Organised crime in the European Union

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The Committee on Civil Liberties, Justice and Home Affairs adopted the own-initiative report Sonia ALFANO (ADLE, IT) on organised crime in the European Union.

Members note that the mafia-style criminal organisations operating in Europe have an impressively large turnover, particularly in the case of Italian organised crime groups, which are conservatively estimated to have revenues of at least **EUR 135 billion**, a figure which is higher than the combined GDP of 6 EU Member States. Accordingly, they welcome the measures to curb organised crime proposed in the Stockholm Programme, in the relevant action plan and in the internal security strategy and hopes that under the new trio Presidency combating organised crime will be included among the **political priorities**.

Members are convinced that organised crime, whether or not of the mafia type, is among the key threats to the internal security of the EU and the freedom of its citizens. They consider that, although there is a risk that criminal organisations may cooperate increasingly frequently with terrorist organisations, organised crime should be treated separately from terrorism, and they call for a specific, horizontal EU strategy on the issue, including legislative and operational measures, the allocation of funds and a strict implementation timetable.

Endorsing the Council conclusions of 8-9 November 2010 on the EU policy cycle for organised crime, Members call on the Council to **revise the decision and make provision for Parliament's involvement in this area**.

The committee goes on to ask Member States to :

- strengthen their judicial authorities and police force son the basis of the best current experience;
- assign adequate human and financial resources for that purpose;
- pursue a proactive approach to investigation, and draw up national plans to combat organised crime;
- provide for central coordination of activities by appropriate specific structures, taking their cue from the most successful experiences of some Member States.

At the same time, the committee stresses that all measures to counter organised crime must respect fundamental rights in full and be proportionate to the objectives pursued without unduly restricting the freedom of individuals. It expresses deep concern at the attempts by organised crime to infiltrate the sectors of politics, government at all levels, the economy and finance. Members call on the Commission, the Council and the Member States to focus their dissuasive action on attacking criminal assets, including those which are often hidden behind a network of front men and supporters, political institutions and lobby groups and make efforts to combat organised crime taking full account of 'white collar' crime.

Improving the EU legislative framework: given that organised crime is growing, Members call on Member States to improve cooperation and coordination and to approximate their legislation, especially with reference to the development of common, standard procedures and types of criminal offence, drawing on the good practices. They also ask for the ratification and/or transposition of all European and international legal instruments relating directly or indirectly to action to combat organised crime.

Amongst other measures, and taking account of the extremely limited impact of Framework Decision 2008 /841/JHA on organised crime, the report calls on the Commission to submit, by the end of 2013, a proposal for a directive which:

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contains a more concrete definition of organised crime and better identifies the key features of the phenomenon, focusing in particular on the key concept of organisation;
- a study of the abolition of the current dual approach (which criminalises both membership and conspiracy) and the identification of a range of typical offences which could be deemed to constitute such a criminal offence;
- focus on attacking criminal assets, including those that are indirectly linked to criminal organisations and their affiliates, which are often hidden behind a network of front men and supporters.

The Commission is also called upon to submit a framework proposal for a directive on the procedure for the seizure and confiscation of the proceeds of crime, including the following elements:

- rules on the effective use of instruments such as extended and non-conviction-based confiscation;
- rules concerning the mitigation of the burden of proof after the conviction of an offender for a serious offence (including offences related to organised crime) concerning the origin of assets held by the offender;
- the introduction of instruments in national legal systems which, under criminal, civil or fiscal law, as appropriate, mitigate the burden of proof regarding the origin of assets held by a person accused of an offence related to organised crime;
- rules allowing for the seizure and subsequent confiscation of assets assigned to third parties;
- the actions of the front man in such cases to be treated as a criminal offence, since his aim is to sidestep the enforcement of asset protection measures or facilitate the commission of the offences of receiving, laundering and using money obtained illegally.

Members also ask the Commission to: i) support the urgent need for European legislation on the re-use of crime proceeds for social purposes; ii) strengthen the role and competences of Asset Recovery Offices; iii) draw up a study by the end of 2013 on the investigative practices employed in the Member States to combat organised crime, with particular reference to the use of tools such as telephone interception, environmental interception, search procedures, delayed arrest, delayed seizure, undercover operations and controlled and supervised delivery operations; vi) submit a proposal for a directive by the end of 2014 on common investigative techniques to combat organised crime, pursuant to Article 87(2)(c) of the TFEU; v) EU legislation covering court witnesses, informers, whistleblowers and their families with all types of victim to be treated equally (in particular the victims of organised crime and of terrorism and those injured in the course of their duties); vi) establishing a European fund to protect and assist victims of organised crime and court witnesses; vii) promote the role of associations of victims' families.

