

# EUROPEAN PARLIAMENT

2004



2009

---

*Session document*

23.10.2006

B6-0544/2006

## **MOTION FOR A RESOLUTION**

further to Questions for Oral Answer B6-0438/2006 and B6-0439/2006

pursuant to Rule 108(5) of the Rules of Procedure

by Karl-Heinz Florenz and Ria Oomen-Ruijten

on behalf of the Committee on the Environment, Public Health and Food Safety

on the follow-up to Parliament's opinion on environmental protection:  
combating crime, criminal offences and penalties

**European Parliament resolution on the follow-up to Parliament's opinion on environmental protection: combating crime, criminal offences and penalties**

*The European Parliament,*

- having regard to the proposal for a directive of the European Parliament and of the Council on the protection of the environment through criminal law<sup>1</sup>,
  - having regard to the report of the Committee on the Environment, Public Health and Consumer Policy on the proposal for a directive of the European Parliament and of the Council on the protection of the environment through criminal law<sup>2</sup>,
  - having regard to the European Parliament legislative resolution on the proposal for a Council decision establishing a framework programme on the basis of Title VI of the Treaty on European Union – Police and judicial cooperation in criminal matters (COM(2001) 646 – C5-0694/2001 – 2001/0262(CNS))<sup>3</sup>,
  - having regard to the judgment of the Court of Justice of the European Communities of 13 September 2005 (Case C-176/03, Commission v. Council)<sup>4</sup>,
  - having regard to the communication from the Commission to the European Parliament and the Council on the implications of the Court's judgment of 13 September 2005 (Case C-176/03 Commission v. Council) (COM 2005)0583)<sup>5</sup>,
  - having regard to the report of the Committee on Legal Affairs on the consequences of the judgment of the Court of 13 September 2005, (C-176/03 Commission/Council), (2006/2007(INI))<sup>6</sup>,
  - having regard to Rule 108(5) of its Rules of Procedure,
- A. whereas the Court of Justice, in its judgment of 13 September 2005, ruled that the European Community is entitled to take measures which relate to the criminal law of the Member States which it considers necessary in order to ensure that the rules which it lays down on environmental protection are fully effective,
- B. whereas the Court of Justice considers that the provisions of Articles 132C and 280(4) EC do not prevent, for the purposes of the implementation of environmental policy, any harmonisation of criminal law,
- C whereas the Court of Justice considers that, 'the entire framework decision, being

---

<sup>1</sup> OJ C 180 E, 26.2.2001, p.238

<sup>2</sup> OJ C 127 E, 29.5.2003, p. 27 and p. 119

<sup>3</sup> OJ C 051 E, 26.2.2002, p. 345

<sup>4</sup> OJ C 315 E, 10.12.2005, p.2

<sup>5</sup> Not yet published in the OJ.

<sup>6</sup> Texts adopted of 14.6.2006, P6\_TA-PROV(2006)0260

indivisible, infringes Article 47 EU as it encroaches on the powers which Article 175 EC confers on the Community',

- D. whereas the European Commission, in its communication on the implications of the Court's judgment of 13 September 2005, stated that the provisions of criminal law required for the effective implementation of Community law are a matter for the TEC,
- E. whereas the position taken by the Court of Justice, as re-interpreted by the Commission, is to be welcomed as it endorses the position already taken by the European Parliament in its resolution on legal bases and compliance with Community law (Koukiadis report - Resolution of the European Parliament on legal bases and compliance with Community law (2001/2151(INI))<sup>1</sup>),
1. Welcomes the judgment of the Court of Justice, which annulled the framework decision on environmental protection which had been adopted mistakenly under the third, rather than the first, pillar;
  2. Notes that the Court of Justice decision leads to a legal vacuum regarding the protection of the environment through criminal law;
  3. Considers that the adoption of the framework decision by the Council shows that the Member States recognise that criminal law instruments are necessary to strengthen the enforcement of environmental protection laws;
  4. Considers that the adoption of the framework decision by the Council shows that the Member States recognise the need for a certain harmonisation in the field of the protection of the environment through criminal law;
  5. Notes that the Court clearly stated that articles 1 to 7 of the framework decision could have been properly adopted under Article 175 of the EC Treaty;
  6. Regrets that the European Commission, in its communication on the implications of the Court's judgment of 13 September 2005, is not more explicit on the action it intends to take in relation to the existing proposal for a directive of the European Parliament and of the Council on the protection of the environment through criminal law;
  7. Calls on the Council to examine the Commission's original proposal with a view to amending it or providing guidance for a new proposal on the protection of the environment through criminal law on the basis of Article 175 of the EC Treaty;
  8. Requests that, unless the Council is determined to make progress in adopting a common position on the original Commission proposal, the European Commission draw up a new proposal on the protection of the environment through criminal law on the basis of Article 175 of the EC Treaty, taking into account the Court of Justice judgment and incorporating the result of the vote at first reading in the European Parliament on the original proposal for a European Parliament and Council directive;

---

<sup>1</sup> OJ C 76 E, 25.3.2004, p. 224

9. Instructs its President to forward this resolution to the Council, the Commission and the Governments and Parliaments of the Member States.