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Committee on Transport and Tourism

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DRAFT OPINION

of the Committee on Transport and Tourism

for the Committee on Civil Liberties, Justice and Home Affairs

on the initiative by the Kingdom of the Netherlands with a view to adopting a Council Decision on tackling vehicle crime with cross-border implications (5450/2004) - C5-0056/2004 - 2004/0803(CNS))

Draftsman: Emanuel Vasconcelos Jardim Fernandes

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SHORT JUSTIFICATION

INTRODUCTION

The subject of cross-border crime is not a new one. It has already been addressed within a wider context than the EU, including at a meeting of the European Conference of Ministers of Transport (ECMT) held in Berlin on 21 and 22 April 1997, at which Resolution no 97/2 on crime in international transport was adopted.

The meeting in question was held just after the Temporary Committee of Inquiry into the Community Transit System had completed its work and presented its conclusions to the plenary in April 1997 (rapporteur: Mr Kellet-Bowman <http://www.europarl.eu.int/auditions>). Those conclusions essentially relate to HGV freight, but certain weaknesses in the system (see comment no 3) and procedures are also applicable to cars and more particularly HGVs that fall within the competence of the Committee on Transport and Tourism.

More recently, governments have taken a number of initiatives aimed at strengthening collaboration between the competent departments and services in the Member States with a view to curbing vehicle crime.

Your draftsman also notes that the procedure for introducing a regulation on direct access to the Schengen Information System by the services in the Member States responsible for issuing registration certificates for vehicles (COM(2003) 0510 - C5-0412/2003) is making good progress. Once such access has been introduced, it will be the key element, and a crucial instrument, in numerous judicial and police activities on an EU scale.

RAPPORTEUR'S COMMENTS

1. The cross-border dimension of the type of crime referred to in the proposal for a Council decision should relate to movement of cars both within the EU and between the EU and third countries.
2. The solution to the problem resides not merely in cooperation between EU Ministers of Justice or Internal Affairs, but also requires the involvement of their counterparts in Transport and of ECMT Ministers, who have already taken stock of the problems in their Resolution no 97/2.
3. Better cooperation at the judicial and police level is desirable, but initially it is the 'watertight' nature of registration systems which is the decisive factor. Such systems have for the most part been established and managed by pan-European bodies, such as the UNECE and the OECD in collaboration with, for example, the IRU. One of the weaknesses of such systems is that they are 'paper-based', which is an easy medium to falsify. IT-based systems, which are now being used more and more, are far more secure both for vehicles and their loads. However, IT access remains a very delicate issue.

4. Computer-based systems are even more effective when the different national systems are linked in a network or shared, as will be the case with the Schengen Information System (SIS) to which, under the Commission proposal (COM(2003) 0510), the national authorities responsible for issuing registration certificates will have access. Your draftsman agrees with the reservations voiced in the report by Mr Coelho adopted at first reading by the European Parliament (A5-205/2004), which recommends that the authorities limit access to the SIS solely to the police and vehicle registration authorities.
5. The quality of systems is of paramount importance in your draftsman's view, and more than police or other controls - which, thanks to the use of IT, may be reduced to a minimum in the transport sector - helps prevent fraud.
6. Preventing theft of vehicles and their loads is of course of the essence. The authorities could help resolve this aspect of the problem by providing protected and supervised parking areas and by paying the greatest possible attention to theft and crime prevention aspects in the training of HGV drivers.
7. Your draftsman is of the view that, in order to implement in practice measures that are outlined in very vague terms in the Council document, steps need to be taken not only under the third pillar but also under the first pillar (European Community) and the second pillar (CFSP). Your draftsman wishes to refer, for example, to the training of HGV drivers (with, for example, a crime prevention section under point 3.2 of Annex I to Directive 2003/59/EC amending Regulation (EEC) No 3820/85 - COD/2001/0033), or to the procedure currently at the first reading stage on driving licences (COM(2003)0621) and the issue, validity and renewal thereof (repealing Directive 91/439/EEC).

As regards cooperation with third countries and international organisations, it is also clear that certain second pillar procedures should be applied. Your draftsman therefore questions whether the legal basis proposed is adequate and complete.

