Organised crime, corruption and money laundering

2012/2117(INI) - 11/06/2013 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on organised crime, corruption, and money laundering (interim report by the European Parliament special committee on the same subject) and proposed a series of recommendations on action and initiatives to be taken.

Parliament calls for a **coherent uniform regulatory framework** as regards organised crime, corruption, and money laundering. It considers it necessary to prepare an appropriate political response to combat the presence of criminal organisations and mafias at EU level by means of a detailed and timely action plan that lays down **legislative and non-legislative measures.** In order to defeat organised and Mafia-style crime and to eradicate phenomena such as corruption and money laundering, it is necessary to improve **prevention** efforts.

Parliament suggests a number of detailed measures which may be summarised as follows:

(1) legislative measures at EU level: Parliament calls on the Commission to propose common judicial standards and models for integration and cooperation among Member States. It calls on it in particular, on the basis of an evaluation report on the implementation of the Framework Decision on the fight against organised crime and building on Member States' most advanced legislation, to submit **a legislative proposal setting out a common definition of organised crime, which should include, inter alia, the offence of participation in a mafia-style organisation**. The Commission is also expected to: (i) develop a common definition of corruption; (ii) include in its proposal to harmonise criminal law on money laundering, due to be submitted in 2013, a common definition of the offence of self-laundering; (iii) make a proposal developing Article 18 of the Trafficking in Human Beings (THB) Directive which encourages Member States to criminalise the use of services of victims of all forms of exploitation of human trafficking; (iv) establish an **EU list of criminal organisations**, following the example of the EU list of organisations considered to be terrorist organisations; (v) establish a European network to bring together the various universities dealing with organised crime, corruption and money laundering in order to promote university research in these areas; (vi) develop a reliable monitoring system across the EU, to more effectively monitor the movements of traffickers and the victims of trafficking; (vii) strengthen the external dimension of measures and programmes, including bilateral agreements, to fight against human trafficking by preventive actions in the countries of origin and transit with special attention to unaccompanied minors and children; (viii) strengthen sanctions against banking and financial institutions which are complicit in receiving and/or laundering the proceeds of organised crime.

(**2) measures to fight against "white collar" crime**: measures are called for to strengthen the current framework on confiscation of criminal assets and to promote the use of these assets for social purposes. Amongst other issues, Members recommend that an economic operator should be excluded for at least five years from participation in any public contract throughout the EU if that operator has been the subject of a conviction by final judgment for participation in a criminal organisation, money laundering or terrorist financing, participation in exploitation of human trafficking or child labour ('Eurocrimes'). They stresses that there is an urgent need to develop of an agreed and precise concept of the term "cybercrime" that could be applied to all Member States within the EU. Parliament, calls on the Commission to increase the resources allocated to specialised NGOs, media and research in order to step up support, protection and assistance for **victims** so that their testimony in court becomes less necessary. In addition, a system of more efficient and proactive financial investigation should be developed, as a key means of reducing the pressure on victims of human trafficking as the main witnesses when traffickers are brought to trial.

(3) measures to strengthen judicial and police cooperation at European and international level: Parliament calls on the Commission to set out a road map for even closer judicial and police cooperation, creating a **criminal investigative body and an internal intelligence agency** having investigative jurisdiction over violations and crimes in the EU. At international level, it calls for the introduction, in its association and trade agreements with third countries, specific cooperation clauses with regard to combating illegal trafficking by organised crime and money laundering. Other measures are deemed necessary including the full exploitation of the European Judicial Network and Eurojust, to reach an advanced level of intra-European judicial cooperation. Members also call on the Member States and the Commission to continue common efforts to finalize the negotiations on the draft directive regarding the **European Investigation Order** in criminal matters, which simplifies evidence gathering in cross-border cases.

(4) anti-corruption measures: Parliament states that it is impossible to have an effective economic and fiscal union **without an anti-corruption Union**. Plenary stresses that **transparency is the natural enemy of corruption**. It is convinced that holders of high offices or of great wealth with their privileges and immunities should be required to be totally transparent in their activities. In parallel, Members call for: (i) the establishment of more effective mechanisms to increase **transparency** and the fight against bureaucracy (red tape) in public administration and other public bodies; (ii) the inclusion in a code of conduct of the phenomenon of "revolving doors" and other forms of conflict of interest. They especially ask the Commission to submit a proposal on the law of administrative procedure of the European Union as soon as possible as requested by the European Parliament. Plenary also rejected the idea that the means available for covert operations, within the boundaries of the principle of the rule of law, should be employed so as to enable official corruption to be uncovered more effectively.

