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**Towards an EU Criminal Policy: Ensuring the effective implementation of EU policies
through criminal law**

Towards an EU Criminal Policy: Ensuring the effective implementation of EU policies through criminal law

This Communication aims to present a framework for the further development of an EU Criminal Policy under the Lisbon Treaty. The EU now has an explicit legal basis for the adoption of criminal law directives to ensure the effective implementation of EU policies which have been subject to harmonisation measures. An EU Criminal Policy should have as overall goal to foster citizens' confidence in the fact that they live in a Europe of freedom, security and justice, that EU law protecting their interests is fully implemented and enforced and that at the same time the EU will act in full respect of subsidiarity and proportionality and other basic Treaty principles.

A concern for EU citizens

EU citizens consider crime an important problem facing the Union. When asked to identify the issues on which the European institutions should focus action in the coming years to strengthen the European Union, citizens rank the fight against crime in the top four of areas of action.¹ The EU has been taking measures in the area of criminal law for more than a decade in order to better fight crime that has become increasingly international and ever more sophisticated. These measures have achieved some degree of approximation of definitions and sanction levels for certain particularly serious offences, such as terrorism, trafficking in human beings, drug trafficking, and fraud affecting the EU financial interests.² For lack of an explicit legal basis in this respect prior to the Lisbon Treaty³, only very few measures have been taken for the purpose of strengthening the enforcement of EU policies.⁴ This Communication will focus on this aspect of EU criminal law.

The added value of EU criminal law

Certainly, criminal law is a sensitive policy field where differences amongst the national systems remain substantial, for example regarding sanction types and levels as well as the classification of certain conduct as an administrative or criminal offence. However, the EU

¹ See Eurobarometer 75, Spring 2011. The top four areas where EU action should focus are: economic and monetary policy, immigration policy, health policy and the fight against crime.

² Framework Decision on combating terrorism (2002/475/JHA), OJ L 164/3 of 22.6.2002; Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (2004/757/JHA) of 11.11.2004; Directive on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA OJ L 101/1 of 15.4.2011; Convention on the protection of the European Communities' financial interests, OJ L 316/49 of 27.11.1995.

³ See, however, judgments of the European Court of Justice in Cases C-176/03 and C-440/05.

⁴ Directive 2008/99/EC on the protection of the environment through criminal law, OJ L 328/28 of 6.12.2008; Directive 2009/123/EC amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements, OJ L 280/52 of 27.10.2009; and Directive 2009/52 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, OJ L 168/24 of 30.6.2009; Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, OJ L 140/1 of 14.6.2000.

can tackle gaps and shortcomings wherever EU action adds value. In view of the cross-border dimension of many crimes, the adoption of EU criminal law measures can help ensuring that criminals can neither hide behind borders nor abuse differences between national legal systems for criminal purposes.

Strengthening mutual trust

Common minimum rules in certain crime areas are also essential to enhance the mutual trust between Member States and the national judiciaries. This high level of trust is indispensable for smooth cooperation among the judiciary in different Member States. The principle of mutual recognition of judicial measures, which is the cornerstone of judicial cooperation in criminal matters⁵, can only work effectively on this basis.

Ensuring effective enforcement

Criminal law can play an important role to ensure the implementation of European Union policies. These policies depend on effective implementation by Member States. The Union alone cannot make sure that its rules, ranging from environmental protection and conservation of fisheries resources to road safety, financial services regulation, data protection and the protection of the financial interests of the EU, have the desired effect for the citizen.

Member States are obliged to ensure that Union policies are implemented and can usually decide themselves on the means of enforcement. In this respect, controls and inspections play a crucial role. In cases where the enforcement choices in the Member States do not yield the desired result and levels of enforcement remain uneven, the Union itself may set common rules on how to ensure implementation, including, if necessary, the requirement for criminal sanctions for breaches of EU law.

Coherence and consistency

While EU criminal law measures can play an important role as a complement to the national criminal law systems, it is clear that criminal law reflects the basic values, customs and choices of any given society. The Lisbon Treaty accepts this diversity.⁶ For this reason, it is particularly important to ensure that EU legislation on criminal law, in order to have a real added value, is consistent and coherent.⁷

A new legal framework

The legal framework under the Lisbon Treaty provides fresh opportunities to develop EU criminal law legislation. The legal framework notably allows the EU institutions and Member

⁵ See Article 82 (1) TFEU.

⁶ See Article 67 (1) TFEU: "The Union should constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States".

⁷ On the need for more coherence in the development of EU criminal law, see, as an example, the Manifesto on the EU Criminal Policy of 2009 (<http://www.crimpol.eu>), drafted by an academic group of 14 criminal law professors from ten Member States of the European Union.

