

Resolution on criminal procedures in the European Union (Corpus Juris)The European Parliament,

- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms signed on 4 November 1950, and the protocols annexed thereto, and to the Conventions concluded within the framework of the Council of Europe, in particular those of 13 December 1957 on Extradition, of 20 April 1959 on Mutual Assistance on Criminal Matters, and of 27 January 1977 on the Suppression of Terrorism,
 - having regard to Article 6 of the Treaty on European Union, as amended by the Treaty of Amsterdam, according to which the European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States,
 - having regard to the new Title VI of the Treaty on European Union, as amended by the Treaty of Amsterdam, and, in particular, to Articles 29-31, 33-35, 39, 43 and 44 thereof,
 - having regard to its previous resolutions on criminal law and on judicial cooperation in the field of criminal law,
 - having regard to the Action Plan on the establishment of an area of freedom, security and justice, adopted by the Council of the Union (Doc. 12028/5/98 JAI 31 REV 5) and approved by the Vienna European Council of 11 and 12 December 1998, and to the Commission communication (COM(98)0459) of 14 July 1998 on the same subject,
 - having regard to Rule 148 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties and Internal Affairs (A4-0091/99),
- A. whereas the increase in crime has resulted in the Member States asking the European Union to accept the challenge of finding suitable strategies to prevent and combat crime, while at the same time maintaining a high level of security for its citizens and avoiding, where possible, the creation of disparities in treatment between one Member State and another,
- B. whereas the conventions concluded previously cover only the most urgent problems but do not tackle them in depth, and whereas, furthermore, those conventions are difficult to implement because of the cumbersome procedures involved and the time required for their ratification by the 15 Member States,
- C. whereas the Council has been content merely to issue a policy declaration, without taking any specific follow-up measures, and whereas the legal instruments used by the Council are scarcely binding on the Member States and, what is more, are very superficial compared with the efficient resources available under the first pillar,
- D. whereas it is for the European Institutions to promote the debate on the adaptation of national legal systems in the field of criminal law and criminal procedure, with due respect being paid to the legal traditions of the Member States,
- E. whereas the Convention of 26 July 1995 on the Protection of the European Communities' Financial Interests and the proposed joint action seeking to make membership of a criminal organisation a criminal offence set the Member States on the path towards establishing uniform definitions of what constitutes a criminal offence, which will facilitate police cooperation and judicial cooperation in criminal matters,
- F. whereas the Treaty of Amsterdam has equipped the European Union with new instruments with which to combat the most serious forms of crime, in particular through the introduction of minimum rules relating to the constituent elements of criminal acts and to the penalties applicable, with a view to providing the public with a high level of protection in a common legal and judicial area,
- G. whereas cross-border crime is difficult to prosecute, in particular because of the differences between legal procedures in the Member States,
- H. whereas, in its conclusions, the Vienna European Council of 11 and 12 December 1998 called for a strengthening of EU action against organised crime (point 89 of the conclusions),
- I. whereas the fundamental principles and the existing body of criminal law should inform the negotiations being conducted with a view to the enlargement of the Union so as to ensure that criminal law and judicial systems in the applicant countries are brought into line with those of the Community,

- J. whereas recent events, such as the Öcalan and Pinochet cases, give increasing grounds for a review of the urgent need to establish mechanisms for cooperation in the field of criminal law based on minimum common standards and on increased cooperation between Member States,
- K. whereas all police authorities, whether at local, national or European level, must be subject to proper supervision,
- L. whereas all citizens living in the European Union are concerned for their safety and for that of their families,