AMENDMENTS

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

Amendment 1
Recital 1

(1) An estimated 1,2 million *motor* vehicles are stolen each year in the Member States of the European Union.

(1) An estimated 1,2 million *passenger* vehicles **and numerous HGVs** are stolen each year in the Member States of the European Union.

Amendment 2
Recital 5 a (new)

(5a) *Implementation of the transport policy as advocated in Title I (Free Movement of Goods) and Title V (Transport) of the Treaty establishing the European Community is also being impeded.*

Amendment 3
Recital 9 a (new)

(9a) *As far as cross-border crime involving commercial vehicles is concerned, there needs to be close collaboration with the IRU (International Road Transport Union), the UNECE (United Nations Economic Commission for Europe) and the ECMT (European Conference of Ministers of Transport), together with the maritime sector.*

Amendment 4
Article 1

For the purposes of this Decision, ***"vehicle"*** means any motor vehicle with a cylinder capacity exceeding 50 cc and trailers and caravans with an unladen weight exceeding 750 kg.

For the purposes of this Decision, ***the following definitions shall apply:***

"vehicle" shall mean any motor vehicle trailer or caravan as defined in the provisions relating to the Schengen Information System (SIS).

"national competent authorities" shall mean any national authorities designated by the Member States for the purposes of this Decision, and may include, as appropriate, police, customs, border guards and judicial authorities.

Amendment 5
Article 4, paragraph 2 a (new)

2a. In the case of commercial vehicles, Member States shall encourage the provision of secure, supervised parking areas in order to prevent theft of HGVs and their loads.

Amendment 6
Article 4, paragraph 2 b (new)

2b. Member States shall also involve ports and all other operators that could be used in connection with cross-border vehicle crime.

Amendment 7
Article 4 a (new)

Article 4a

*Cooperation between competent authorities
and other international organisations*

*Member States shall take the necessary
steps to strengthen their cooperation with
organisations covering wider geographical
areas than the EU.*

Amendment 8
Article 6, paragraph 1

1. Whenever a vehicle is reported stolen, Member States' **law enforcement agencies** shall immediately enter a stolen vehicle alert in the Schengen Information System (SIS) and – where possible – in Interpol's **ASF/Stolen Motor Vehicle System**.

1. Whenever a vehicle is reported stolen, Member States' **competent authorities** shall immediately enter a stolen vehicle alert in the Schengen Information System (SIS), **in accordance with the provisions relating to the SIS**, and - where possible - in Interpol's Stolen Motor Vehicle **database**.

Amendment 9
Article 7, paragraph 1

1. **Law enforcement agencies and vehicle registration** authorities **shall** take the necessary steps to prevent abuse and theft of vehicle registration documents.

1. **Each Member State shall ensure that its competent** authorities take the necessary steps to prevent abuse and theft of vehicle registration documents.

Amendment 10
Article 7, paragraph 2

2. When (re-)registering a vehicle, national vehicle registration authorities shall, in cooperation with the law enforcement agencies, consult the vehicle register of the country of original registration as well as the stolen vehicle search registers referred to in Article 6.

2. As long as vehicle registration authorities have not been granted access to the databases referred to in Article 6(1), the law enforcement agencies, upon request by the national vehicle registration authority, shall inform that authority in accordance with national law, whether a vehicle, that is in the process of being registered, is mentioned in the databases referred to in Article 6(1).

Amendment 11
Article 7, paragraph 3

3. In order to prevent stolen vehicles being (re-)registered, arrangements shall be made at national level for consultation or linkage of the registration systems referred to in Article 6(1) and also for checking the identity of the vehicles.

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Amendment 12
Article 7, paragraph 3 a (new)

3a. Steps shall be taken to introduce penalties for removal or falsification of vehicle identification numbers.

Amendment 13
Article 8, paragraph 1

1. In order to prevent abuse of vehicle registration certificates, **law enforcement**

1. In order to prevent abuse of vehicle registration certificates, **each Member State**

agencies shall – where possible – recover a vehicle owner's or vehicle holder's registration certificate if the vehicle has been seriously damaged in an accident (total loss).

shall ensure that its competent authorities take the necessary steps in accordance with national law, to recover a vehicle owner's or vehicle holder's registration certificate if the vehicle has been seriously damaged in an accident (total loss).