



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 2 March 2005

6902/05

LIMITE

**CRIMORG 22
JAI 71
FIN 84
MI 25
RELEX 88**

OUTCOME OF PROCEEDINGS

From : Article 36 Committee

On : 1 March 2005

No. prev. doc. : 10332/03 JAI 168 FIN 254 MI 138 REFLEX 227
6150/05 CRIMORG 10 JAI 45 FIN 54 MI 10 RELEX 52

Subject : Draft Council Resolution concerning a comprehensive EU policy against corruption. Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee on a Comprehensive EU Policy against Corruption

1. Delegations will find in the Annex a draft Council Resolution concerning a comprehensive EU policy against corruption. The original draft, as submitted by the Presidency, was discussed at the meetings of the Multidisciplinary group on organised crime (MDG) of 24 November, 21 December 2004 and 3 February 2005. The text of the original proposal as well as the background to it, are set out in doc. 15107/04 CRIMORG 139 JAI 488 FIN 553 MI 300 RELEX 566. The draft resolution refers to the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee on a Comprehensive EU Policy against Corruption, which can be found in doc. 10332/03 JAI 168 FIN 254 MI 138 RELEX 227.
2. At the meeting of the Article 36 Committee (CATS) of 1 March 2005, delegations reached a consensus on the text of the draft Resolution, as set out in the Annex.

3. The Commission considers that there is a lack of substantial mechanisms for monitoring of the Convention and regrets that it is not identified as such in the draft Council resolution. The Commission particularly regrets this omission as there was, in its view, consensus among EU Member States at the time of the negotiation of the UN Convention against Corruption that these issues should have been (more substantially) covered by the UN Convention.

Regarding the mechanism to evaluate and monitor the application of international instruments against corruption, the Commission deems that the phrasing of the penultimate paragraph of the draft Council Resolution limits the options to the EC's participation in GRECO and monitoring of the EU instruments. The future development of an EU monitoring mechanism in this field is thus effectively limited to monitoring the EU instruments against corruption. As the main EU instruments date back to the period between 1995 - 1997, this option precludes the establishment of an EU monitoring system on corruption that takes account of the most recent (legal) developments in the fight against corruption. The Commission would therefore have preferred the possibility of an EU monitoring mechanism which also would evaluate Member States' application of other international instruments against corruption.

Council Resolution

concerning the

Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee

on a Comprehensive EU Policy against Corruption

The Council:

Welcomes the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee of 28 May 2003¹, which sets out a comprehensive EU policy against corruption, in particular by aiming at:

- achieving further progress in combating and preventing corruption at EU level
- defining those areas where further improvements are necessary
- suggesting future EU initiatives within the EU institutions, in EU Member States and outside the EU.

(...)

Notes the Resolution of 4 December 2003 of the European Parliament (and the views of the Economic and Social Committee) on the Communication,

Expresses its satisfaction that it has been possible to develop further anti-corruption measures within the EU, such as the Council Framework Decision of 22 July 2003 on combating corruption in the private sector,

¹ doc 10332/03 JAI 168 FIN 254 MI 138 RELEX 227

Welcomes the recent adoption by the United Nations of a Convention against Corruption, which was opened for signature in Mérida/Mexico on 9 December 2003, while noting, along with the European Parliament, that certain issues are not, or not more fully covered by the Convention,

Notes that the Commission on 4 December 2003 has proposed a Council decision empowering the Presidency to designate the person(s) to sign the United Nations Convention against Corruption on behalf of the European Community,

Welcomes also the entry into force of the United Nations Convention against Transnational Organised Crime on 29 September 2003 and two of its protocols in December 2003 and January 2004.

Notes that the Commission's Communication deals with a broad range of issues, including

- protection of whistleblowers in both the public and the private sector,
- integrity guidelines for public officials,
- tax and accountancy measures,
- public procurement procedures,
- external aid and assistance

(...)

Notes the ongoing attention to issues of ethics and integrity within the EU, in particular within the EU Public Administration Network (EUPAN) and the Police cooperation Working Party.

Notes that in the Communication, the Commission reiterates its recommendation that the European Anti-Fraud Office (OLAF) develop practices to secure compliance with information procedures to EU institutions and to persons involved in the investigations which it conducts, and the standardised application thereof,

Notes that in the Communication, the Commission requests that the Investigation and Disciplinary Office (IDOC) and OLAF prepare a Memorandum of Understanding on co-operation and the avoidance of overlap between their areas of competence,

Agrees that future EU policy on corruption should be guided by the nine core elements as set out in Section 8 of the Communication,

Notes the Ten Principles for Improving the Fight against Corruption in Acceding, Candidate and other Third Countries, set out in the Annex to the Communication,

Looks forward to the development, at a future date, of proposals by the Commission concerning the transparent funding of social partners and other such interest groups including political parties and managing conflict of interest situations,

Agrees that it is now timely to go beyond the development of legal instruments to their implementation and monitoring, with attendant consciousness-raising among citizens,

Reaffirms the importance of the role and work of the Member States in developing a comprehensive, multi-faceted policy against corruption in both the public and private sectors, in partnership with all relevant players in civil society and business alike,

Notes the results of AGIS Conference on the Enhancement of Operational Cooperation in Fighting Corruption in the European Union, 24-26 November 2004, Vienna,

In this context, the Council urges those Member States which have not already done so to proceed without further delay to ratification and effective implementation of the following anti-corruption instruments:

- Second Protocol to the EU Convention on the protection of the European Communities' financial interests,
- EU Convention on the fight against corruption involving officials of the European Communities or officials of the EU Member States,
- the Council of Europe's Criminal and Civil Law Conventions on Corruption, and

- the UN Convention against Corruption,

while noting with satisfaction that most Member States have now ratified the OECD Convention on combating bribery of foreign public officials in international business transactions,

Calls on the Commission to consider all viable options, such as participation in the Council of Europe GRECO mechanism, or a mechanism to evaluate and monitor EU instruments in relation to the development of a mutual evaluation and monitoring mechanism, while avoiding any overlap and duplication.

(...)