Criminal law provisions

1. Recalls that the European Convention for the Protection of Human Rights and Fundamental Freedoms constitutes the foundation stone of European integration in the field of criminal law from which it has been possible to derive fundamental principles to serve henceforth as the common legal and cultural denominator of the Member States of the European Union;
2. Welcomes the Corpus Juris, which sets out criminal law provisions relating to the protection of the European Union's financial interests, since it might serve as an example for future developments, and looks forward with interest to the Commission's report on the possible implications of the Corpus Juris for national legal principles;
3. Is not seeking the creation of a European Penal Code but calls for the gradual establishment of a European criminal law system in which account is taken of Member States' legal traditions and, on the basis of the latter, methods are found of combating and preventing international organised crime and which, in particular:
 - (a) gives priority to gradual harmonisation, as provided for in the second paragraph of Article 29 of the Treaty on European Union and in the Action Plan to establish an area of freedom, security and justice, of the approach to the following offences connected with organised crime:
 - offences against children (especially sexual exploitation)
 - trafficking in persons
 - drug trafficking
 - terrorism
 - corruption and fraud
 - money-launderingcrimes in respect of which the Union already possesses a common body of law,
 - (b) takes the view that additional efforts are required to define the Union's specific priorities in the following crime sectors:
 - arms trafficking (Article 29 of the TEU)
 - crimes against the environment (Action Plan) and trafficking in nuclear substances
 - high-tech crimes (Action Plan), especially those committed via the Internet
 - doping in sport (conclusions of the Vienna European Council)in respect of which it is crucial to ensure continuity with the policies already being pursued at Union level, while at the same time extending the study of cross-border implications and seeking a coordinated approach at international level;
4. Calls on the Council and Commission, when elaborating this system, to put in place a genuine legislative programme capable of exploiting to the full the resources provided by the Treaty of Amsterdam, in particular the extended right to propose legislation attributed to the Commission and the framework decisions, once the new provisions enter into force;

Procedural arrangements and instruments

5. Takes the view that, with respect to the medium- and long-term prospects for criminal procedures in the European Union, an independent European Public Prosecutor might be appointed who would operate in parallel with national public prosecutors and, initially, might serve to centralise judicial information on transnational investigations under way relating to offences covered by the European criminal law system so as to avoid duplication of effort and enable the competent investigating and legal authorities to participate and to make available their respective intelligence and expertise, in particular in order to ensure better coordination of the actual investigations;
6. Assumes that, at a later stage, the European Public Prosecutor might be given responsibility, via delegated prosecutors, for the opening of investigations and the bringing before the competent Member State courts of public criminal law proceedings involving offences covered by the European criminal law system;

7. Points out that a European Public Prosecutor might be able to provide judicial control of the activities of Europol, given that the Treaty of Amsterdam provides for Europol to undertake operational activities although, to date, there has been no provision for any judicial and democratic review;
8. Points out that a European Public Prosecutor could also provide appropriate judicial control of UCLAF/OLAF and that, at all events, it is essential to ensure that the latter body is sufficiently independent of the Commission;

Institutional issues

9. Would like to know the opinion of the national parliaments about the adoption of acts connected with the establishment of an area of freedom, security and justice and undertakes to do its utmost to ensure that the citizens of Europe are kept fully informed about what is going on;
10. Demands, with a view to the drawing up of a legislative programme relating to the European criminal law system, that the Council enable Parliament to play its full role which, although still advisory in nature, has been strengthened by the Treaty of Amsterdam and is indefeasible, in the light of the principle of legality, where Union activities begin to involve the sphere of criminal law;
11. Calls on the Commission to ensure that Parliament is fully involved in the phase of assessment of the feasibility of the measures connected with the establishment of an area of freedom, security and justice, and, in particular, the establishment of the Corpus Juris, and proposes that the national parliaments be invited to work together in order to consider the various political and constitutional aspects arising from the reform concepts connected with the European Public Prosecutor;

Final considerations

12. Calls on the applicant countries to give their full support to the reforms and to the process of bringing their legal systems and their administrations into line with those of the Community;
13. Calls on the Council to conclude cooperation agreements, within the meaning of Article 38 of the Treaty on European Union, with target third countries particularly concerned by illicit drug trafficking, organised crime - especially financial (tax havens) - and terrorism with a view to promoting approximation of the constituent elements of criminal acts and penalties in the fields concerned;

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14. Instructs its President to forward this resolution to the Council and Commission, to the governments and parliaments of the Member States and to the governments and parliaments of the applicant countries.

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EXPLANATORY STATEMENT

1. Introduction

The Treaty of Amsterdam, signed on 2 October 1997, to some extent linked the question of criminal law and the European legal and judicial area to that of the free movement of persons, giving priority to the Union objective of affording citizens a high level of protection; it introduced the concept of crime prevention and the need to combat crime and racism and xenophobia; it attached particular importance to the action to be taken against organised crime.

Inspection of the relevant provisions of the Treaty on European Union (new Article 29 et seq.) shows that, although criminal law cooperation remains intergovernmental in nature, it may resort to new instruments: in order to combat organised crime, terrorism or drug-trafficking, the Treaty provides for 'progressively adopting measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties in [those] fields'. Thus, although the drawing up of a European Penal Code listing all offences is unlikely, the establishment of specific offences at the level of the Union is acceptable.