In parallel, Parliament calls for **greater accountability on the part of political parties** especially when proposing candidates. It maintains that persons should be ineligible for membership of the European Parliament or service for other EU institutions and agencies if they have been convicted by final judgment of participation in organised crime, money laundering, corruption, or other serious economic or financial offences against the public interest. It calls for a similar principle to be laid down, with due regard for the principle of proportionality, for the national parliaments and other elective offices. Member States should outlaw and sanction vote-buying. The publication of MEPs' incomes and financial interests is considered to be a good practice which should be extended to national parliamentarians and elected representatives.

Parliament calls for further targeted measures:

- **credible criminal justice**: it invites the Commission to come forward with a legislative proposal setting out the legal liability of legal persons in cases of financial crime and in particular the liability of holdings and parent companies for their subsidiaries. This proposal should clarify the liability of natural persons for crimes committed by the company, or its subsidiaries, for which they can be held partially or wholly responsible. It encourages Member States to lay down **harmonised** dissuasive and effective penalties, both criminal sentences and fines for all types of serious offences that harm citizens' health and security;
- **good business practice**: it asks for: (i) businesses to practise self-regulation and transparency through codes of conduct and oversight procedures (internal or external audits); (ii) the publication of lists of companies accredited to the public authorities as well as those that have been excluded; (iii) an action plan for the Commission to strengthen the fight against fraud and tax evasion; (iv) measures on procurement;
- **more transparent banking system**: it calls on the Commission and other supervisory authorities to ensure the provision of customer due diligence measures and risk profiles by banks, insurance companies and credit institutions and an assessment of the risks entailed in new banking and financial products where these allow anonymity or long-distance operations. Members call for a common definition of tax havens to be defined and for **bank secrecy to be abolished**;
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new technologies to fight organised crime: Members call on the judicial authorities to step up the use of new technologies, including satellite observation, in this area, since these could contribute to combating the activities of organised crime. They also propose action to encourage the use of electronic means of payment in order to ensure that transactions, including financial ones, are traceable.

Ensuring that crime does not pay: Parliament points out the essential role of financial information units in guaranteeing high international standards in fighting money laundering. It calls for decisive measures in this area. To this end, Members call for the mobilisation of all financial information units in guaranteeing high international standards in fighting money laundering, the traceability of capital flows, a legislative framework and appropriate action against gambling and online money laundering (especially in sport) as well as a harmonised definition of **match fixing** with dissuasive penalties.

They call for sufficient safeguards for law enforcement to be able to gather whatever personal data is needed for investigation of an organised criminal activity and for it to be possible for data about prisoners and suspects to be transferred across borders. Parliament also proposes that **Member States should be coherent together in their sentencing and punishments and in prison systems and training of prison staff**.

Other measures are called for in tax-related matters through joint initiatives against tax havens. Once again, Parliament calls for the adoption of an internationally binding multilateral automatic tax-information exchange agreement, also covering trusts and foundations. Likewise, it invites the Commission to conduct an evaluation of the current tax treaties in force between Member States and third countries, some of which could be considered as tax havens.

Plenary **did not accept the special committee's position as regards encouraging the use of electronic means of payment** in order to ensure that transactions, including financial ones, are traceable and can be linked to bank accounts held by natural persons or corporate entities.

Final recommendations: lastly, Parliament has made a series of final recommendations which may be summarised as follows:

- the **creation of a European Public Prosecutor's Office** as provided for in Article 86 TFEU, in particular to combat, investigate, prosecute and bring to judgement crimes affecting the EU's financial interests and serious offences of a cross-border nature. Uniform procedural rules should be provided;
- an arrangement with Liechtenstein to fight cross-border crime;
- stronger punishment for participation in organised criminal groups and for offences connected with drug trafficking and trafficking in people and human organs;
- a whole range of so-called emerging crimes, such as illegal waste trafficking, illegal trafficking in works of art and protected species, and goods counterfeiting, are extremely profitable for criminal organisations and should be appropriately considered in the decisions taken at EU level;
- submit the legislative proposal on an effective **European whistleblowers protection programme** as far as crossborder corruption and corruption affecting the EU's financial interests are concerned;
- submit a **legislative proposal on Europol** with a view to improving Europol's operational efficiency and effectiveness in the field of combating serious and organised crime;
- develop a European action plan against wildlife trafficking, highlighting clear deliverables, both internal and external to the EU along with **harmonised and severe sanctions**.

Plenary decided against the suggestion for the creation of an intelligence training centre for new analysts for the Union.