States to work together on a clear basis towards a coherent and consistent EU criminal law which at the same time effectively protects the rights of suspected and accused persons and victims and promotes the quality of justice. Prior to the Lisbon Treaty, the legal framework applicable to most criminal law legislation⁸ had a number of shortcomings. These included mainly the requirement for unanimous approval of all Member States, consultation only of the European Parliament and the absence of the possibility of infringement proceedings before the European Court of Justice to ensure the correct implementation by Member States.

The new legal set-up gives a strong role to the European Parliament through the co-decision process and full judicial control to the European Court of Justice. The Council can adopt a proposal if a qualified majority of Member States supports it. In addition, the Lisbon Treaty strengthens the role of national parliaments substantially. They can give their views on draft legislation and have an important voice in monitoring the respect of the principle of subsidiarity. In the field of criminal law, this role of national parliaments is stronger than in the context of other EU policies.⁹

Criminal law measures comprise intrusive rules, which can result in deprivation of liberty. This is why the Charter of Fundamental Rights – made legally binding by the Lisbon Treaty¹⁰ – provides important limits for EU action in this field. The Charter, being the compass of all EU policies, provides for a binding core of rules that protects citizens.

When legislating on substantive criminal law or criminal procedure, Member States can pull the so-called “emergency brake”, if they consider that proposed legislation touches upon fundamental aspects of their national criminal justice system: in this case the proposal is referred to the European Council.

Denmark is not participating in newly adopted measures on substantive criminal law, while the United Kingdom and Ireland only participate in the adoption and application of specific instruments after a decision to “opt in”.¹¹

⁸ Under the former EC Treaty while the usual instrument for criminal law legislation were Framework Decisions under the so-called “third pillar”, some directives with criminal law measures have already been adopted: in order to ensure the enforcement of rules concerning the protection of the environment, against ship-source pollution and illegal employment (Directives 2008/99, 2009/123 and 2009/52), based on the jurisprudence of the Court of Justice (C-176/03). Approximation of sanction types and levels was only possible in Framework Decisions (C-440/5).

⁹ See Protocol No. 1 on “the role of national parliaments in the European Union” and No. 2 on “the application of the principles of subsidiarity and proportionality”, in particular Article 7 (2).

¹⁰ See Communication from the Commission on a Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union – COM (2010) 573 of 19.10. 2010.

¹¹ See Protocols No. 21 and 22.

Why the EU should act – the added value of EU criminal law legislation

The Lisbon Treaty grants the EU competence both in the field of criminal procedure and substantive criminal law. While it is not the role of the EU to replace national criminal codes, EU criminal law legislation can, however, add, within the limits of EU competence, important value to the existing national criminal law systems.

- EU criminal law fosters the confidence of citizens in using their right to free movement and to buy goods or services from providers from other Member States through a more effective fight against crime and the adoption of minimum standards for procedural rights in criminal proceedings as well as for victims of crime.
- Today, many serious crimes, including violations of harmonised EU legislation, occur across borders. There is thus an incentive and possibility for criminals to choose the Member State with the most lenient sanctioning system in certain crime areas unless a degree of approximation of the national laws prevents the existence of such "safe havens".
- Common rules strengthen mutual trust among the judiciaries and law enforcement authorities of the Member States. This facilitates the mutual recognition of judicial measures as national authorities feel more comfortable recognising decisions taken in another Member State if the definitions of the underlying criminal offences are compatible and there is a minimum approximation of sanction level. Common rules also facilitate cooperation with regard to the use of special investigative measures in cross-border cases.
- EU criminal law helps to prevent and sanction serious offences against EU law in important policy areas, such as the protection of the environment or illegal employment.

1. SCOPE FOR EU CRIMINAL LAW

The EU can adopt under Article 83 of the Treaty on the Functioning of the European Union (TFEU) directives with minimum rules on EU criminal law for different crimes.

First of all, measures can be adopted under Article 83(1) TFEU concerning a list of explicitly listed ten offences (the so-called **“Euro crimes”**) which refers to terrorism, trafficking in human beings, sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.¹² These are crimes that merit, by definition, an EU approach due to their particularly serious nature and their cross-border dimension, according to the Treaty itself. Most of the crime areas are already covered by pre-Lisbon legislation, which has been or is in the process of being updated. Additional “Euro crimes” can only be defined by the Council acting unanimously, with the consent of the European Parliament.

¹² See the Framework Decisions and Directive cited above, in footnote 3. Several of those Framework Decisions will be reassessed in the light of the Lisbon Treaty in the coming years, including Framework Decision 2000/383, as amended by Framework Decision 2001/888, in 2012.