Furthermore, at the procedural level and in relation to the area of freedom, security and justice, pursuant to Article 31(a) and (c) of the TEU, cooperation between judicial authorities and the ministries of the Member States is to be facilitated and accelerated and rules (including procedural rules) made mutually compatible. In its communication (COM(1998) 459), the Commission argued that the European legal area should provide all citizens with a common sense of justice, facilitate daily life and protect the freedom and security of individuals and society. The sense of justice should be maintained by the provision of guarantees that procedural rules will ensure equal treatment in each and every Member State.

The effectiveness of action to enforce criminal law has become a key concept for those who support political union: national attitudes and obstacles stand in the way of court proceedings; the need to provide security and acknowledge public concerns and the fact that Europe is above all a geographical area in which crime must be combated are all elements which have to be taken into account when the need for European action to enforce criminal law is being discussed. And it does in fact appear legitimate and necessary for the Union, while paying due respect to the principles of subsidiarity and proportionality, to base its actions on the unifying principles of criminal law common to the Member States: legality of crimes and of penalties; principle of fault; respect for human rights and fundamental freedoms.

2. Prospects for substantive criminal law

It is once again necessary to point out that, even in those areas of criminal activity that are of equal concern to all Member States, the legislation and specific practices of each one demonstrate a variety of approaches.

The system introduced with the third pillar basically suffered from the following problems; conventions may well not come into force within a reasonable period of time

for lack of ratification; because it has not been possible to create a proper synergy between the European Parliament and the national parliaments, joint operations are reduced, with just a few exceptions, to exchanges of officials, information and technical know-how, since the instruments adopted do not include any appropriate follow-up measures.

Even so, given the growing threat posed by organised, Community-wide, crime, those responsible for drafting the Treaty of Maastricht have at last laid foundations on the basis of which progress may be made towards gradually bringing law enforcement under Community jurisdiction.

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A pragmatic approach has led to the view being taken that the first area of law enforcement in which action is necessary must be that of prosecuting those offences that take the form of infringements against interests of vital importance to Europe.

Regulation (EC) No 2988/95 of 18 December 1995 sets out a general framework for the penalties laid down by Community legislation on the protection of the Communities' financial interests (it authorises the introduction of certain types of penalties and recognises the principles of legality and fault).

The Court of Justice has emphasised that Article 5 of the EC Treaty attributes to each Member State the power to adopt the most appropriate decisions, including penal sanctions, in order to ensure respect for the obligations deriving from the acts of the Community Institutions. Accordingly, the provision of sanctions with a view to preventing or punishing breaches of Community law constitutes a genuine obligation for the Member States.

This guideline laid down by the Court may serve as a foundation for a genuine European policy to combat crime.

After it had been established that major fraud was being committed against the Community budget, the Convention of 26 July 1995, as supplemented by the two additional protocols of 27 September 1996 and 19 June 1997, on the Protection of the European Communities' Financial Interests represented a significant advance to the extent that it introduced, for the first time ever in the Union, the obligation for the Member States to regard as illegal acts under criminal law any activities adversely affecting the financial interests of the Communities: the Convention sets itself the objective of committing the signatory States to the task of adopting uniform definitions of what constitutes a criminal offence (common definition of fraudulent activity). As regards penalties and attribution of responsibility, however, the Convention opts to proceed by way of harmonisation (effective criminal law penalties that are proportionate and deterrent, including, in some cases, deprivation of freedom, in respect of which application may be made for extradition), while restricting the Member States in their choice of penalties.

This Convention includes other provisions which are important for the application of criminal law in the area, for extradition and concerning the *ne bis in idem* principle.

However, the common definitions are not directly applicable, and the Convention stipulates that each Member State shall take necessary and appropriate measures to

transpose into national criminal law the provisions [of paragraph 1] so as to ensure that the activities against which it is directed will be categorised as criminal offences.

To that extent, respect for the sovereignty of the national legislator is assured, but the process of drawing up legislation is encumbered, and there is a risk that inconsistencies between the different countries will become evident at the time of transposition into national law.

