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Committee on Civil Liberties, Justice and Home Affairs

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DRAFT REPORT

on the proposal for a Council Framework Decision on the fight against organised crime
(COM(2005)0006 – C6-0061/2005 – 2005/0003(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Bill Newton Dunn

Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

Page

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION 5

EXPLANATORY STATEMENT.....8

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council Framework Decision on the fight against organised crime (COM(2005)0006 – C6-0061/2005 – 2005/0003(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the Commission proposal (COM(2005)0006)[1],

– having regard to Article 34(2)(b) of the EU Treaty,

– having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0061/2005),

– having regard to Rules 93and 51 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Legal Affairs and the Internal Market (A6-0000/2005),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission	Amendments by Parliament
Amendment 1 Recital 4 a (new)	
	(4a) Subject to the adoption of a third-pillar data protection instrument, cooperation between Interpol and Europol should be developed with a view to information being shared for the purpose of investigating transnational organised crime.

[1] OJ C ... / Not yet published in OJ.

Justification

The relationship between EuroPol and InterPol is not clearly defined and there is overlap. Each has assets that should be shared to effectively combat transnational organised crimes, in particular with a view to information sharing and subject to the third pillar data protection instrument that the European Parliament has been asking for and which the Commission has promised to propose before the end of the year.

Amendment 2
Recital 4 b (new)

(4b) Subject to the adoption of the Framework Decision on the European Evidence Warrant for obtaining objects, documents and data for use in proceedings in criminal matters, Member States should facilitate the mutual recognition of evidence obtained against the perpetrators of transnational organised crime.

Justification

The mutual recognition of evidence is a corner stone in improving the combating of international organised crimes. The European Evidence Warrant must therefore be adopted and implemented as soon as possible.

Amendment 3
Article 6, point (e a) (new)

(ea) confiscation of goods, instruments and proceeds stemming from the commission of the offences referred to in Article 2;

Justification

Confiscating goods, instruments and proceeds from offences is one of the most effective ways of effectively combating crime as it removes the financial basis of their criminal activities.

Amendment 4
Article 6, point (e b) (new)

(eb) destruction of goods;

Amendment 5
Article 6, point (e c) (new)

(ec) publication of judicial decisions.

Amendment 6
Article 8 a (new)

Article 8a

Each Member State shall establish a Serious and Organised Crime Unit and an Asset Recovery Unit, to ensure coordination at national level and to act as a single contact point.

Justification

It is important to ensure proper and simplified coordination and to hit the criminals in the pockets where it hurt the most. Based on recent and successful introduction of such units in the UK and Ireland, Member States ought to consider setting up similar units.

Amendment 7
Article 10, paragraph 1 a (new)

1a. Member States shall collect statistics on the offences referred to in Article 2 and shall forward those statistics to the Commission, which shall draw up harmonised and comparable statistics as from 2006.

Justification

Without proper statistics that are coherent and comparable, the Union is not in a position to effectively deal with or quantify the problem of organised crime.

EXPLANATORY STATEMENT

International Organised Crime is huge, and growing. If it were a country, it would be the fourth largest economy in the world.

The public knows little about it. Local police forces in each member state are supervised democratically so the public is aware of local successes and failures. But there is no democratic oversight or control of international crime-fighting at European or world level.

Local crime is fuelled by international crime. For example, it is estimated that each kilo of heroin sold in our streets causes over two hundred street muggings or house-burglaries.

Who are the international criminal gangs ?They are based mainly outside the EU in places where law enforcement is weak and opportunity for corruption is strong - such as Russia, eastern Europe, central Asia, China, Nigeria, Brazil. Anywhere where there are clever people without opportunities for legitimate employment. They target where the money is, which is inside the EU and inside the USA.

