The implications of the Court's judgment of 13 September 2005 (Case C-176/03 Commission v Council): the Commission's right of initiative, distribution of powers between the first and third pillars as regards provisions of criminal law

2006/2007(INI) - 04/05/2006

The committee adopted the own-initiative report by Giuseppe GARGANI (EPP-ED, IT) on the consequences of the judgment of the Court of Justice of 13 September 2005 (C-176/03 Commission /Council). In that ruling, the Court established that, although as a general rule the Community does not have competence in criminal matters, the Community can adopt measures related to the criminal law of Member States when these are essential to combat serious environmental offences. Subsequently, the Commission proposed to extend the conclusions of the Court to other areas of Community competence.

The committee welcomed the judgment which, it said, confirms that the EU "may adopt, under the first pillar, any criminal provisions necessary to ensure that the rules laid down under that pillar - in this instance, on environmental protection - are fully effective". However, MEPs felt that there were no grounds for "an automatic presumption in favour of a broad interpretation" of the ruling, and therefore urged the Commission not to automatically extend the conclusions of the Court to every other field falling within the scope of the first pillar. And they reiterated the urgent need to start the procedure, using Article 42 of the Treaty on European Union, for inclusion of judicial and police cooperation on criminal matters in the Community pillar, "which alone provides the conditions for adopting European provisions in full compliance with the principles of democracy and efficient decision-making and under appropriate judicial control".

The committee agreed with the Commission's view that any recourse to measures relating to criminal law must be "motivated by the need to give effect to the Community policy in question", while at the same time pointing out that, "as a general principle, it is the Member States which are responsible for the due application of Community law." The report also backed the Commission's decision to withdraw or amend, on a case-by-case basis, pending legislative proposals whose legal basis could be incorrect in the light of the Court ruling.