

EUROPEAN PARLIAMENT

2004



2009

Committee on Foreign Affairs

2005/0003(CNS)

01.09.2005

OPINION

of the Committee on Foreign Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council Framework Decision on the fight against
organised crime
(COM(2005)0006 – C6-0061/2005 – 2005/003(CNS))

Draftsperson: Anna Elzbieta Fotyga

PA_Leg

SHORT JUSTIFICATION

The level of organised crime in the EU is increasing and poses serious threats to the society. Organised criminal groups are generally not confined by national borders and take advantage of the free movement of money, goods, personnel and services across the EU. These groups are strengthening their international criminal contacts and targeting the social and business structure of the European society, for example, through money laundering, drug trafficking and economic crime. They seek to influence and hamper the work of law enforcement and the judicial system. This requires a stronger and concerted response at national and European levels adapted to the evolving and multi-faced character of the phenomenon.

The Commission's proposal for a Framework Decision on the fight against organised crime constitutes a step forward towards closer co-operation among Member States and their common approach, inter alia, by harmonising the minimum thresholds of criminal penalties (the definition of offences and penalties), and introducing some provisions to facilitate co-operation between the judicial authorities of Member States.

The draftsman welcomes the intention of improving the efficiency of the fight against organised crime, which poses, undoubtedly, a threat to the society and tends to undermine our democratic values. In this context, the draftsman wishes to stress the importance of prevention and increased effectiveness of crime control, while ensuring full respect to human fundamental rights. Special attention should be put on the appropriate protection of victims. The importance of strengthening international co-operation in the framework of existing instruments and fora should also be stressed.

AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Recital 6 a (new)

(6a) This Framework Decision is expected

¹ Not yet published in OJ.

to provide a basis for convincing third countries to introduce similar regulations. The Member States should set an example by giving strong proof of their determination.

Justification

Lack of the EU legislation on fight against organised crime puts EU in a difficult position in discussions with international partners. Having this Framework Council Decision in place will give EU stronger basis for encouraging third countries to adopt similar legislation.

Amendment 2

Recital 8

(8) This Framework Decision respects ***the*** fundamental rights ***and principles*** ***recognised by the Charter of Fundamental Rights of the European Union, and in particular Articles 6 and 49 thereof,***

(8) This Framework Decision respects fundamental rights ***as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they emerge from the constitutional traditions common to the Member States as principles of Community law.***

The Union observes the principles recognised by Article 6(2) of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union, notably Chapter VI thereof. Nothing in this Framework Decision may be interpreted as being intended to reduce or restrict fundamental rights or freedoms such as the right to strike, freedom of assembly, of association or of expression, including the right of everyone to form and to join trade unions with others for the protection of his or her interests and the related right to demonstrate.

Justification

The importance to respect fundamental rights in the context of the fight against organised crime should be clearly underlined in this part of the Framework Decision. This formulation is identical to the one used in the Council Framework Decision on combating terrorism of 13 June 2002.

Amendment 3
Article 1a (new)

Article 1a

Prevention and crime control

(a) Each Member State shall take all necessary measures, in accordance with its own legal traditions and available means, to improve the prevention of crime.

In this connection, the following measures are highly recommended:

- increasing public awareness of the extent and nature of criminal activities across Europe and the threats which they pose to the integrity of individuals and the welfare of the Member States,

- promoting the exchange of best practices among Member States. The Community should provide financial assistance to support the information and awareness-raising campaign.

(b) Member States shall ensure that Europol's role as an organ for criminal intelligence is strengthened in order to fulfil its task of providing Member States with information and intelligence leading to most effective results in preventing and combating organised crime.

Justification

The support and co-operation of citizens, duly informed about different types of crime and its far-reaching consequences, is essential to ensure the effectiveness of the fight against organised crime.

The prevention and control of organised crime require global co-operation and should be based on the principles of transparency and democratic control.

Amendment 4
Article 2 , paragraph 1a (new)

This Framework Decision shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.

Justification

The obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union. This formulation, as it is the case of the Council Framework Decision on combating terrorism of 13 June 2002, should be included in the operative part of the text, rather than in the recital's.

Amendment 5
Article 2, point b

(b) conduct by any person who, with intent and with knowledge of either the aim and general activity of the organisation or its intention to commit the offences in question, actively takes part in the organisation's criminal activities, including the provision of information or material means, the recruitment of new members and all forms of financing of its activities, knowing that such participation will contribute to the achievement of the organisation's criminal activities.

