



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 6 June 2012

10970/12

**PE 252
JAI 406
CRIMORG 60**

NOTE

from: General Secretariat of the Council
to: Delegations

Subject: Summary record of the meeting of the European Parliament **Special committee on organised crime, corruption and money laundering (CRIM)**, held in Brussels on 4 June 2012

The meeting was chaired by Ms ALFANO (ALDE, IT). The agenda was adopted. The committee approved the minutes of the meeting of 18 April 2012.

Item 4 on the agenda

Exchange of views with Cecilia Malmström, European Commissioner for Home Affairs, on the overall strategy of the Commission with respect to organised crime, corruption and money laundering

Commissioner Malmström referred to the European Parliament Resolution on organised crime adopted on 25 October 2011 and said that organised crime was one of the biggest threats to our societies, stressing the need to get better statistics on the huge costs of organised crime.

Recalling the 2010 Commission internal security strategy, she outlined EU initiatives against serious and organised crime. As regards the fight against cybercrime, she made particular reference to the European cybercrime centre set up at Europol. She emphasised the need to cut off terrorists' access to their financial assets and mentioned in this regard the recent proposed Directive on the freezing and confiscation of proceeds of crime in the European Union and the Commission's proposed anti-corruption package. She also drew attention to the forthcoming review of EU anti-money-laundering legislation, led by Commissioner Barnier.

Commissioner Malmström also advocated better access and exchange to information between law enforcement authorities, considering that EU PNR information was one way to identify and disrupt criminal networks, in particular human and drugs trafficking. She also said that the Commission would propose a new legal basis for EUROPOL and CEPOL¹. Finally, she referred to the ongoing discussions on the Commission proposal on establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management, and she stressed the need to work towards more simplification in the delivery mechanisms and greater flexibility.

Ms MATHIEU (EPP, FR) asked what resources would be available to EUROPOL for the cybercrime centre. She also wanted to know whether the Commission would make additional EU resources available to CEPOL in order for it to become a real police academy. She also asked about relations with third countries, and in particular with the US.

Ms FAJON (S&D, SI) wondered about the possibility of establishing a European public prosecutor. Mr NEWTON DUNN (ALDE, UK) considered that tax havens were one of the main problems in this area and that the report of this special committee should put the emphasis on the real impact of organised crime for the economy and jobs.

Mr STAES (Greens/EFA, BE) asked how the different parts of the Commission worked together on such a complex matter. Mr KIRKHOPE (ECR, UK) wanted to know whether there was progress in the exchange of information between law enforcement authorities. Mr SØNDERGAARD (GUE/NGL, DK) asked the Commission to involve civil society in the discussions on organised crime. Ms ALFANO (ALDE, IT) asked about the timeframe for re-evaluating EU legislation on the fight against organised crime.

¹ European Police College

The Commissioner replied to the last question by saying that such an evaluation should be completed by the end of 2012. She also answered that the cybercrime centre would be built gradually and that the proposal on CEPOL would be submitted by the end of the year. She outlined EU-US cooperation in this area, notably in the fight against cybercrime and child pornography on the internet. She believed that establishing a European public prosecutor would be a good idea. She indicated that concerned Commissioners work together on the Commission Internal Security Strategy and that the Commission would make a proposal on tax havens by the end of the year. She said that the Commission was promoting better cooperation between EUROPOL and EUROJUST and added that the future new legal framework on EUROPOL would be designed to increase parliamentary accountability and information sharing between Member States. She mentioned that the Commission, and in particular the EU Anti-Trafficking Coordinator, was working with civil society.

Mr IACOLINO (EPP, IT) stressed the need for close cooperation between Member States and with third countries and added that this special committee should examine whether EU agencies active in this area worked efficiently. He also regretted that the EU budget on organised crime had decreased. Ms BORSELLINO (S&D, IT) stressed the economic power of criminal networks and called for prevention to be looked into in this field as well. Mr MITCHELL (EPP, IE) considered that seizure of financial assets across the EU would deter people from organised crime. Ms BOZKURT (S&D, NL) asked whether the Commission was acting to combat match-fixing.

The Commissioner concluded that fighting against organised crime required a multi-faceted and holistic approach. She said that an evaluation was ongoing with Member States on the “European Information Exchange Model” and that Commissioner Vassiliou was working on a study on match-fixing.

Item 5 on the agenda

Presentation by the EP Legal Service on the legal framework provided by the EU Treaties for dealing with organised crime, corruption and money laundering

An EP Legal Service representative presented the legal bases of the TFEU applicable to the fight against crime after the Lisbon Treaty, specifying that EU criminal law had to comply with the Charter of Fundamental Rights and with the principles of subsidiarity and proportionality. He recalled in this regard the recent EP Resolution of 22 May 2012 on an EU approach to criminal law and stressed the need to bear in mind the complex national, EU and international legal framework in this area.

He referred to article 83(1) TFEU which allows for the establishment of minimum rules concerning the definition of criminal offences and sanctions in areas of particularly serious crime with a cross-border dimension. He indicated that two legal acts had been adopted on this basis, i.e. Directive 2011/36/EU on preventing and combating trafficking in human beings and Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography. He pointed out that this article specifically listed organised crime, corruption and money laundering as areas of crime for which EU minimum rules could be developed. He added that Article 325 TFEU could be another possible legal basis for measures in the fields of the prevention of and fight against fraud affecting the financial interests of the Union. In his view, Article 114 TFEU (ex 95) could also be used to establish related administrative measures.

He also mentioned subparagraph 2 of Article 83(1) TFEU which would allow the Council to adopt a decision adding other areas of crime. He spoke about Article 83(2) TFEU and the recent Commission Proposal for a Directive on criminal sanctions for insider dealing and market manipulation adopted on this basis and the Commission Communication of 22 September 2011 on EU criminal law.