Accordingly, in addition to the undeniable consensus on this hesitant first step, the question remains as to whether and, if so, how to proceed further along the path towards the unification of criminal law in a Europe enlarged to accommodate twenty-six member countries, each with its own sometimes very different legal traditions and judicial systems.

The drawing up of the Corpus Juris for the protection of the Communities' financial interests, to which we shall return in the next section, is part of this process. The project has the merit of combining with the problem of the criminal law basis, whether unified or harmonised, a study of the system of judicial review, and it establishes principles as regards political scrutiny. Despite all the arguments that the publication of this document has caused, it does not propose the introduction of a new system of criminal law but rather the adoption of joint measures, and it does not fail to refer back to national criminal law.

It appears more appropriate to ask what the long-term prospects are likely to be for establishing a system of European criminal law and, in so doing, to take the Treaty of Amsterdam as a basis. In that Treaty, the Member States have pointed to sectors of activity which, although circumscribed, are nonetheless strategic and clearly specified and likely to be well received by European citizens.

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The Treaty of Amsterdam enlarged the aim of the European Union, in particular by establishing the objective of providing citizens with a high level of safety within an area of freedom, security and justice by the development of a joint action by the Member States in the field of judicial cooperation in criminal matters. That objective is to be achieved by preventing and combating organised crime, in particular in the following sectors (new Article 29 of the TEU):

- terrorism
- trafficking in persons
- offences against children
- illicit drug trafficking
- illicit arms trafficking
- corruption
- fraud.

We may safely say that the categories enunciated here are the scourges of our time. Concerns connected with the poor operation of judicial cooperation in criminal law matters, with the requirement to combat organised crime and with crime-prevention aspects are covered in the list drawn up by those responsible for drafting the Treaty, as is

the knowledge of being able to count on broad interpretation. A start had been made on a criminal law 'system', covering acts of terrorism (conspiracy and criminal association), drug trafficking and organised crime, as long ago as 1995 and 1996 when the two Conventions on Extradition were concluded: in respect of the criminal acts listed, the need was excluded for the establishment that the offence constituted a crime in the country seeking extradition and in the country where the accused was being held, as were, with respect to relations between Member States, some traditional grounds for refusing extradition requests (political crimes, tax reservations, nationality of the person to be extradited). The three categories of crimes are to be found at the heart of Europol's mandate (Article 2 of the Convention).

What your rapporteur recommends, as matters now stand, is to remain within the confines of this 'criminal law system', in which high priority must be accorded to crime prevention, and proceed along the path of harmonisation. At this stage, the list of these offences must be coordinated and brought into line with those referred to in the Action Plan on the establishment of an area of freedom, security and justice approved by the Vienna European Council. A more radical solution might not be able to take account of the significant differences which still exist between the criminal law cultures of the 15 Member States, and criminal law may not be used as the driving force to achieve political unification: criminal law should rather be the outcome of such unification! By what means should we aim for such harmonisation? By those provided by the Treaty of Amsterdam, in particular the 'approximation of rules on criminal matters in the Member States' (Article 29, second paragraph, third indent, of the TEU taken in conjunction with the provisions of Article 31(e)), which is to be achieved primarily by way of framework decisions (Article 34(2)(b)). Special attention should be paid to preventing as far as possible the emergence of a 'variable-geometry' version of European criminal law (see, for example, the definition of the nature of the offence committed prior to laundering of capital).

Under the terms of Article 34(2) of the Treaty of Amsterdam, the Commission now shares with the Member States the right of initiative and may thus propose that the Council take the measures required to boost cooperation (e.g. harmonisation measures and implementing measures).

The objective to be laid down would be to establish, with the entry into force of the Treaty of Amsterdam, a genuine partnership between Commission, Parliament and Council in order to establish a realistic programme of legislative policy for submission to the Member States in close cooperation with the national parliaments. Experience teaches us that we must not fail to take careful account of the development of national legal systems and the different traditions and sensitivities. The European Institutions must enhance their knowledge of national legislation. Interinstitutional agreements might be used to clarify the list of priorities and lay down a timetable. Prominence should be given to the part to be played by Parliament which, although still advisory in nature, has been strengthened by the Treaty of Amsterdam. Indeed, the principle of the legality of crimes and of penalties positively requires that a democratically elected body should formally play its part in laying down the framework to be used subsequently to amend Member State legislation.

