Basic information

2010/2310(INI) INI - Own-initiative procedure	Procedure completed
EU approach on criminal law **Subject** 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	DE JONG Dennis (GUE/NGL)	11/10/2010
	Shadow rapporteur VOSS Axel (PPE)	

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	The committee decided not to give an opinion.	

European Commission

Commission DG	Commissioner
Migration and Home Affairs	MALMSTRÖM Cecilia

Key events

Date	Event	Reference	Summary
16/12/2010	Committee referral announced in Parliament		
12/04/2012	Vote in committee		
24/04/2012	Committee report tabled for plenary	A7-0144/2012	Summary
21/05/2012	Debate in Parliament		
22/05/2012	Decision by Parliament	T7-0208/2012	Summary
22/05/2012	Results of vote in Parliament		
22/05/2012	End of procedure in Parliament		

Technical information	
Procedure reference	2010/2310(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/04828

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE454.679	07/02/2012	
Amendments tabled in committee		PE485.912	14/03/2012	
Committee report tabled for plenary, single reading		A7-0144/2012	24/04/2012	Summary
Text adopted by Parliament, single reading		T7-0208/2012	22/05/2012	Summary

EU approach on criminal law

2010/2310(INI) - 24/04/2012 - Committee report tabled for plenary, single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the own-initiative report by Cornelis de JONG (GUE/NGL, NL) on an EU approach on criminal law.

The report welcomes the recognition by the Commission in its recent Communication on an EU criminal law policy that the first step in criminal law legislation should always be to decide **whether to adopt substantive criminal law measures at all**.

In this spirit, Members stress that proposals for EU substantive criminal law provisions must fully **respect the principles of subsidiarity and proportionality** . In their view, the necessity of new substantive criminal law provisions must be demonstrated by the necessary factual evidence making it clear that:

- the criminal provisions focus on conduct causing significant pecuniary or non-pecuniary damage to society, individuals or a group of individuals;
- there are no other, less intrusive measures available for addressing such conduct;
- the crime involved is of a particularly serious nature with a cross-border dimension or has a direct negative impact on the effective implementation of a Union policy in an area which has been subject to harmonisation measures;
- there is a need to combat the criminal offence concerned on a common basis; and
- the severity of the proposed sanctions is not disproportionate to the criminal offence.

The report stresses that harmonisation measures should be proposed primarily with a view to **supporting the application of the principle of mutual recognition** in practice, rather than merely expanding the scope of harmonised EU criminal law. Members also insist on the need to establish **uniform minimum standards of protection at the highest possible level for suspects and defendants** in criminal proceedings in order to strengthen mutual trust. In this regard, they recall that criminal law must **fully respect the fundamental rights** of suspected, accused or convicted persons.

The Commission is encouraged to:

- put forward measures that **facilitate more consistent and coherent enforcement** at national level of existing provisions of substantive EU criminal law, without prejudice to the principles of necessity and subsidiarity;
- include in its impact assessments the **necessity and proportionality test**;
- draw on the **best practices** of those Member States with a high level of procedural rights guarantees;
- include an evaluation based on its **fundamental rights checklist**; and
- introduce a test specifying how its proposals reflect the **general principles** governing criminal law (e.g. principles of individual guilt; legal certainty, non-retroactivity and the presumption of innocence).

The report underlines the need for a **more coherent and high-quality EU approach** to criminal law and deplores the fragmented approach followed so far. With this in mind, it calls for a clear, **coordinating authority** within the Commission for all proposals which contain criminal law provisions.

Members call for an **inter-institutional agreement** on the principles and working methods governing proposals for future EU substantive criminal law provisions. They invite the Commission and the Council to establish an **inter-institutional working group** in which these institutions and Parliament can draw up such an agreement and discuss general matters. This inter-institutional working group should help to define the proper scope and application of **criminal-law sanctions at EU level**, as well as examining existing legislation with a view to reducing the fragmentation and conflicts of jurisdiction characterising the current approach.

Lastly, the report emphasises the importance of establishing an information service for Parliament that can support the individual Members in their daily work, thus ensuring the quality of Parliament's work as a co-legislator.

EU approach on criminal law

2010/2310(INI) - 22/05/2012 - Text adopted by Parliament, single reading

The European Parliament adopted by 537 votes to 38 with 57 abstentions, a resolution on an EU approach to criminal law. The criminal law and criminal proceedings systems of the Member States have evolved over centuries, and each Member State has its own characteristics and special features. As a consequence, **key areas of criminal law must be left to the Member States.**

The resolution stresses that the harmonisation of criminal law in the EU should contribute to the **development of a common EU legal culture in relation to fighting crime,** which adds up to but does not substitute national legal traditions. Criminal law must constitute **a coherent legislative system governed by a set of fundamental principles and standards** of good governance in full respect of the EU Charter of Fundamental Rights, the European Convention on Human Rights and other international human rights conventions to which the Member States are signatories.

On this basis, Parliament welcomes the recognition by the Commission in its recent Communication on an EU criminal law policy that **the first step in criminal law legislation should always be to decide whether to adopt substantive criminal law measures at all.**

In this spirit, Members stress that proposals for EU substantive criminal law provisions must fully **respect the principles of subsidiarity and proportionality** . In their view, the necessity of new substantive criminal law provisions must be demonstrated by the necessary factual evidence making it clear that:

- the criminal provisions focus on conduct causing significant pecuniary or non-pecuniary damage to society, individuals or a group of individuals;
- there are no other, less intrusive measures available for addressing such conduct;
- the crime involved is of a particularly serious nature with a cross-border dimension or has a direct negative impact on the effective implementation of a Union policy in an area which has been subject to harmonisation measures;
- there is a need to combat the criminal offence concerned on a common basis; and
- the severity of the proposed sanctions is not disproportionate to the criminal offence.

The resolution stresses that harmonisation measures should be proposed primarily with a view to supporting the **application of the principle of mutual recognition** in practice, rather than merely expanding the scope of harmonised EU criminal law. Members also insist on the need to **establish uniform minimum standards of protection** at the highest possible level for suspects and defendants in criminal proceedings in order to strengthen mutual trust. In this regard, they recall that criminal law must fully respect the fundamental rights of suspected, accused or convicted persons.

The Commission is encouraged to:

- put forward measures that facilitate **more consistent and coherent enforcement** at national level of existing provisions of substantive EU criminal law, without prejudice to the principles of necessity and subsidiarity;
- include in its **impact assessments** the necessity and proportionality test;
- draw on the **best practices** of those Member States with a high level of procedural rights guarantees;
- include an evaluation based on its **fundamental rights checklist**; and
- introduce a test specifying how its proposals reflect the general principles governing criminal law (e.g. principles of individual guilt; legal certainty, non-retroactivity and the presumption of innocence).

The resolution underlines the need for a **more coherent and high-quality** EU approach to criminal law and deplores the fragmented approach followed so far. With this in mind, it calls for a clear, **coordinating authority** within the Commission for all proposals which contain criminal law provisions.

Members call for an **inter-institutional agreement** on the principles and working methods governing proposals for future EU substantive criminal law provisions. They invite the Commission and the Council to **establish an inter-institutional working group** in which these institutions and Parliament can draw up such an agreement and discuss general matters. This inter-institutional working group should help to define the **proper scope and application of criminal-law sanctions at EU level,** as well as examining existing legislation with a view to reducing the fragmentation and conflicts of jurisdiction characterising the current approach.

Lastly, the resolution emphasises the importance of establishing an information service for Parliament that can support the individual Members in their daily work, thus ensuring the quality of Parliament’s work as a co-legislator.