy purpose against the means to attain it? Do the Treaties or case law give guidance on that and do they do that in a sufficient manner?

10.40- 10.55  Helmut Satzger, Professor of German, European and International Criminal Law, Criminal Procedure and Economic Criminal Law at the Ludwig-Maximilians-University in Munich.

Is the legality principle sufficiently safeguarded at European level and where lies room for improvement? Do directives and notably their transposition into national law create extra hurdles for this principle (especially for the lex certa principle)?

10.55- 11.10  John Spencer, Professor of Law at the University of Cambridge

Should criminal law be codified? Can common law systems stand criminal law codification? What options can the EU follow to create a common system allowing different judicial systems and cultures to live together?

11.10-11.25  Discussion
THIRD SESSION

Putting the general principles in practice: towards a central unit analyzing European criminal law

11.25 - 12.15

11.25- 11.40  Mrs Lotte Knudsen, Representative of the European Commission - Director Criminal Justice Directorate, DG JUST

Presentation of the European Commission Communication Towards an EU Criminal Policy: Ensuring the effective implementation of EU policies through criminal law (Com2011(573)final).

How does the Commission ensure a coherent approach regarding European criminal law? Is there a central unit or mechanism, overseeing every proposal which contains criminal provisions? Does the Commission perform Impact Assessments on the principles underlying European criminal law? Are there follow-up mechanisms to control the effectiveness of European criminal law?

11.40- 11.50  Tomasz Ostropolski, Representative of the Polish Presidency - Head of Unit, European Criminal Law, Ministry of Justice

The Council has adopted Conclusions on model provisions (16542/1/09) guiding the Council's criminal law deliberations. Which body or unit ensures that these provisions are actually being used as a guideline when concrete EU legislation on European criminal law is initiated or adopted?

11.50- 12.00  Antonio Caiola - Head of the Unit B3 of the Legal Service of the European Parliament: Justice and Civil liberties

Is the Legal Service of the European Parliament well equipped to ensure that the general principles underlying criminal law are respected? How should this be done in practice? Which concrete steps are required?

12.00- 12.15  Discussion
CONCLUSIONS
12.15-12.30

Cornelis de Jong, MEP and Rapporteur of the report 'on an EU approach to criminal law'
ANNEX I

PRACTICAL GUIDELINES FOR THE DEBATE

- During the discussion, so as to make it possible for the highest number of parliamentarians to intervene, speaking time will be limited to **two minutes** per contribution or question.

- Speakers wishing to supplement their speeches may do so in writing by submitting a document (preferably in English or French) in advance to the secretariat (email: **libe-secretariat@europarl.europa.eu**). These documents will be circulated during the meeting.

- Meeting documents will be progressively added to the Hearings section of the LIBE Committee pages: **http://www.europarl.europa.eu/activities/committees/homeCom.do?language=EN&body=LIBE**

IMPORTANT NOTICE FOR THOSE WISHING TO ATTEND THE MEETING

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