EVROPSKI PARLAMENT

2004 *2009*

Odbor za državljanske svoboščine, pravosodje in notranje zadeve

ZAČASNO
2005/0003(CNS)

20.6.2005

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OSNUTEK POROČILA

o predlogu Okvirnega sklepa Sveta o boju proti organiziranemu kriminalu
(KOM(2005)0006 – C6-0061/2005 – 2005/0003(CNS))

Odbor za državljanske svoboščine, pravosodje in notranje zadeve

Poročevalec: Bill Newton Dunn

Oznake postopkov

*	Postopek posvetovanja *večina oddanih glasov*
**I	Postopek sodelovanja (prva obravnava) *večina oddanih glasov*
**II	Postopek sodelovanja (druga obravnava) *večina oddanih glasov za odobritev skupnega stališča* *absolutna večina poslancev Parlamenta za zavrnitev ali spremembo skupnega stališča*
***	Postopek privolitve *absolutna večina poslancev Parlamenta, razen v primerih, navedenih v členih 105, 107, 161 in 300 Pogodbe ES in členu 7 Pogodbe EU*
***I	Postopek soodločanja (prva obravnava) *večina oddanih glasov*
***II	Postopek soodločanja (druga obravnava) *večina oddanih glasov za odobritev skupnega stališča* *absolutna večina poslancev Parlamenta za zavrnitev ali spremembo skupnega stališča*
***III	Postopek soodločanja (tretja obravnava) *večina oddanih glasov za odobritev skupnega besedila*

(Vrsta postopka je odvisna od pravne podlage, ki jo predlaga Komisija.)

Spremembe zakonodajnega besedila

Pri spremembah, ki jih predlaga Parlament, je spremenjeno besedilo označeno s krepkim poševnim tiskom. Besedilo, zapisano v navadnem poševnem tisku, označuje tehničnim službam namenjeni del zakonodajnega besedila s predlaganimi popravki, ki se upoštevajo pri pripravi končnega besedila (na primer, očitne napake ali izpustitve v zadevni jezikovni različici). O teh popravkih odločajo pristojne tehnične službe.

VSEBINA

Stran

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OSNUTEK ZAKONODAJNE RESOLUCIJE EVROPSKEGA PARLAMENTA

o predlogu Okvirnega sklepa Sveta o boju proti organiziranemu kriminalu (KOM(2005)0006 – C6-0061/2005 – 2005/0003(CNS))

(Postopek posvetovanja)

Evropski parlament,

– ob upoštevanju predloga Komisije (KOM(2005)0006)[1],

– ob upoštevanju člena 34(2)(b) Pogodbe EU,

– ob upoštevanju člena 39(1) Pogodbe EU, v skladu s katerim se je Svet posvetoval s Parlamentom (C6-0061/2005),

– ob upoštevanju členov 93 in 51 svojega Poslovnika,

– ob upoštevanju poročila Odbora za državljanske svoboščine, pravosodje in notranje zadeve ter mnenj Odbora za zunanje zadeve in Odbora za pravne zadeve in notranji trg (A6-0000/2005),

1. odobri predlog Komisije, kakor je bil spremenjen;

2. poziva Komisijo, da ustrezno spremeni svoj predlog v skladu s členom 250(2) Pogodbe ES;

3. poziva Svet, da obvesti Parlament, če namerava odstopati od besedila, ki ga je Parlament odobril;

4. poziva Svet, da se ponovno posvetuje s Parlamentom, če namerava bistveno spremeniti predlog Komisije;

5. naroči svojemu predsedniku, da stališče Parlamenta posreduje Svetu in Komisiji.

Besedilo, ki ga predlaga Komisija	Predlogi sprememb Parlamenta
	Predlog spremembe 1 Uvodna izjava 4 a (novo)
	(4a) V luči sprejetja instrumenta za varstvo podatkov za tretji steber je treba razviti sodelovanje med Interpolom in Europolom v zvezi z izmenjavo informacij za namen preiskovanja mednarodnega organiziranega kriminala.

[1] UL C ... / Še neobjavljeno v UL.

Obrazložitev

Razmerje med Europolom in Interpolom ni jasno opredeljeno, zato med njima prihaja do prekrivanj. Vsaka organizacija ima svoje prednosti, ki jih treba učinkovito uporabiti v boju proti mednarodnemu kriminalu, zlasti v zvezi z izmenjavo informacij in v luči sprejetja instrumenta za varstvo podatkov za tretji steber, ki ga zahteva Evropski parlament, predlog zanj pa je Komisija obljubila še pred koncem leta.

Predlog spremembe 2
Uvodna izjava 4 b (novo)

(4b) Ob upoštevanju sprejetja Okvirnega sklepa o evropskem dokaznem nalogu za pridobitev predmetov, dokumentov in podatkov za uporabo v postopkih v kazenskih zadevah bi morale države članice omogočiti vzajemno priznavanje dokaznih sredstev, pridobljenih proti storilcem kaznivih dejanj na področju mednarodnega organiziranega kriminala.

Obrazložitev

Vzajemno priznavanje dokazov predstavlja temelj za izboljšanje boja proti mednarodnemu organiziranemu kriminalu, zato je treba čimprej sprejeti in uvesti evropski dokazni nalog.

Predlog spremembe 3
Člen 6, točka (e a) (novo)

(ea) zaplemba predmetov, sredstev in premoženjskih koristi, pridobljenih s kaznivimi dejanji iz člena 2;

Obrazložitev

Zaplemba predmetov, sredstev in premoženjskih koristi je eden najučinkovitejših načinov za uspešen boj proti kriminalu, saj odstrani finančno osnovo za kriminalno dejavnost.

Predlog spremembe 4
Člen 6, točka (e b) (novo)

(eb) uničenje blaga;

Predlog spremembe 5
Člen 6, točka (e c) (novo)

(ec) objava sodnih odločb.

Predlog spremembe 6
Člen 8 a (novo)

Člen 8a

Vsaka država članica ustanovi Enoto za hud in organiziran kriminal ter Enoto za zaseg premoženja, da zagotovi usklajenost na nacionalni ravni in vzpostavi eno samo kontaktno točko.

Obrazložitev

Pomembno je zagotoviti ustrezno in poenostavljeno usklajevanje ter storilce kaznivih dejanj udariti po žepu, saj jih to najbolj prizadene. Na osnovi pred kratkim uspešno vzpostavljenih takšnih enot v Združenem kraljestvu in na Irskem bi morale države članice razmisliti o ustanovitvi podobnih enot.

Predlog spremembe 7
Člen 10, odstavek 1 a (novo)

1a. Države članice vodijo statistiko o kaznivih dejanjih iz člena 2 in jo posredujejo Komisiji, ki od leta 2006 naprej pripravlja usklajene in primerljive statistike.

Obrazložitev

Brez usklajenih in primerljivih statistik se Unija s problemom mednarodnega kriminala ne more uspešno spoprijeti ali ga izraziti v številkah.

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.