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(5) Annex V is amended as follows:

(a) The following row is inserted after the row for E 967:

E 968	Erythritol	
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(b) The following row is inserted after the row for E 466:

E 462	Ethyl cellulose	
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(c) In the third column of the row for E 551 and E 552 the following sentence is added:

'For E 551, in E 171 titanium dioxide and E 172 iron oxides and hydroxides (max. 90 % relative to the pigment).'

(6) Annex VI is amended as follows:

(a) In the first, second and third paragraph of the introductory note the words 'weaning foods' are replaced by the words 'processed cereal-based foods and baby foods'.

(b) In Part 3, in the title, in row E 170 to 526, row E 500, E 501 and E 503, row E 338, row E 410 to E 440, row E 1404 to E 1450 and row E 1451 the words 'weaning foods' are replaced by the words 'processed cereal-based foods and baby foods'.

(c) **In Part 4, the following is added after row E 471:**

E 473	<i>Sucrose esters of fatty acids</i>	120 mg/l	<i>Products containing hydrolysed proteins, peptides and amino acids</i>
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ANNEX II

The Annex to Directive 94/35/EC is amended as follows:

(a) In the first column of the row for E 420 to E 967, the word 'E 968' is added.

(b) In the second column of the row for E 420 to E 967, the word 'Erythritol' is added.

P6_TA(2005)0405

Fight against organised crime *

European Parliament legislative resolution on the proposal for a Council framework decision on the fight against organised crime (COM(2005)0006 — C6-0061/2005 — 2005/0003(CNS))

(Consultation procedure)

The European Parliament,

— having regard to the Commission proposal (COM(2005)0006) ⁽¹⁾,

— having regard to Article 34(2)(b) of the EU Treaty,

— having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0061/2005),

⁽¹⁾ Not yet published in OJ.

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- having regard to Rules 93 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Legal Affairs (A6-0277/2005),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS
BY PARLIAMENT

Amendment 1

Recital 3

(3) Point 3.3.2 of the The Hague Programme states that the approximation of substantive criminal law serves the same purposes and concerns areas of particular serious crime with cross border dimensions and that priority should be given to areas of crime that are specifically mentioned in the treaties. The definition of offences relating to participation in a criminal organisation should therefore be approximated in all the Member States. Moreover, penalties corresponding to the seriousness of these offences should be envisaged against natural and legal persons who committed them or are responsible for their commission.

(3) Point 3.3.2 of the The Hague Programme states that the approximation of substantive criminal law serves the same purposes and concerns areas of particular serious crime with cross border dimensions and that priority should be given to areas of crime that are specifically mentioned in the treaties. The definition of offences relating to participation in a criminal organisation should therefore be approximated in all the Member States. **However, the Member States are also free to classify other groups of persons as criminal organisations, e.g. groups whose purpose is not that of financial or other material gain or which commit offences punishable by deprivation of liberty or a detention order of a maximum of less than four years.** Moreover, penalties corresponding to the seriousness of these offences should be envisaged against natural and legal persons who committed them or are responsible for their commission.

Amendment 2

Recital 4

(4) Provision should be made for a specific offence of 'directing a criminal organisation', with provisions to facilitate cooperation between the judicial authorities and coordination of their action via Eurojust.

(4) Provision should be made for a specific offence of '**promoting, setting up, organising or** directing a criminal organisation', with provisions to facilitate cooperation between the judicial authorities and coordination of their action via Eurojust.

Amendment 3

Recital 4a (new)

(4a) Subject to the adoption of a third-pillar data-protection instrument, cooperation between Interpol and Europol should be developed with a view to information being shared for the purpose of investigating transnational organised crime.

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TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT

Amendment 4

Recital 4b (new)

(4b) Subject to the adoption of Council Framework Decision .../.../... of ... on the European Evidence Warrant for obtaining objects, documents and data for use in proceedings in criminal matters ⁽¹⁾, Member States should facilitate the mutual recognition of evidence obtained against the perpetrators of transnational organised crime.

⁽¹⁾ OJ L ...

