Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1507 (2001)[1]

Europe's fight against economic and transnational organised crime: progress or retreat?

Parliamentary Assembly

1. The Assembly, recalling its Resolution 1147 (1998) on the threat to Europe from economic crime and its Order No. 540 (1998) authorising it to "review regularly the Council of Europe's work towards combating economic crime", considers that the situation described in that resolution which was already critical at the time, has since worsened even further. European democracy, the rule of law and the economic and political stability of Europe now hang in the balance.

2. Economic crime in its multiple forms has become even more international, complex in structure and operations, technologically sophisticated, wealthy, economically powerful and is now capable of infiltrating democratic institutions. The day when all this translates into political influence, Europe's political capability and its will to fight it may well wane and the battle be lost.

3. The Council of Europe, built on and uniting Europe around the lofty principles mentioned above, has a central role to play in this struggle, in close co-operation with other international institutions such as the Organisation for Economic Co-operation and Development (OECD), the World Bank, the European Union, the European Bank for Reconstruction and Development, the United Nations, Europol, Eurojust and others. The Committee of Ministers of the Council of Europe has to lead Europe even more forcefully than in the past, assisted ever more resolutely by the Assembly.

4. The Assembly welcomes the signing, in Palermo in December 2000, by 124 countries – of which forty-one are Council of Europe member states – of the United Nations Convention against Transnational Organised Crime, and accompanying protocols. It calls on all Council of Europe member states to ratify these texts as soon as possible. The Assembly also welcomes the inclusion in this convention of a provision prohibiting the refusal of a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters. This provision takes fully into account the interpretation of Recommendation 15, adopted by the Financial Action Task Force on Money Laundering (FATF, July 1999)).

5. Concerted action at Council of Europe level is equally necessary to fight more efficiently the many expressions of economic crime. These include:

5.1. the abhorrent trafficking in human beings for the purposes of illegal immigration, exploitative labour, begging, sexual exploitation, or for assistance in criminal activities such as the illegal transport of arms, drugs and migrants;

5.2. corruption, bribery and influence trading: the Assembly recalls its Resolution 1214 (2000) on the role of parliaments in fighting corruption and its hosting, in May 2000, of a Conference of Speakers and Presidents of European Parliamentary Assemblies devoted to this subject. The Assembly in this context refers to work under way in the Council of Europe, and the Assembly itself, on the financing of political parties. It welcomes the Council of Europe's conclusion, in 1999, of its Criminal Law Convention on Corruption (ETS No. 173) and its Civil Law Convention on Corruption (ETS No. 174) and notes with satisfaction that the former has already been signed by 39 states and ratified by 9, whereas 27 states

1. Assembly debate on 24 April 2001 (11th Sitting) (see Doc. 9018, report of the Committee on Economic Affairs and Development, rapporteur: Mrs Squarcialupi). Text adopted by the Assembly on 24 April 2001 (11th Sitting).

have signed and 3 ratified the latter. The Assembly hopes that both conventions can enter into force by 2002. Moreover, it supports regional anti-corruption and anti-organised crime initiatives, such as those undertaken under the Stability Pact for South Eastern Europe (SPAI and SPOC);

5.3. money laundering, the scale of which may undermine the integrity of national economies and democratic systems. Action against money laundering is of particular importance as it can rob the perpetrators of economic crime of their ill-gotten gains and hence strike at its very foundation. The Assembly welcomes the strengthening of the activities of the FATF while stressing the importance of transparency and a non-discriminatory approach to the enhancement of international co-operation in the fight against money laundering. It reiterates its call on Council of Europe member states that are not formally members of the FATF, made in Resolution 1147 (1998), to participate actively in the most effective FATF-style regional group, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures (PC-R-EV);

5.4. the production and spread of illicit drugs, which are having devastating consequences for both Europe's young people and the continent's future. The Parliamentary Assembly should organise, with ministerial and expert contributions, a stocktaking conference to evaluate measures taken to combat drug trafficking in the Council of Europe geographic area;

5.5. the smuggling of contraband items, especially arms, art objects, alcoholic beverages and cigarettes, with the latter believed to account to for up to 15% of total consumption in some Council of Europe member states;

5.6. counterfeit products, the manufacture of which is greatly aided by modern technology and which infringes on intellectual property rights, causes economic damage, distorts markets and may cause serious harm to consumers;

5.7. environmental crime, which may inflict irreparable damage on the ecosystem and ultimately human health, as pollution knows no national borders;

5.8. cybercrime, which through illicit intrusion into and manipulation of computer networks or databanks, not only causes damage in its own right but also significantly amplifies the effects of theft and fraud. Council of Europe member states and other countries need to agree on common legal principles and sanctions, as well as to engage in co-operation on information sharing and other forms of mutual assistance, while ensuring respect for individual rights, especially privacy. The Assembly in this context supports the Council of Europe's forthcoming convention on cybercrime, which it hopes will become a landmark instrument in Europe and beyond;

5.9. tax evasion, pursued on a large scale and linked to economic crime, continues to hamper the economic resources of many countries in Europe. Tax havens are not only attractive to launderers and fraudsters because of their favourable fiscal system but also because international legal assistance is systematically denied on the ground of fiscal exception. The Assembly therefore welcomes the EU agreement in 2000 to combat tax evasion on interest income.