Secondly, Article 83(2) TFEU allows the European Parliament and the Council, on a proposal from the Commission, to establish "minimum rules with regard to the definition of criminal offences and sanctions if the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to a harmonisation measure". This clause does not list specific crimes, but makes the fulfillment of certain legal criteria a precondition for the adoption of criminal law measures at EU level. It is therefore notably in respect of Article 83(2) TFEU where an EU criminal policy is particularly warranted; and where this Communication intends to provide specific guidance. Most importantly, it is in this field where the EU institutions need to make policy choices whether to use or not to use criminal law (instead of other measures, such as administrative sanctions) as an enforcement tool; and to determine which EU policies require the use of criminal law as an additional enforcement tool.

Example: The EU's rules on financial market behaviour are a case in point where criminal law could be a useful additional tool to ensure effective enforcement. As the financial crisis has shown, financial market rules are not always respected and applied sufficiently. This can seriously undermine confidence in the financial sector. Greater convergence between legal regimes in the Member States, including in criminal law, can help to prevent the risk of improper functioning of financial markets and assist the development of a level playing field within the internal market.¹³

Apart from that, Article 325 (4) of the Treaty provides for the specific possibility to take measures in the field of the **prevention of and fight against fraud affecting the financial interests of the Union**, a field where some pre-Lisbon legislation already exists.¹⁴ It is an area of great importance for EU taxpayers, who are funding the EU budget and who legitimately expect effective measures against illegal activities targeting EU public money, e.g. in the context of the EU's agricultural and regional funds or development aid.¹⁵

2. WHICH PRINCIPLES SHOULD GUIDE EU CRIMINAL LAW LEGISLATION?

As in national law, EU criminal law legislation must be carefully considered. Criminal law, whether national or European, consists of rules with a significant impact on individuals. For this reason, and because criminal law must always remain a measure of last resort, new legislation requires the respect of fundamental legal principles.

2.1. *General principles to respect*

The general **subsidiarity** requirement for EU legislation must be given special attention with regard to criminal law. This means that the EU can only legislate if the goal cannot be reached more effectively by measures at national or regional and local level but rather due to the scale or effects of the proposed measure can be better achieved at Union level.

¹³ See 'Communication on reinforcing sanctioning regimes in the financial sector', COM (2010) 716 of 8.12. 2010.

¹⁴ See Convention of 1995 on the protection of financial interests of the EU and its protocols, and Council Regulation (EC, Euratom) No 2988/95 of 18.12.1995 on the protection of the European Communities' financial interests concerning administrative sanctions, OJ L 312/1 of 23.12.1995.

¹⁵ See 'Communication on the protection of the financial interests of the European Union by criminal law and by administrative investigations – An integrated policy to safeguard taxpayers' money', COM (2011) 293, of 26.5. 2011.

In addition, **fundamental rights**, as guaranteed in the EU Charter of Fundamental Rights and in the European Convention on the Protection on Human Rights and Fundamental Freedoms, must be respected in any policy field of the Union. Criminal law measures are fundamental rights-sensitive. They unavoidably interfere with individual rights, be it those of the suspect, of the victim or of witnesses. Ultimately, they can result in deprivation of liberty and therefore require particular attention by the legislator.

2.2. A two-step approach in criminal law legislation

The EU legislator should follow two steps when taking the decision on criminal law measures aimed at ensuring the effective implementation of EU policies which are the subject of harmonising measures.

2.2.1. Step 1: The decision on whether to adopt criminal law measures at all

- **Necessity and Proportionality – Criminal law as a means of last resort ("ultima ratio")**

Criminal investigations and sanctions may have a significant impact on citizens' rights and include a stigmatising effect. Therefore, criminal law must always remain a measure of last resort. This is reflected in the general principle of proportionality (as embodied in the Treaty on European Union¹⁶ and, specifically for criminal penalties, in the EU Charter of Fundamental Rights¹⁷). For criminal law measures supporting the enforcement of EU policies,¹⁸ the Treaty explicitly requires a test of whether criminal law measures are "essential" to achieve the goal of an effective policy implementation.

Therefore, the legislator needs to analyse whether measures other than criminal law measures, e.g. sanction regimes of administrative or civil nature, could not sufficiently ensure the policy implementation and whether criminal law could address the problems more effectively. This will require a thorough analysis in the Impact Assessments preceding any legislative proposal, including for instance and depending on the specificities of the policy area concerned, an assessment of whether Member States' sanction regimes achieve the desired result and difficulties faced by national authorities implementing EU law on the ground.