Their principal activities are:
a. drugs - importing heroin from Afghanistan, and cocaine from Columbia, and exporting Ecstasy from Europe.
b. smuggling counterfeit goods which are made cheaply and are of low quality - such as CDs and DVDs, imitation jeans and perfumes, but also fake condoms, aircraft parts, car brakes, medicines, baby-foods and much more. These undermine honest EU workers' jobs and oblige taxpayers to pay extra to compensate for what is lost.
c. identity theft, mainly on the internet, persuading gullible Europeans to voluntarily reveal their bank details, or social security numbers, to enable the thieves to steal their money
d. trafficking of women for prostitution, children for paedophilia, and illegal immigrants into the EU
e. currency counterfeiting
f. violent theft of luxury cars for sale in eastern Europe
g. smuggling of cigarettes and alcohol because of very different local taxes
h. money-laundering to conceal the criminal origins of money - such as the Mafia buying banks in Latvia before EU Enlargement, and the IRA seeking to buy a Bulgarian bank before that state joins the EU.

Some terrorist groups use organised crime to finance their political activities. The Madrid bombers sold fake CDs and DVDs to hep finance their activities.

How is the European Union fighting against the organised criminal gangs ? The answer is : probably badly, but we are not being told so we do not know. The member states do not know either because there are no standard statistics across the EU to record and reveal the overall extent of organised crime. Nobody has a clear overall picture.

In the EU, our internal borders are open. For businessmen and individual travellers this a huge advantage. So it is for criminals. But Europe's law enforcement agencies are all national, their officers cannot cross frontiers, and their efforts are therefore limited.

The EU has EuroPol. It is our intelligence-coordinating centre at The Hague in the Netherlands. However its officers do not have power of arrest and EuroPol does not have power to compel any national agency to take action. It was left leaderless by the bickering Council of Ministers for several months in 2004-5. EuroPol is an EU agency but its budget is inter-governmental, so EU citizens have no control or even insight over its spending and resources.

There is also InterPol, at Lyon in France. This is a policemen's club entirely financed by contributions from police forces around the world. It has no officers who can make arrests either. The relationship between EuroPol and InterPol is not clearly defined and there is overlap. Each has assets cannot be shared with the other agency because national governments have rules which impede cooperation.

The EU has an even worse problem. It is simple "lack of trust". Just as the Americans discovered after "9/11", that the CIA and the FBI were not cooperating together but were behaving as rivals, so the same phenomenon exists in Europe but on a greater scale.

Inside member states there is lack of trust between separate local police forces. Information is power, and owners of information are reluctant to share it.

Across EU internal borders, the lack of trust is much greater. What little cross-border police cooperation there is done on the basis of personal contacts. There is no EU centre where the contact numbers and names for police in all 25 member states can be quickly obtained. The EU Directive to enable Joint Investigation Teams has still not come into effect because not all member states have ratified it into their own law. The European Arrest Warrant has still not been ratified by Italy.

Why do national leaders, who know most about the problem because they control national police forces, do so little to fight organised international crime ? Psychologically it is because they want to win national elections, not European elections. They keep their police resources for combating crimes within their own state, even though international crimes fuel local crimes. They win few votes from their public for diverting scarce police resources for fighting international crime elsewhere because the public does not know the extent of organised international crime.

Europe's voters need to know the true picture - of the surprising extent and sophistication of organised criminal gangs, and of the failure of EU member states to agree on action and powers at the EU level. Perhaps only the European Parliament can press for the needed transparency, for an end to national bickering, and for action at EU level before it is too late.

A fundamental question. Are the police supposed to agents of governments or protectors of the public? Those who believe the latter should press for more transparency and for democratic control at EU level.

Notes on particular Articles:

Article 1: The sense of the LIBE committee is that this Article is necessary, although the UK government has communicated that it believes that it is not necessary because it would have to create new offences in UK law

New Article 8B Admissibility of Evidence
Agreement needs to be reached about what evidence is admissible in courts - for example, evidence against criminals from intercepts obtained from telephone tapping or from the UK's worldwide listening centre at Cheltenham, the GCHQ (Government Communications Headquarters) cannot be used in UK courts.

New Article 8D New Agencies
The UK, which has over eighty separate police forces, is creating one central SOCA (Serious & Organised Crime Agency) to coordinate the fight against the criminals. It is known as the UK's new FBI. Other member states should take steps to coordinate their internal agencies' work. The Republic of Ireland was the first to create an Assets Recovery Bureau, which can seize the assets of accused criminals. Hitting the criminals in the pocket hurts them most. Other member states should follow the Irish example.