3. Prospects for criminal procedure

Your rapporteur takes the view that there is no point in repeating in this report the reasons already set out in several European Parliament resolutions why judicial

cooperation must be strengthened, with particular regard to criminal law. Furthermore, the motion for a resolution includes recommendations based on the recent Action Plan on the establishment of an area of freedom, security and justice: among the aspects which should be emphasised is the possibility of improving coordination of prosecutions and the judicial review of Europol. Here, we should consider the criminal law and criminal procedure provisions set out in the Corpus Juris⁽¹⁾ introducing penal provisions for the purpose of protecting the financial interests of the European Union.

That document contains a proposal for the appointment of a European Public Prosecutor (EPP) who would be responsible, in respect of offences affecting the Community's financial interests and with due respect to fundamental guarantees, for overseeing investigations and proceedings, presenting the prosecution case at trial and ensuring the execution of sentences, although offences would continue to be prosecuted by the competent judicial authorities in the Member States which should apply the penal provisions set out in the Corpus and, at a lower level, in national provisions.

The European Public Prosecutor would be based on the principle of European territoriality⁽¹⁾: in the preparatory stage prior to a ruling (investigation and prosecution), the largely decentralised EPP would enjoy identical powers in the fifteen countries of the Union (directing investigations, overseeing judicial procedures), while offences committed anywhere on Union territory would elicit the same responses. The EPP would be independent of both national authorities and Community institutions, would have a relatively low-key central structure and would enlist the services of delegated European prosecutors (selected by each Member State from among its national prosecutors). The EPP would, moreover, be authorised to take up cases on his own initiative and would be required to investigate all substantive evidence relating to accusations that offences, as defined by the Corpus, had been committed. The establishment of an EPP (which presupposes the unification of criminal law in this sector and substantial improvements in judicial cooperation and mutual assistance) would enable solutions to be found, at least in part, to the problems of jurisdiction, of offences constituting a crime in the country seeking extradition and in the country holding the accused and of delay.

It should be pointed out that judicial control of the EPP during the preparatory stage of proceedings is guaranteed by an independent and impartial judge, to be known as the 'judge of freedoms', appointed by each Member State from the court where the European delegated Public Prosecutor is based (Cf. Corpus Juris, Article 25).

4. Relations with other institutions and bodies

The possible establishment of a European Public Prosecutor should be debated calmly and, particularly in view of the entry into force of the Treaty of Amsterdam, not be dissociated from the current debate on the establishment of an area of freedom, security and justice, on synergies between the first and third pillars and between Community and national investigators, and on the campaign to ensure sound financial management and to

⁽¹⁾ Corpus Juris, edited by Mireille DELMAS-MARTY, ECONOMICA, 1997.

⁽²⁾ For the purposes of this report, questions of defence, proceedings which are *contradictoire* and appeals will not be covered.

combat misappropriation of funds and fraud in the management of Community programmes.

These arguments should also be able to inform our choice of the most appropriate legal instrument for the introduction of the Corpus Juris (convention or framework decision).

It is, therefore, appropriate to consider at this stage, and without prejudice, the relationship between the European Public Prosecutor and other institutions and bodies, in particular the Court of Justice, UCLAF and Europol which have, or will have, responsibility for taking action under the first and third pillars.

The Court of Justice has hitherto been primarily a 'first pillar' institution, i.e. one competent to judge matters involving Community law. The 'judicial deficit' of the third pillar and of the Schengen System has long been a matter for adverse criticism. It is not the result of neglect but of a deliberate political choice. Criminal law enforcement in the Corpus Juris sense is predominantly intergovernmental: national sovereignty over judicial matters is not affected. However, the Court of Justice might also enjoy subsidiary competence in that area in three instances:

- preliminary questions on the interpretation of the Corpus Juris (requests for rulings, for example, would be referred back by the EPP);
- at the request of a Member State or the European Commission on any dispute concerning the application of the Corpus;
- at the request of the EPP or a national legal authority on conflicts of jurisdiction (Corpus Juris, Article 28).

Part of the argument also tends to claim jurisdiction of the Court in respect of the delimitation of the scope of the Community pillar and of the third pillar (Articles L and M of the TEU), with particular regard to the verification of acts adopted under the third pillar so as to ensure that they do not adversely affect the powers attributed to the Community pillar: such questions might arise during investigations initiated by the EPP.

What would be the role of UCLAF or OLAF in relation to the EPP? The latter would be the authority responsible for initiating criminal proceedings; it would therefore need a confidential body to conduct its inquiries.

