

COUNCIL RESOLUTION

of 20 December 1996

on sentencing for serious illicit drug-trafficking

(97/C 10/02)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Whereas the development of close cooperation on justice and home affairs is a prime objective of the European Union and combating drug addiction and cooperation for the purposes of preventing and combating unlawful drug-trafficking are matters of common interest to the Member States;

Recalling that the European Council in Cannes on 26 and 27 June 1995 approved the work on the European Union's action plan to combat drugs (1995 to 1999) and agreed on the need for a coordinated approach as regards illicit drug-trafficking;

Recalling that the European Council in Madrid on 15 and 16 December 1995 approved the provisions of the comprehensive action plan to combat drugs, and has called on the Council and the Commission to consider the extent to which harmonization of Member States' laws could contribute to a reduction in the consumption of drugs and illicit trafficking in them;

Recalling that the European Council in Florence on 21 and 22 June 1996 stressed the vital importance of reinforced cooperation between Member States to fight drugs and organized crime;

Noting that illicit trafficking in drugs:

- can undermine the lawful functioning of society,
- represents a threat to the health, safety and quality of life of the Union's citizens,
- often has consequences as destructive as those which flow from the most serious of crimes,
- often is criminally organized and operates on a transnational scale,
- if it is to be overcome, requires Member States to respond by taking coordinated and concerted action against those responsible for illicit trafficking in drugs,
- is condemned by all Member States and is punishable by criminal sanctions in their respective national laws;

Affirming that illicit trafficking in drugs comprises the offences set out in Article 3 (1) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (hereafter referred to as the 'UN 1988 Convention');

Recalling that a number of instruments have been adopted which facilitate Member States' fight against illicit drug-trafficking notably the United Nations 1961 Single Convention on Narcotic Drugs as amended by the 1972 Protocol, the United Nations 1971 Convention on Psychotropic Substances, the UN 1988 Convention, the Council of Europe 1990 Convention on laundering, search, seizure and confiscation of the proceeds of crime, Council Directive 91/308/EEC of 10 June 1991 on prevention of use of the financial system for the purpose of money-laundering ⁽¹⁾, the Council Act of 26 July 1995 drawing up the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention) ⁽²⁾ and the Council of Europe 1995 Agreement on illicit traffic by sea implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;

Encouraging Member States which have not yet done so, to ratify the Conventions referred to above;

Noting that the UN 1988 Convention requires each Party to make the commission of offences covered by Article 3 (1) thereof liable to sanctions which take into account their grave nature, such as imprisonment or other forms of deprivation of liberty, pecuniary sanctions and confiscation of the instrumentalities used in, and proceeds derived from, such offences;

DECLARES that, in order to more effectively coordinate and improve the European Union's strategy for combating illicit drug-trafficking, and in particular to improve cooperation in criminal matters within this area,

⁽¹⁾ OJ No L 166, 28. 6. 1991, p. 77.

⁽²⁾ OJ No C 316, 27. 11. 1995, p. 1.

Member States will ensure that their national laws provide for the possibility of custodial sentences for serious illicit trafficking in drugs which are within the range of the most severe custodial penalties imposed by their respective criminal law for crimes of comparable gravity;

CONSIDERS that factors which might be taken into account regarding the custodial penalties that might be applicable in relation to serious drug-trafficking could for example, include, among other factors:

- the extent of the trafficking,
- the extent to which the person concerned has profited from the illicit traffic,

- the involvement in the offence of an organized criminal group to which the offender belongs,
- the extent to which the offender has control of the drug-trafficking organization,
- the victimization or use of minors;

RECOMMENDS that Member States ensure that their national laws reflect the principles of this resolution;

INTENDS to carry out an appropriate review of the implementation of this resolution.