2.2.2. Step 2: Principles guiding the decision on what kind of criminal law measures to adopt

Should Step 1 demonstrate the need for criminal law, the next question is which concrete measures to take.

- **Minimum rules**

EU legislation regarding the **definition of criminal offences** and **sanctions** is limited to "**minimum rules**" under Article 83 of the Treaty. This limitation rules out a full harmonisation. At the same time, the principle of **legal certainty** requires that the conduct to be considered criminal must be defined clearly.

¹⁶ Article 5 (4) TEU.

¹⁷ Article 49 (3) of the EU Charter of Fundamental Rights.

¹⁸ Article 83 (2) TFEU.

However, an EU directive on criminal law does not have any direct effect on a citizen; it will have to be implemented in national law first. Therefore, the requirements for legal certainty are not the same as for national criminal law legislation. The key is the clarity for the national legislator about the results to be achieved in implementing EU legislation.

Regarding **sanctions**, "minimum rules" can be requirements of certain sanction types (e.g. fines, imprisonment, disqualification), levels or the EU-wide definition of what are to be considered aggravating or mitigating circumstances. In each case, the EU instrument may only set out which sanctions have to be made "at least" available to the judges in each Member State.

- **Necessity and proportionality**

The condition of "necessity" set out above also applies on the level of deciding which criminal law measures to include in a particular legislative instrument. The "necessity test" becomes the more important the more detailed the envisaged rules are with regard to the type and level of sanctions to be required from Member States. The explicit requirement of the Charter of Fundamental Rights¹⁹ that "the severity of the penalty must not be disproportionate to the criminal offence" applies.

- **Clear factual evidence**

To establish the necessity for minimum rules on criminal law, the EU institutions need to be able to rely on clear factual evidence about the nature or effects of the crime in question and about a diverging legal situation in all Member States which could jeopardise the effective enforcement of an EU policy subject to harmonisation. This is why the EU needs to have at its disposal statistical data from the national authorities that allow it to assess the factual situation. As part of its follow up action, the Commission will develop plans to collect further statistical data and evidence to deal with the areas covered by Article 325 (4) and Article 83 (2).

- **Tailoring the sanctions to the crime**

The development of criminal law legislation, notably to underpin the effectiveness of EU policies requires also careful consideration of, for example, the following issues:

- whether to include types of sanctions other than imprisonment and fines to ensure a maximum level of effectiveness, proportionality and dissuasiveness, as well as the need for additional measures, such as confiscation; and
- whether to impose criminal or non-criminal liability on legal persons, in particular with regard to crime areas where legal entities play a particularly important role as perpetrators.

¹⁹ Article 49 of the EU Charter of Fundamental Rights.

What is the possible content of EU minimum rules on criminal law?

The **definition** of the offences, i.e. the description of conduct considered to be criminal, always covers the conduct of the main perpetrator but also in most cases ancillary conduct such as instigating, aiding and abetting. In some cases, the attempt to commit the offence is also covered.

All EU criminal law instruments include in the definition intentional conduct, but in some cases also seriously negligent conduct. Some instruments further define what should be considered as "aggravating" or "mitigating" circumstances for the determination of the sanction in a particular case.

Generally, EU legislation covers offences committed by natural persons as well as by legal persons such as companies or associations. The latter can be important in many areas, e.g. concerning responsibility for oil spills. However, in existing legislation, Member States have always been left with the choice concerning the type of liability of legal persons for the commission of criminal offences, as the concept of criminal liability of legal persons does not exist in all national legal orders.

Furthermore, EU legislation can cover rules on **jurisdiction**, as well as other aspects that are considered part of the definition as necessary elements for the effective application of the legal provision.

Regarding sanctions, EU criminal law can require Member States to take effective, proportionate and dissuasive criminal **sanctions** for a specific conduct. *Effectiveness* requires that the sanction is suitable to achieve the desired goal, i.e. observance of the rules; *proportionality* requires that the sanction must be commensurate with the gravity of the conduct and its effects and must not exceed what is necessary to achieve the aim; and *dissuasiveness* requires that the sanctions constitute an adequate deterrent for potential future perpetrators.

Sometimes, EU criminal law determines more specifically, which types and/or levels of sanctions are to be made applicable. Provisions concerning confiscation can also be included. It is not the primary goal of an EU-wide approximation to increase the respective sanction levels applicable in the Member States but rather to reduce the degree of variation between the national systems and to ensure that the requirements of "effective, proportionate and dissuasive" sanctions are indeed met in all Member States.

