

ORAL QUESTION O-0092/01

pursuant to Rule 42 of the Rules of Procedure

by Graham Watson, on behalf of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, Diemut Theato, on behalf of the Committee on Budgetary Control  
to the Council

Subject: Criminal sanctions and Community law

Having regard to Article 39 of the Treaty on European Union:

A number of recent legislative proposals have raised the issue of the extent to which it is possible to specify, in acts adopted under the Community framework, the criminal nature of sanctions to be established by the Member States.

1. Having regard to existing Community acts which refer to criminal sanctions,<sup>1</sup> to Article 47 of the Treaty on European Union and to current legal advice, what are the legal arguments against the view that the criminal nature of sanctions may be specified in acts adopted under the Community framework, at least in so far as criminal sanctions are necessary to ensure the fulfilment of Community law obligations?
2. If, as is Parliament's opinion, acts requiring Member States to establish criminal sanctions to ensure the fulfilment of Community law obligations can be adopted under the Community framework, what are the reasons for not specifying the criminal nature of sanctions where appropriate, for example, in relation to the environment, public procurement and the protection of the Community's financial interests, in Community acts?
3. If, as seems to follow from the legal analysis, it is accepted that the criminal nature of sanctions can be specified in Community acts, but that the approximation of criminal sanctions falls under the provisions on police and judicial cooperation in criminal matters, Title VI of the Treaty on European Union, then the consequence is that a number of proposals will be examined in parallel under the Community framework and under Title VI of the Treaty on European Union. In these circumstances, what are the arguments against the transfer, pursuant to Article 42 of the Treaty on European Union, of the competence for the approximation of rules on criminal matters in Title VI of the EU Treaty to the Community framework?

Tabled: 17.10.2001

Forwarded: 18.10.2001

Deadline for reply: 08.11.2001

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<sup>1</sup> For example, Regulation 3483/88 (OJ L 306, 11.11.1988, p. 2) establishing certain control measures for fishing activities, which was recognised as valid by the European Court of Justice in Cases C-9/89, Spain v. Council and C-333/99, Commission v. France.