Eradicating entrenched mafia-style organised crime in the EU: Members urge the Commission to draw up a proposal for a directive to make associating with mafias or other criminal rings a punishable crime in all Member States, in order to be able to punish criminal organisations which profit from their very existence, through their ability to intimidate – even without any specific acts of violence or threats – with the aim of committing crimes, influencing the running of the economy, general government, public services and the electoral system. They state their intent to set up a Parliamentary special committee on the dissemination of criminal organisations which operate across borders, including mafias, one of whose aims will be to investigate the extent of the phenomenon. They call on the Commission, in cooperation with Europol and Eurojust, to conduct a study by June 2013 to assess the negative impact of transnational organised crime in the EU.

Improving the functioning of European structures and strengthening relations with other international institutions: the committee calls on Member States to transpose and implement immediately Council Decision 2009/426/JHA on the strengthening of Eurojust and to comply with all its recommendations. It asserts the importance of strengthening Eurojust in countering transnational organised crime, with reference to its powers of initiative, particularly the power to initiate investigations.

It also calls on Europol to step up relations with the European Parliament, to engage more effectively with organised crime and mafia-style crime and to collaborate even more closely with Interpol with a view to combating criminal organisations at international level. Members go on to recommend other measures such as the improvement of cooperation between national police services and judicial authorities of Member States. They call on Europol, Eurojust and OLAF and the European Anti-Trafficking Coordinator to make tangible efforts to establish a clear breakdown of responsibilities with a view to avoiding any duplication of effort.

Developing the principle of the mutual recognition of criminal decisions and improving judicial and police cooperation in the EU and with third countries: Members consider that considerable attention needs to be paid to informing and raising awareness among judicial and police authorities. They want to ensure the strengthening of judicial cooperation, including that between Member States, in order to establish a common area of security and justice.

Several measures are recommended, including the following:

- the effective implementation of the European Arrest Warrant;
- ensuring that the European arrest warrants they issue are always forwarded to Interpol;
- giving a new impetus to the work of joint investigation teams both by ensuring full implementation of Framework Decision 2002/465/JHA;
- regularly update agreements on judicial and investigative cooperation with non-EU countries aimed at combating cross-border organised crime;
- more frequent and more detailed analyses of non-European criminal organisations whose activities have a direct or indirect impact on the EU (e.g the Balkans, and West Africa).

Members set out a series of other measures for fighting organised crime, particularly the following : a) promoting a culture of legality; b) developing a framework to ensure transparency and effective monitoring of the development of abandoned and adopted children; c) public sector transparency in the fight against organised crime d) an appropriate system of penalties and suitable detention provisions for offences relating to organised crime preventing people continuing to lead organisations during their sentences or helping them to achieve their aims by committing further crimes;

Counter-measures relating to specific areas of action of organised crime: Members stress the need for a proactive approach to combating corruption and calls on the Commission to place emphasis on measures to counter both public and private sector corruption. Effective measures are required to combat corruption in the neighbourhood policy, in the area of pre-accession and in the use of development aid funds. The report calls on European political groups to draw up internal codes of ethics to prevent those who have been convicted, even if not definitively, of such offences from standing for election.

Lastly, Members call on the Commission and Member States to:

- prevent companies linked to organised crime and mafias from taking part in public tenders and public procurement management;
- ensure the traceability of financial flows in connection with public works, service and supply contracts;
- present proposals setting out grounds for exclusion from public procurement procedures and special precautions in respect of people who are currently under investigation or being prosecuted;
- draw up black-lists to prevent the misappropriation of public funds in the EU;
- improve their policies on offshore financial centres and uncooperative jurisdictions, in particular by adopting a list of jurisdictions that should be monitored more stringently ;
- develop a coherent European legislative framework on offences involving identity theft, cybercrime, fraud, illegal gambling and rigged sports events;

- send out a clear message at EU and international level with a view to curbing all forms of money laundering through the use of the financial markets, in particular by envisaging possible capital control measures, encouraging a reduction of the pervasiveness of the financial markets in the context of short-term operations and imposing increased transparency on the use of public funds;
- monitor the transposition by the Member States of the EU directive on the protection of the environment through criminal law;
- adopt a proactive approach to investigating cases of extortion, for example through incentives and forms of financial support to enable complainants to continue their business activities, together with the launch of investigations on the basis of intelligence work;
- incorporate specific provisions on the role of organised crime in the legislative framework applicable to the fight against counterfeiting and allow the confiscation of illicit goods across the EU.