



EUROPEAN COMMISSION - PRESS RELEASE

Towards a reasonable use of criminal law to better enforce EU rules and help protect taxpayers' money

Brussels, 20 September 2011 – Fighting crime is a priority for Europeans (see Annex). Citizens expect that criminals cannot hide behind borders or exploit differences between national legal systems. At the same time, criminal law is still a relatively young field at EU level.

It is essential to design a clear European Criminal Policy enabling the Union to define if, when and how to use criminal law to better enforce a policy. The Lisbon Treaty now provides a framework that makes this possible, as it allows the EU to make use of criminal law to strengthen the enforcement of EU policies and rules.

Criminal sanctions are not the best enforcement tools for all policies. However, applying criminal sanctions can make some European rules more effective, from preventing financial market manipulation to protecting EU taxpayers' money from fraud. The use of criminal sanctions should be reserved for particularly serious offences and be preceded by a sound and thorough analysis.

In a policy Communication with the title "Towards an EU Criminal Policy" published today, the European Commission has for the first time set out the strategy and principles it intends to apply when using EU criminal law to strengthen the enforcement of European policies and protect the interests of the citizens.

"Europeans expect the EU to help fight crime. We must take on this challenge, while fully respecting the crucial role of national Parliaments in criminal law," said Vice-President Viviane Reding, the EU's Justice Commissioner. *"The Lisbon Treaty gives us the tools to tackle the challenge of criminal law in a balanced manner, in line with the fundamental rights of freedom and security. The new Treaty also establishes clear limits and checks: nothing can be decided without the full democratic control of the European Parliament and an oversight by national Parliaments who have an important voice in the decision-making process."*

Estimates put the total cost of crime to society as a whole at €233 billion a year in the EU. A clearly defined EU Criminal Policy can help ensure that EU-wide rules are enforced, notably to prevent the manipulation of financial markets, including from insider trading, and safeguard taxpayers' money from fraud against the EU budget or protect the environment.

Today's policy Communication sets out the conditions under which the Union and Member States can work together to put in place a coherent and consistent EU criminal policy.

Important guiding criteria include:

- Criminal law must always remain a **measure of last resort**
- Criminal law sanctions are reserved for **particularly serious offences**
- Criminal law measures are fundamental rights-sensitive: new legislation requires the strict **respect of fundamental rights** as guaranteed by the EU Charter of Fundamental Rights and the European Convention on the Protection of Human Rights.
- Every decision on what type of criminal law measure or sanction to adopt must be accompanied by **clear factual evidence** and respect the principles of **subsidiarity** and **proportionality**

Criminal law measures adopted at EU level by the European Parliament and the Council of Ministers differ from national criminal law in one important respect: they cannot impose direct obligations on individuals. EU criminal law only can lead to sanctions being imposed on individuals once a national Parliament has transposed it into national legislation. This is why the involvement of national Parliaments throughout the process of criminal law-making is seen as crucial by the European Commission.

Background

The EU has been taking measures in the area of criminal law for more than a decade, with the goal of better fighting crime which has become increasingly international and sophisticated. But previous legislation has been developed without a coherent policy basis and is not always effectively enforced. In March 2010 EU Justice Commissioner, Viviane Reding, outlined the need for a balanced and coherent approach to criminal law policy, and announced her intention to take action in this field ([SPEECH/10/89](#)). With today's Communication "Towards an EU Criminal Policy", the Commission is delivering on its promise and is also heeding calls from legal practitioners and academics for a more coherent approach to criminal law at EU level, as expressed by the drafters of the 2009 [Manifesto on EU Criminal Policy](#).

The Communication is presented to the college by Vice-President Viviane Reding in association with Vice-President Siim Kallas and Commissioners Janez Potočnik, Olli Rehn, Michel Barnier and Algirdas Šemeta.

In 2005, the Court of Justice of the European Union ruled, in a watershed decision, that the European Parliament and the Council did have the power to adopt criminal law sanctions where it is essential in order to facilitate the enforcement of EU law (see [IP/05/1136](#)). The Lisbon Treaty (notably Articles 83 and 325 of the Treaty on the Functioning of the European Union) enables the EU to adopt – under certain conditions – minimum rules on criminal law concerning the definitions of criminal offences and the sanctions, if EU rules are not effectively enforced.