(b) conduct by any person who, with intent and with knowledge of either the aim and general activity of the organisation or its intention to commit the offences in question, actively takes part in the organisation's criminal activities, including the provision of information or material means, ***incitement to commit criminal activities***, the recruitment of new members and all forms of financing of its activities, knowing that such participation will contribute to the achievement of the organisation's criminal activities.

Justification

The incitement to criminal activities, in particular among young and consequently easily influenced people, should be strongly condemned.

Amendment 6
Article 4, point a

(a) renounces criminal activity, and

(a) renounces criminal activity,
demonstrates the will to be reintegrated into society, and

Justification

It is essential to avoid the risk of recidivism, and the renouncement of criminal activities should be followed by the reinsertion of an individual into society in the presumption that he fully assumes the rights and obligations of citizen.

Amendment 7 Article 8, point 1

(1) Member States shall ensure that investigations into, or prosecution of, offences covered by this Framework Decision are not dependent on a report or accusation made by a person subjected to the offence, at least if the acts were committed in the territory of the Member State.

(1) Member States shall ensure that investigations into, or prosecution of, offences covered by this Framework Decision are ***conducted in the most efficient way with full respect for human rights and*** not dependent on a report or accusation made by a person subjected to the offence, at least if the acts were committed in the territory of the Member State.

Justification

The investigations should be conducted in a most efficient way while granting full respect of human rights.

Amendment 8 Article 8 , paragraph 2

2. In addition to the measures laid down in Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings, each Member State shall, if necessary, take all measures possible to ensure appropriate assistance for ***victims'*** families.

2. In addition to the measures laid down in Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings, each Member State shall, if necessary, take all measures possible to ensure appropriate ***protection and*** assistance for ***victims and their*** families.

Justification

The importance to respect fundamental rights in the context of the fight against organised crime should be clearly underlined in this part of the Framework Decision. This formulation is identical to the one used in the Council Framework Decision on combating terrorism of 13

June 2002.

PROCEDURE

Title	Proposal for a Council Framework decision on the fight against organised crime
References	COM(2005)0006 – C6-0061/2005 - 2005/0003(CNS)
Committee responsible	LIBE
Opinion by Date announced in plenary	AFET 12.04.2005
Enhanced cooperation – date announced in plenary	No
Draftswoman Date appointed	Anna Elzbieta Fotyga 30.5.2005
Discussed in committee	21.6.2005 29.8.2005
Date adopted	30.8.2005
Result of final vote	+: 53 –: 2 0: 1
Members present for the final vote	Angelika Beer, Panagiotis Beglitis, Monika Beňová, André Brie, Elmar Brok, Ryszard Czarnecki, Véronique De Keyser, Giorgos Dimitrakopoulos, Camiel Eurlings, Anna Elzbieta Fotyga, Ana Maria Gomes, Alfred Gomolka, Klaus Hänsch, Richard Howitt, Toomas Hendrik Ilves, KJelko Kacin, Ioannis Kasoulides, Helmut Kuhne, Joost Lagendijk, Vytautas Landsbergis, Cecilia Malmström, Emilio Menéndez del Valle, Francisco José Millán Mon, Pasqualina Napoletano, Baroness Nicholson of Winterbourne, Vural Öger, Cem Özdemir, PalJustas Vincas Paleckis, Alojz Peterle, Tobias Pflüger, João de Deus Pinheiro, Mirosław Mariusz Piotrowski, Paweł Bartłomiej Piskorski, Bernd Posselt, Raül Romeva i Rueda, Libor Rouček, José Ignacio Salafranca Sánchez-Neyra, Jacek Emil Saryusz-Wolski, Gitte Seeberg, Marek Maciej Siwiec, Hannes Swoboda, István Szent-Iványi, Geoffrey Van Orden, Ari Vatanen, Luis Yañez-Barnuevo García, Josef Zieleniec.
Substitute(s) present for the final vote	Alexandra Dobolyi,Árpád Duka-Zólyomi, Carlo Fatuzzo, Giovanni Claudio Fava, Alexander Lambsdorff, Rihards Pīks, Aloyzas Sakalas, Inger Segelström, Alexander Stubb, Csaba Sándor Tabajdi.
Substitute(s) under Rule 178(2) present for the final vote	
Comments (data available in one language only)	