

An European response to organised crime

Resolution submitted by: PC1 – Institutions and Governance

JEF Europe,

- Acknowledging the existence today in Europe of over 5000 criminal organizations, as reported by Europol “Report EU SOCTA” in 2017;
- Acknowledging that organised crime is a singular form of delinquency that arises in order to systematically obtain material and immaterial advantages in an illicit way;
- Aware that
 - i) the structure of these organisations tends to be hierarchical, based on the rules of obedience and silence;
 - ii) they place their action far above the criminal standards of common delinquency; being able to undermine the economy, in the private sector as well as in the public procurement sector, through the enormous availability of resources originating from the trafficking of drugs, arms, human beings, etc., which are eventually laundered and illegally placed on the market;
 - iii) organised crime organisations do not intend to be an anti-state, but rather tend to insert themselves within the State itself through instruments such as corruption, coercion, violence and control of a part of the electorate, both active and passive;
- Deeply concerned that organised crime presence in society undermines the foundations of free competition in the economy, the democracy and the rule of law;
- Considering that this social phenomenon is increasingly emerging in its transnational, not to say global, dimension and its pervasiveness is increasingly felt;
- Encouraged by the increasing awareness of European public opinion regarding the danger of these organisations, in particular after "Duisburg



massacre" in Germany (2006) and journalist murders in Malta (Daphne Caruana Galizia in 2017) and Slovakia (Ján Kuciak in 2018);

- Welcoming that the European Parliament has become more and more engaged in addressing the threat of organised crime during the last 10 years calling on the European Commission for a stronger commitment;
- Being aware that, without a Federal Constitution, the European Union cannot pursue penal crimes but only make use of forms of enhanced voluntary cooperation among the Member States in investigation on transnational crimes;
- Recalling that the existing European investigative system consists only of sharing of information that the European Public Prosecutor Office, Europol and Eurojust receive from the relevant national authorities on a voluntary basis;
- Deeply convinced that
 - i) the first step in concretely addressing the threat of organised crime against European democracy is to make the cooperation mandatory and, at the same time, to harmonize, among the Member States, the persecution of the same types of offence;
 - ii) it is ever more clear that the legal framework of the European Union dealing with money-laundering and criminal assets is not sufficient to prevent organised crime from undermining European Democracy and the Common Market;

JEF Europe, therefore,

Recalling

- [United Nations Convention against transnational organised crime and the Protocols Thereto of 2004](#)
- Council of Europe [Organised crime situation report 2005](#)
- European Parliament resolution of 25 October 2011 [Organised crime in the European Union](#);



- European Parliament resolution of 23 October 2013 [Organised crime, corruption, and money laundering](#);
- European Parliament resolution of 26 March 2019 [Report on financial crimes, tax evasion and tax avoidance](#);

Considering that:

- a. criminal law falls predominantly within the competence of the Member States - change of which would necessitate a treaty revision;
- b. at present, the European Union can only exercise very limited competence in criminal matters in order to approximate or harmonise the criminal laws of the Member States and to provide support in the sharing of information essential for the action of the various administrative bodies of criminal justice;
- c. the activity of the European Union meets with a lot of resistance from Member States, for example:
 - i. no EU Member State has the same definition of organised crime, as highlighted by the European Parliament multiple times (e.g. Alfano Commission, 2011);
 - ii. the existing European instrument supporting the investigation activities is based on the sharing of information which the European Public Prosecutor Office (“EPPO”), Europol and Eurojust receive from the relevant national authorities on voluntary basis;
 - iii. EPPO is a body set up as part of an enhanced cooperation mechanism and with the competence to investigate, prosecute and bring to judgment only crimes against the EU budget, such as fraud, corruption or serious cross-border VAT fraud;
 - iv. the European Central Bank is in charge of granting and revoking the banking licenses for Union credit institutions, including with respect to serious breaches of AML/CFT¹ rules; noting with regret, however, that the ECB is fully dependent on national AML supervisors for information relating to such breaches detected by national authorities;

¹ AML: anti-money laundering; CFT: combating the financing of terrorism.



- d. money laundering is an essential component of organised criminal activity; noting with regret, however, that European supervisory authorities (ESAs)² have limited capabilities to take a more substantial role in the fight against money laundering owing to their decision-making structures, a lack of powers and limited resources;

JEF Europe, therefore,

Calls

- on the European Parliament to institute a permanent Committee on the organised crime;
- on the European Commission, in pursuing the fight against the organised crime and its distortion effect on the conditions of competition in the internal market, to make use of the procedure laid down in Article 116 TFEU which makes it possible to change the unanimity requirement vote in the Council;
- on the relevant European legislator to adopt a shared definition of organised crime following the procedure laid down in Art. 83 TFEU as to combat such undertakings more effectively and prevent legal loopholes when dealing with organised crime;
- to make mandatory the communications to EPPO, Europol, Eurojust and ECB from all the competent agents;
- on all the European Institutions to engage a strong commitment into an information and awareness-campaign, targeted at all the social partners, about the risks of the entry of criminal capitals; the aim should be building up a common understanding that these are not investments which contribute to the economy growth, because they do not carry any benefits for the economic agents but only their increasingly vulnerability and their loss of control and autonomy;

² The three European supervisory authorities are: the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA), and the European Insurance and Occupational Pensions Authority (EIOPA).



- on all the relevant European actors to implement civic education programs precisely targeted at students of all levels about the pervasiveness of the organised crime presence into the European democracy and economy;
- on all the European Institutions and social partners for monitoring particularly closely the risk of criminal infiltrations in the fulfilment of the Recovery Plan;

With regard to a future Treaty Change procedure,

Calls for

- some criminal competences at the European level in order to have the possibility of make use of regulations instead of directives with the ultimate goal of harmonizing the penal codes of the Member States when it comes to organised transnational crimes;
- the cooperation in the investigative action at the European level against financial crimes to be pursued through the institution of a dedicated Prosecutor Office and a financial police corp;
- a truly Fiscal Union in order to tackle the issue of intra-EU tax havens, where the most part of organised crime illicit proceeds are deposited before being laundered and reinvested in the legal economy;

JEF Europe, eventually

- calls for a European Constituent Assembly and the foundation of a truly European Federation provided with a Federal penal law which will allow it to fight efficiently against organised crime.