Amendment 5

Recital 5a (new)

(5a) Given that the development and structuring of highly efficient and mobile international criminal networks slows down investigations, and in order to provide a more appropriate response to this phenomenon and to increase the effectiveness of cooperation between Member States, it would be useful to think about ways of promoting coordinated initiatives at Member State level to develop appropriate instruments such as special inquiry and infiltration methods and techniques, as well as rules on those who turn Queen's evidence, which already exist in some Member States.

Amendment 6

Recital 6a (new)

(6a) This Framework Decision is expected to provide a basis for persuading third countries to introduce similar regulations. The Member States should set an example by giving strong proof of their determination.

Amendment 7

Recital 7a (new)

(7a) Criminal organisations cross the internal borders of the European Union with impunity and considerable benefit to themselves, while police officers, their powers being limited to their home Member State only, cannot (except in certain short-term situations).

Amendment 8

Recital 8

(8) This Framework Decision respects **the** fundamental rights and principles recognised by the Charter of Fundamental Rights of the European Union, and in particular Articles 6 and 49 thereof,

(8) This Framework Decision respects fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they emerge from the constitutional traditions common to the

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Member States, as principles of Community law. The Union observes the principles recognised by Article 6(2) of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union, notably Chapter VI thereof. Nothing in this Framework Decision may be interpreted as being intended to reduce or restrict fundamental rights or freedoms such as the right to strike, freedom of assembly, of association or of expression, including the right of everyone to form and to join trade unions with others for the protection of his or her interests and the related right to demonstrate.

Amendment 44

Recital 8a (new)

(8a) This Decision is to be covered by the safeguards provided for in the proposal for a framework decision on certain procedural rights in criminal proceedings throughout the European Union ⁽¹⁾, currently in the process of adoption in the Council,

⁽¹⁾ COM(2004)0328.

Amendment 9

Article 1, paragraph 1

For the purposes of this Framework Decision, 'criminal organisation' means a structured association, **established over a period of time**, of more than two persons, acting in concert with a view to committing offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty in order to obtain, directly or indirectly, a financial or other material benefit.

For the purposes of this Framework Decision, 'criminal organisation' means a structured association of more than two persons, acting in concert with a view to committing offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty in order to obtain, directly or indirectly, a financial or other material benefit.

Amendment 10

Article 1, paragraph 2

'Structured association' means an association that is not randomly formed for the immediate commission of **an offence** and that does not need to have formally defined roles for its members, continuity of its membership or a **developed** structure.

'Structured association' means an association that is not randomly formed for the immediate commission of **one or more acts giving rise to a number of different, or a series of, offences** and that does not need to have formally defined roles for its members, continuity of its membership or a **hierarchical** structure.

Amendment 45

Article 1a (new)

Article 1a**Prevention and control of crime**

Member States shall ensure that Europol is strengthened in its role as a channel of information to combat crime, in order to enable it to perform the task of supplying Member States with information and intelligence making for more effective results in terms of preventing and fighting organised crime.

Europol may not be strengthened unless it becomes a European Union body subject to democratic control by the European Parliament.

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Amendment 12

Article 2, point (a)

(a) the fact of directing a criminal organisation;

(a) the fact of **promoting, setting up, organising or** directing a criminal organisation;

Amendment 13

Article 2, point (b)

(b) conduct by any person who, with intent and with knowledge of either the aim and general activity of the organisation or its intention to commit the offences in question, actively takes part in the organisation's criminal activities, including the provision of information or material means, the recruitment of new members and all forms of financing of its activities, knowing that such participation will contribute to the achievement of the organisation's criminal activities.

(b) conduct by any person who, with intent and with knowledge of either the aim and general activity of the organisation or its intention to commit the offences in question, actively takes part in the organisation's criminal activities, including the provision of information or material means, **incitement to commit criminal activities**, the recruitment of new members and all forms of financing of its activities, knowing that such participation will contribute to the achievement of the organisation's criminal activities.

Amendment 14

Article 2, paragraph 1a (new)

This Framework Decision shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.