5.10. The Assembly recognises that countries in transition in central and eastern Europe encounter special difficulties in tackling economic crime. The Assembly reiterates its support for the Council of Europe Octopus project designed to help these countries in their struggle against it.

5.11. The Assembly believes that it is urgent that Council of Europe member states agree on common principles by which state institutions can repel pressure from economic crime, especially since Europe is growing ever closer, through the European Union's Economic and Monetary Union, expanding European Community legislation and the EU's forthcoming enlargement. It supports the important work of the European Union in the fight against economic crime and corruption. This includes the 1991 Directive on Money Laundering, its 1995 Convention on the Protection of Financial Interests of the Community and protocols, and its 1997 Convention on the Fight Against Corruption.

5.12. The Assembly notes with alarm that despite efforts undertaken by various international organisations – including the Council of Europe, the OECD and the European Union – cross-border police and judicial co-operation on cases of economic crime still meet with great difficulties, particularly when they involve the use of modern investigative techniques or the disclosure of sensitive information. It therefore welcomes the recent adoption by the Council of Europe's Committee of Ministers of a framework global action plan for judges in Europe.

5.13. The Assembly welcomes the entry into force in 1999 of the OECD Convention on Combating Bribery of Foreign Public Officials, which is open also to countries not members of the OECD, but notes that only twenty-two of the Council of Europe's forty-three member states have so far ratified it.

5.14. In conclusion, the Assembly calls upon the Committee of Ministers:

5.14.1. to mandate the European Committee on Crime Problems (CDPC) to draw up a Council of Europe instrument to combat tax evasion similar to that of the European Union, thus ensuring the application of EU principles to all member states of the Council of Europe and providing an additional means of combating economic crime;

5.14.2. to adopt in 2001 draft guiding principles in the fight against organised crime based on the work of the Directorate General for Legal Affairs, and thereby to provide a common framework for action by member states in this area;

5.14.3. to finalise the draft recommendation, under elaboration by the Multidisciplinary Group on Corruption (GMC), on guidelines against corruption in the funding of political parties and electoral campaigns, and in this way protect political parties, the cornerstones of democracy, against undue influence;

5.14.4. to update the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) in order to render it capable of responding to the changing features of money laundering. This implies the revision of the convention by supplementing it with additional protocols;

5.14.5. to grant the Committee of Experts on the Evaluation of Anti-Money Laundering Measures (PC-R-EV) adequate resources, both in staff and funding, through appropriate budgetary formulas in order to enable it successfully to conduct a second round of anti-laundering reviews;

5.14.6. to ensure speedy ratification of the Council of Europe Criminal Law Convention on Corruption (ETS No. 173) and its Civil Law Convention on Corruption (ETS No. 174) by all Council of Europe member states;

5.14.7. to intensify co-operation within the Council's Group of States Against Corruption (Greco), notably by ensuring the latter's expansion in membership from the present twenty-eight to all Council of Europe member states;

5.14.8. to encourage the signature by the Council of Europe member states of the Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (ETS No. 150) and of the Convention on the Protection of the Environment through Criminal Law (ETS No. 172);

5.14.9. to support the Octopus project aiming to fight economic crime in central and eastern Europe, through a strengthening of its resources;

5.14.10. to speed up the work on updating and supplementing the 1959 European Convention on Mutual Assistance in Criminal Matters (ETS No. 30) through a second additional protocol, and to envisage the drawing up of a special convention on the cross-border application of modern investigative techniques, also covering witness protection;

5.14.11. to work in favour of ratification by all Council of Europe member states of the OECD's Convention on Combating Bribery of Foreign Public Officials;

5.14.12. to report to it on progress made in Council of Europe member states or by the Organisation as regards various provisions of its Resolution 1147 (1998) on the threat to Europe from economic crime.

6. The Assembly invites member states:

6.1. to adopt specific legislation to outlaw any acts related to trafficking in human beings;

6.2. to establish penalties that correspond to the seriousness of the offence;

6.3. to provide for the seizure and confiscation of profits made by traffickers;

6.4. to allocate resources raised in this way to protection programmes for victims of trafficking in human beings;

6.5. to ensure co-ordination between member states at the stage of pre-trial investigations in prosecutions for trafficking and as regards extradition by states of their nationals who are being prosecuted for involvement in such trafficking.