

Fight against crime: conclusion of the United Nations Convention against Corruption UNCAC, October 2003

2006/0023(CNS) - 25/09/2008 - Final act

PURPOSE: to conclude, on behalf of the European Community, the United Nations Convention against Corruption.

LEGISLATIVE ACT: Council Decision 2008/801/EC on the conclusion, on behalf of the European Community, of the United Nations Convention against Corruption.

BACKGROUND: in its resolution 55/61 of 4 December 2000, the United Nations' General Assembly recognised that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organised Crime, was desirable. Negotiations on the Convention were completed in October 2003 and the UN General Assembly adopted the text at its 58th session in October 2003, and opened it for signature at a high-level political conference in Mérida, Mexico, from 9 to 11 December 2003.

The Commission actively participated in the UN negotiations, in close cooperation with EU Member States and non-EU G8 countries. Since the Convention is not only open for signature by States but also by regional economic integration organisations, such as the EC, the Council authorised its signing, on behalf of the European Community.

In preparation for the fourth conference of parties to the United Nations Convention against Transnational Organised Crime (8-17 October 2008), the Council adopted a common position on the follow-up of the implementation of the Convention as well as the instrument aimed at approving the Convention on behalf of the Community.

CONTENT: the United Nations Convention against Corruption is the first global instrument on the prevention of, and fight against, corruption. It provides a comprehensive framework and a variety of important minimum standards for all participating States.

In particular, it contains:

- a) **provisions on corruption** which fall within Community competence. These provisions are consistent with the Community's legislation **applicable to the public administration of the Community**, and with the relevant Community acquis. The main points of the Convention on this point can be summarised as follows:
 - provisions which set out obligations with respect to the organisation of the public sector of the State Parties (Chapter II), which in principle are susceptible to being applied to the European Community, once it has become a party to the Convention (Article 67 para. 2). Moreover, since Article 2 (a) of the Convention defines "public official" as "any person holding a legislative, executive, administrative or judicial office of a State Party..." this definition would include officials of the European Community once it has acceded to the Convention;

- as regards the Community's civil service, most of the matters dealt with in Chapter II of the Convention are governed by provisions of Community law. Moreover, the European Community has an exclusive competence to accept such obligations with respect to its own public administration
- b) **provisions affecting public procurement:** The Community acquis provides for measures to ensure the free movement of goods, capital and services which includes public procurement legislation intended to ensure transparency and the equal access of all candidates for the public contracts and services markets while preventing fraud, corruption and collusion between those submitting tenders. The Community acquis also contains measures on accounting and auditing. To the extent that provisions of the Convention affect such instruments, the Community has, in accordance with the case law of the Court of Justice, an exclusive competence to accept the corresponding international obligations;
- c) **provisions on money laundering:** the Convention provides for a high standard of measures to combat money laundering which conform to the Community acquis on measures to prevent the financial system, as well as other institutions and professions considered to be vulnerable, from being used to launder money. The Community is competent in respect of measures concerning cooperation between Financial Intelligence Units by virtue of the third antimoney laundering Directive, which repealed and replaced the first and second antimoney laundering Directives. On the same date, a Regulation on controls of cash entering or leaving the Community was adopted;
- d) **provisions to combat corruption in the framework of cooperation with third countries:** Community policy in the sphere of external action, including development cooperation and cooperation with other third countries, complements policies pursued by Member States and includes provisions to combat corruption, for example Art. 97 of the Cotonou Partnership Agreement of 23 June 2000, amended on 23 February 2005, which provides for a consultation procedure "in serious cases of corruption" with the ultimate possibility of suspending assistance.

Finally, the Community acquis also comprises the development of policies and practices aimed at preventing and fighting corruption affecting the financial interests of the European Communities. In addition, it ensures the existence of appropriate bodies which prevent corruption, such as the European Commission, the European Anti-fraud Office (OLAF), the European Court of Auditors, the Ombudsman, the Court of Justice of the European Communities and the European Parliament (Budgetary Control Committee) as well as the existence of appropriate procedures, such as those set out in Articles 22 (a) and 22 (b) of the Staff Regulations which concern disclosure of information.

ENTRY INTO FORCE: the Convention shall enter into force when all of the procedures provided for to this end have been carried out.