The Lisbon Treaty has also changed **the legal framework for EU criminal law measures**: no criminal law measure can be decided without the agreement of the European Parliament and the Court of Justice of the European Union now has full judicial control. The new Treaty also strengthens the role of national Parliaments substantially as they can give their views on draft legislation and monitor the respect of the principle of subsidiarity. The Council can adopt a proposal if a qualified majority of Member States supports it. **Areas where the need for EU criminal law has been established** are, for example, the protection of the functioning of the financial markets, the protection of the euro against counterfeiting or the fight against fraud to the detriment of the EU budget for which the Commission already presented concrete plans in May ([IP/11/644](#)).

EU criminal law measures can define which violations of the rules are to be considered as criminal offences in national laws throughout the Union. They can also provide for effective, proportionate and dissuasive criminal sanctions, such as requiring the imposition of certain levels of monetary fines or imprisonment for an offence. This can be an important tool to deter offenders and to prevent future crimes.

Before submitting legislative proposals in this area, the Commission will assess if criminal law is required, and, if necessary, which measures are best suited to address the problems of enforcement in a specific policy area. The Commission will put forward – in cooperation with the European Parliament and the Council – a **common model language** to be used in future criminal law legislation to ensure consistency and coherence. It will also set up an **expert group** to help gather factual evidence about the cross-border nature or effects of certain crimes.

For more information:

Justice Directorate General Newsroom:

http://ec.europa.eu/justice/news/intro/news_intro_en.htm

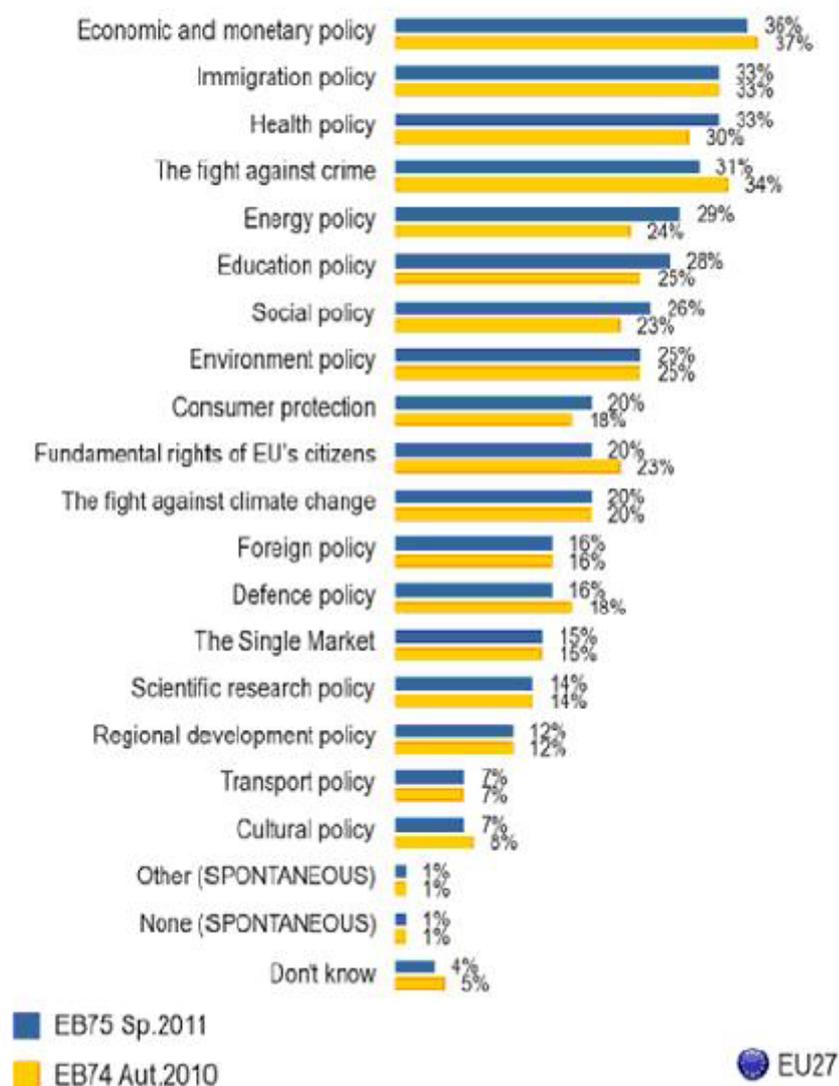
EU Criminal Policy:

http://ec.europa.eu/justice/criminal/criminal-law-policy/index_en.htm

Homepage of Vice-President Viviane Reding, EU Justice Commissioner:

<http://ec.europa.eu/reding>

QA22. European integration has been focusing on various issues in the last years. In your opinion, which aspects should be emphasized by the European institutions in the coming years, to strengthen the EU in the future?



Source: Eurobarometer 75, Spring 2011

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