After having referred to possible measures under Article 82 TFEU on judicial cooperation in criminal matters, he said that Article 84 TFEU on crime prevention had not been applied yet and that the Treaty enabled the EU to support training for judiciary and police staff. Finally, he brought up Article 86 TFEU, which provided for a specific legislative procedure for the possibility to create a European Public Prosecutor's Office.

He considered that the main innovation of the Lisbon Treaty in this area has been the introduction of the codecision procedure but also recalled the specificities of Title V of the Treaty, on JHA. He gave the examples of the so-called “emergency brake” provision in Articles 82 and 83 TFEU and of Article 87 TFEU on operational police cooperation, whereby the Council acts unanimously after consulting the European Parliament. He also referred to Protocol 21 applicable to the UK and IE and to the Protocol 22 applicable to DK. He added that, in line with protocol 36 on transitional provisions, the powers of the Court of Justice in this area were currently limited. He concluded that the EU did not have exclusive competence in this area but had significant shared competence as regards the definition, prevention and sanctions of crimes, specifying that enforcement of sentences was excluded from EU competence.

Mr MITCHELL (EPP, IE) noted that some national criminal assets bureaus used civil law to seize financial assets and asked whether it would be possible to use civil law through EU enhanced cooperation.

Like Ms BORSELLINO (S&D, IT), Mr CROCETTA (S&D, IT) advocated the establishment of an EU framework for witness protection given the lack of EU consistency on the matter and considered that confiscation of goods should be used for social goods. Ms WEILER (S&D, DE) wanted to know whether there were legal shortcomings in this area and wondered why confiscation of goods was easier in the US than in the EU.

Ms MATHIEU (EPP, FR) asked the EP legal service for its opinion about point 7 of EP Resolution of 25 October 2011 on organised crime, which requested the abolition of the current dual approach which criminalises both membership and conspiracy. Mr IACOLINO (EPP, IT) said that an important issue was how to deal with mafia assets and that cooperation between Member States was key in this regard. Ms ALFANO (ALDE, IT) was interested in having additional information on Article 87(2)(c) on common investigative techniques.

The EP Legal Service representative acknowledged national differences concerning the nature of seizures (administrative, civil or criminal). He referred to the current negotiations on the proposed Directive establishing minimum standards on the rights, support and protection of victims of crime and on the difficulties of going beyond some national legal traditions and said that the role of witnesses in criminal proceedings remained a national competence. He added that the issue of common investigative techniques should be further examined.

Item 6 on the agenda

Exchange of views with a representative of DG JUST on the past, present and future activities of this Directorate General of the Commission with respect to organised crime, corruption and money laundering

The Commission representative recalled the 2011 Commission Communication on criminal law and stated that differences amongst the national systems remained substantial and that EU minimum rules and Member States' cooperation could bring added value in the area of criminal law.

She considered that, alongside legislation, implementation of law was equally important, quoting in particular the European Arrest Warrant, the start of trilogues on the European Investigation Order, joint investigation teams involving Eurojust and Europol. She also referred to EU minimum standards on procedural rights in criminal proceedings, current trilogues on the proposal on minimum rules for protecting victims and existing EU Directives on environmental crime and on market abuse. As regards confiscation, she said that there were two framework decisions implemented by half of the Member States, that the national systems were very different and that the Commission had begun a comparative study on this issue. She also drew attention to ECRIS², a new tool recently created to improve the exchange of information on criminal records throughout the EU. She added that a study was ongoing on the 2004 Council Framework Decision on drug trafficking, with the possibility of legislation being updated next year, and that the Commission was planning a proposal this year to amend the 2005 Council Decision on psychoactive substances.

She said that the Commission was planning to adopt a proposal for a Directive on the protection of the euro against counterfeiting through criminal law. She also indicated that the Commission would propose a Directive, on the basis of Article 86 TFEU, to combat crimes affecting the financial interests of the Union, referring to OLAF recent figures of around 600 million euro in fraud. She said that the Commission should adopt a proposal next year to develop and strengthen EUROJUST and added that the Commission had begun a process of reflecting on the establishment of a European Public Prosecutor with the view to submit a proposal next year.

² European Criminal Records Information System

As regards mutual recognition of judicial decisions, she deemed that what was needed was a swift and speedy mechanism to deal with organised crime efficiently but that implementation reports showed a lack of trust between Member States in this area. She thought that one way to fill this gap was to further develop training in EU law for legal practitioners.

Ms MATHIEU (EPP, FR) had the impression that police cooperation was working better than judicial cooperation in terms of fighting organised crime and asked about the visits to DG Justice's portal. Ms GOMES (S&D, PT) and Mr SKYLAKAKIS (ALDE, EL) mentioned specific national cases of trials of corruption and money laundering, in particular in the area of defence procurement. Mr NEWTON-DUNN (ALDE, UK) asked about the functioning of joint investigation teams and questioned their usefulness since there were only 33 joint teams in place.

The Commission representative replied that it was necessary to promote police and judicial cooperation but that it took time, given the different legal traditions and cultures. To this end, she said that agencies had to further work together, that there was a need to promote networking and use EU funding. She indicated that there were 50/60 000 hits a month on the e-justice portal and that a campaign would be launched to raise awareness. On training, she said that the EU could act as a catalyst but that the actual work had to be done by Member States. She specified that the protection of EU financial interests would concern the EU budget only. She considered that there was an increasing interest in joint investigations teams and said that a network would be set up to promote best practices.

Item 8 on the agenda

Next meeting(s)

- 19 June 2012, 9.00-12.30 and 15.00-18.30

Item 9 on the agenda (In camera)

Coordinators' meeting