Amendment 15

Article 3, paragraph 2a (new)

2a. Each Member State shall take the necessary measures to ensure that, in addition to the penalties laid down in paragraphs 1 and 2, persons found guilty of offences as referred to in Article 2 may also be made subject to penalties such as:(a) **the seizure of articles which were used or intended to be used to commit the offence concerned and articles which are the reward, proceeds or profit thereof or which constitute the object thereof;**(b) **confiscation of goods, the instruments and products stemming from the commission of the offence concerned;**(c) **destruction of goods;**(d) **publication of judicial decisions;**(e) **temporary or permanent disqualification from pursuing a professional or business activity;**(f) **disqualification from and ineligibility for political and public office.**

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TEXT PROPOSED
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Amendment 16

Article 3, paragraph 2b (new)

2b. Each Member State shall take the necessary measures to ensure that the offences referred to in Article 2 are punishable by a term of imprisonment longer than those provided for in paragraph 1 of this Article where:

- (a) **the aim of the criminal organisation is terrorism;**
- (b) **the criminal organisation organises trafficking in human beings;**
- (c) **the criminal organisation is of the mafia type, i.e. it makes use of the intimidation inherent in bonds of association and of the power over others and code of silence which arise from that intimidation for the purposes of committing offences, acquiring directly or indirectly the power to manage or control economic activities, licences, authorisations, public contracts and services, gaining unjust enrichment or advantage for itself or others, impeding or obstructing the free exercise of the right to vote, or procuring votes for its members or for others in elections.**

Amendment 17

Article 3, paragraph 2c (new)

2c. The Member States shall ensure that the profits of organised crime may be confiscated or destroyed.

Amendment 18

Article 4, point (a)

(a) renounces criminal activity, and

(a) renounces criminal activity, **demonstrates the will to be reintegrated into society,** and

Amendment 19

Article 4, point (b), indent 1

— prevent or mitigate the effects of the offence;

— prevent, **end** or mitigate the effects of the offence;

Amendment 20

Article 4, point (b), indent 2

— identify or **bring to justice the other offenders;**— identify or **arrest those responsible for offences as referred to in Article 2;**

Amendment 21

Article 4, point (b), indent 3

— find evidence;

— find evidence **relating to the offences referred to in Article 2;**

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TEXT PROPOSED
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AMENDMENTS
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Amendment 24

Article 5, paragraph 1, introductory wording

1. Each Member State shall take the necessary measures to ensure that legal persons can be held liable for any of the offences referred to in Article 2 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on one of the following:

1. Each Member State shall take the necessary measures to ensure that legal persons can be held liable for any of the offences referred to in Article 2 **for the commission of which the organisation was established**, committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on one of the following:

Amendment 25

Article 5, paragraph 1, point (a)

(a) a power of representation of the legal person;

(a) a power of representation of the legal person, **including a de facto power**;

Amendment 26

Article 5, paragraph 1, point (b)

(b) an authority to take decisions on behalf of the legal person;

(b) an authority to take decisions on behalf of the legal person, **including a de facto authority**;

Amendment 27

Article 5, paragraph 3

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators of **or accessories to** any of the offences referred to in Article 2.

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators of any of the offences referred to in Article 2 **for the commission of which the organisation was established**.

Amendment 28

Article 6, point (b)

(b) temporary or permanent disqualification from the practice of **commercial** activities;

(b) temporary or permanent disqualification from the practice of **business** activities;

Amendment 29

Article 6, point (ea) (new)

(ea) the seizure of articles and instruments which were used or intended to be used to commit the offences referred to in Article 2 and articles which are the reward, proceeds or profit thereof or which constitute the object thereof.

Amendment 30

Article 6, point (eb) (new)

(eb) destruction of goods;

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TEXT PROPOSED
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BY PARLIAMENT

Amendment 31

Article 6, point (ec) (new)

(ec) publication of judicial decisions.