However, it appears that, in its current form, UCLAF would not meet the requirements of independence, centralisation of information, ability to carry out the duties of a criminal investigation force, powers under national criminal law, human resources and ability to gather intelligence. Accordingly, we should give favourable consideration to recent proposals seeking the establishment of a new body which would have greater independence vis-à-vis the Commission as regards the coordination of activities to combat fraud.

The new professional approach and the resources of this body might be made available to the EPP in accordance with the criterion of an 'operational hierarchy' relationship.

The investigatory functions of the new UCLAF/OLAF obviously should not obstruct any subsequent inquiries that the national authorities might deem necessary.

Your rapporteur would expect important developments in relation to Europol. In recommendations 21 (final paragraph) and 25 (final paragraph) of the Action Plan to

combat organised crime, the Council is requested to conduct a comprehensive study into the place of and part played by the judicial authorities in their relations with Europol. Underlying these two recommendations is policy guideline No 10, which states that this study should be carried out in tandem with the extension of Europol's powers.

It would appear reasonable to submit that, with the powers currently attributed to Europol on the basis of the Treaty of Maastricht, there is no reason why Europol should be subjected to any judicial review at European level other than that already provided by the national judicial authorities which currently remain the only authorities able to guarantee the rule of law under the third pillar. The Treaty of Amsterdam nevertheless provides for operational activities for Europol (Article 30 of the TEU, formerly Article K.2). It is a principle of the rule of law that any police service must be subject to judicial supervision. That comes down to ensuring that Europol's activities do not exceed the limits of the Treaty and of the Europol Convention. It goes without saying that this would be a task for the EPP. That option is all the more appropriate in that parliamentary scrutiny of Europol's policing activities has hitherto been quite inadequate.

5. Conclusions

If we take the foregoing into account, we see that the entire body of relevant criminal law would still tend overwhelmingly to fall under the jurisdiction of the Member States. Only where a very limited number of cross-border offences were being investigated would cooperation at European level come into play, and then only to supplement and support operations by the national authorities. The situation can thus be summarised as follows:

- investigation: national police force plus Europol;
- prosecution: European Public Prosecutor plus national courts;
- judgment: national courts in all cases;
- execution: national, overseen by the EPP.

It is appropriate at this stage to conclude by raising a number of questions: Is it appropriate and necessary, in relation to the fight against organised crime:

- to promote the harmonisation or unification of a limited number of very serious offences such as fraud and corruption, together with terrorism, trafficking in persons, offences against children, illicit drug trafficking and illicit arms trafficking (Article 29 of the TEU, formerly Article K.1),
- to proceed in the long term to the appointment of a European Public Prosecutor (EPP) who would have a part to play in prosecuting fraud and corruption adversely affecting the Communities,
- to make the EPP thus appointed also responsible in any form whatsoever for judicial review of Europol, once operational authority had been granted to that police service?

Lastly, some operational questions should be raised:

- At what speed should these developments be carried out?
- What legal instruments should be used: a convention or a framework decision (Article 34 of the TEU, formerly Article K.6)?
- What parts should the Commission, the Council and the European Parliament play in this process?

In the search for an answer to those questions, it should also be borne in mind that the EU has a great deal of ground to make up in the fight against serious crime and that it must meet the highest standards of compliance with the rule of law. The European Parliament would do well to investigate these two aspects thoroughly.

Community policies certainly provide opportunities for certain forms of crime. We must make economies of scale when we select our law-enforcement system: as regards the sector of criminal law applicable to white-collar and financial crime, the idea of unifying legislation is, at present, definitely quite attractive, as also in the case of the most horrific crimes such as child pornography and trafficking in persons.

In the long run, the EPP might gradually see his duties changing and extending beyond the sphere of the protection of the Communities' financial interests in the light of the degree attained of harmonisation between national criminal laws, of the extension of Europol's mandate and of the quality of judicial cooperation and mutual assistance. At this stage, your rapporteur wishes to sketch out a possible path which would take account of respect for fundamental human rights and the principles governing our legal systems, in particular the principle of legality, this with a view to achieving effectiveness.

From the legal point of view, it appears that an amendment to the Treaties would be necessary for the appointment of the EPP: the next intergovernmental conference, which is scheduled to take place before the next round of enlargement with a view to debating institutional reform, might begin thinking about it.