Amendment 32

Article 7, paragraphs 2 and 3

When an offence referred to in Article 2 falls within the jurisdiction of more than one Member State and when any one of the States concerned can validly prosecute on the basis of the same facts, the Member States concerned shall cooperate in order to decide which of them will prosecute the offenders with the aim, if possible, of centralising proceedings in a single Member State. To this end, the Member States shall, if necessary, have recourse to the services of Eurojust.

Sequential account shall be taken of the following factors:

- (a) the Member State in whose territory the acts were committed;
- (b) the Member State of **which the offender is a national or resident**;
- (c) the Member State of **origin of the victims**;
- (d) the Member State in whose territory the offender was found.

When an offence referred to in Article 2 falls within the jurisdiction of more than one Member State and when any one of the States concerned can validly prosecute on the basis of the same facts, the Member States concerned shall cooperate in order to decide which of them will prosecute the offenders with the aim, if possible, of centralising proceedings in a single Member State. To this end, the Member States shall, if necessary, have recourse to the services of Eurojust. **If the Member States do not reach a joint decision within two months, Eurojust shall decide.**

Sequential account shall be taken of the following factors:

- (a) the Member State in whose territory the acts were committed;
- (b) the Member State of **origin of the victims**;
- (c) the Member State of **which the offender is a national or resident**;
- (d) the Member State in whose territory the offender was found.

Amendment 33

Article 7, paragraph 3, point (da) new

(da) the Member State which first brought the criminal proceedings.

Amendment 34

Article 8, paragraph 1

1. Member States shall ensure that investigations into, or prosecution of, offences covered by this Framework Decision are not dependent on a report or accusation made by a person subjected to the offence, at least if the acts were committed in the territory of the Member State.

1. Member States shall ensure that investigations into, or prosecution of, offences covered by this Framework Decision are **conducted in the most efficient way, with full respect for human rights, and are** not dependent on a report or accusation made by a person subjected to the offence, at least if the acts were committed in the territory of the Member State.

Amendment 35

Article 8, paragraph 2

2. In addition to the measures laid down in Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings, each Member State shall, if necessary, take all measures possible to ensure appropriate assistance for **victims'** families.

2. In addition to the measures laid down in Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings, each Member State shall, if necessary, take all measures possible to ensure appropriate **protection and** assistance for **victims and their** families.

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TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS
BY PARLIAMENT

Amendment 36

Article 8a (new)

Article 8a

Serious and Organised Crime Unit and Asset Recovery Unit

Each Member State shall establish a Serious and Organised Crime Unit and an Asset Recovery Unit, to ensure coordination at national level and to act as a single contact point.

Amendment 37

Article 8b (new)

Article 8b

Protection of witnesses and police informants

Each Member State shall adopt the necessary measures to ensure that persons who supply information useful for the prevention, detection and/or punishment of crimes committed by criminal organisations, whether they are witnesses or offenders, as referred to in Article 4, are adequately protected against the risks of retaliation, threats or direct intimidation targeting themselves or their relatives.

Amendment 38

Article 8c (new)

Article 8c

International cooperation

The Member States shall take the necessary measures to ensure international cooperation, inter alia by creating joint investigation teams.

Amendment 39

Article 10, paragraph 1a (new)

1a. Member States shall collect statistics on the offences referred to in Article 2 and shall forward those statistics to the Commission, which shall draw up harmonised and comparable statistics as from 2006.

Amendment 40

Article 10, paragraph 2

2. The Member States shall transmit to the General Secretariat of the Council and to the Commission, by [...] at the latest, the provisions transposing into their national law the obligations imposed on them by this Framework Decision. The Council, acting on the basis of a report established on the basis of this information and a written report transmitted by the Commission, shall, by [...] at the latest, assess the extent to which Member States have taken the necessary measures to comply with this Framework Decision.

2. The Member States shall transmit to the General Secretariat of the Council and to the Commission, by [...] at the latest, the provisions transposing into their national law the obligations imposed on them by this Framework Decision. The **European Parliament and the Council**, acting on the basis of a report established on the basis of this information and a written report transmitted by the Commission **to the European Parliament and the Council**, shall, by [...] at the latest, assess the extent to which Member States have taken the necessary measures to comply with this Framework Decision.