3. WHICH ARE THE EU POLICY AREAS WHERE EU CRIMINAL LAW MIGHT BE NEEDED?

Criminal law measures can be considered as an element to ensure the effective enforcement of EU policies, as recognized by the Treaty on the Functioning of the European Union. EU policies cover a broad variety of subjects, where common rules have been developed over the last decades for the well-being of citizens. These policy areas range from the customs union and internal market rules to the protection of the environment.

In all these policy areas, Member States are obliged to ensure that breaches of EU law are to be sanctioned with effective, proportionate and dissuasive penalties. Member States can in

general choose the nature of the sanction which does not have to be criminal but could also be administrative.

Where the discretion of Member States in implementing EU law does not lead to the desired effective enforcement, it may be necessary to regulate, by means of minimum rules, at EU level which sanctions Member States have to foresee in their national legislation. Approximating sanction levels will in particular be a consideration if an analysis of the current sanction legislation of administrative or criminal nature reveals significant differences amongst the Member States and if those differences lead to an inconsistent application of EU rules.

If EU action is required, the EU legislator needs to decide whether criminal sanctions are necessary or whether common administrative sanctions are sufficient. This will depend on a case-by-case assessment of the specific enforcement problems in a policy area along the guiding principles set out above.

There are a number of policy areas which have been harmonised and where it has been established that criminal law measures at EU level are required. This concerns notably measures to fight serious damaging practices and illegal profits in some economic sectors in order to protect activities of legitimate businesses and safeguard the interest of taxpayers:

- **the financial sector**, e.g. concerning market manipulation or insider trading;²⁰
- **the fight against fraud** affecting the financial interests of the European Union, to ensure that taxpayers' money is protected to an equivalent degree across the Union. In a recent Communication, the Commission set out a range of tools that should be considered to strengthen this protection,²¹ including criminal procedure, common definitions of offences and rules on jurisdiction.
- **the protection of the euro against counterfeiting through criminal law** in order to strengthen the public's trust in the security of means of payment.

The Commission will **further reflect on ways how criminal law could contribute to the economic recovery by helping tackle the illegal economy and financial criminality.**

In other harmonised policy areas, the potential role of criminal law as a necessary tool to ensure effective enforcement could also be explored further. Indicative examples could be:

- **road transport**, concerning, e.g., serious infringements of EU social, technical, safety and market rules for professional transports;²²
- **data protection**, for cases of serious breaches of existing EU rules;²³

²⁰ See 'Communication on reinforcing sanctioning regimes in the financial sector', COM (2010) 716 final of 8.12. 2010, p.14.

²¹ See 'Communication on the protection of the financial interests of the European Union by criminal law and by administrative investigations – An integrated policy to safeguard taxpayers' money', COM (2011) 293, of 26.5.2011, p. 10.

²² Commission Staff Working Paper SEC (2011) 391 of 28.3.2011, accompanying the White Paper 'Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system', COM (2011) 144 of 28.3. 2011, paragraph 176.

- **customs rules** concerning the approximation of customs offences and penalties;²⁴
- **environmental protection**, if the existing criminal law legislation in this area²⁵ requires further strengthening in the future in order to prevent and sanction environmental damage;
- **fisheries policy**, where the EU has adopted a "zero tolerance" campaign against illegal, unreported and unregulated fishing;
- **internal market policies** to fight serious illegal practices such as counterfeiting and corruption or undeclared conflict of interests in the context of public procurement.

These are areas which will require further assessment whether and in which areas minimum rules on the definition of criminal offences and sanctions may prove to be essential in order to ensure the effective implementation of EU legislation.

This analysis should take into account the following considerations:

The **seriousness** and **character** of the breach of law must be taken into account. For certain unlawful acts considered particularly grave, an administrative sanction may not be a sufficiently strong response. On the same line, criminal law sanctions may be chosen when it is considered important to stress **strong disapproval** in order to ensure deterrence. The entering of convictions in criminal records can have a particular **deterrent character**. At the same time, criminal proceedings provide often for stronger **protection of the rights of the accused**, reflecting the seriousness of the charge. The **efficiency of the sanction system** must be considered, as well as the extent to which and the reasons why existing sanctions do not achieve the desired enforcement level. The type of sanction that is considered to be the most appropriate to reach the global objective of being effective, proportionate and dissuasive should be chosen. An administrative sanction can often be decided and executed without delay, and lengthy and resource demanding procedures can thereby be avoided. Administrative sanctions may for this reason be considered in areas where, for example the offence is not particularly severe or occurs in large numbers as well as in areas where administrative sanctions and procedures are suitable and effective for other reasons (e.g. complex economic assessments). In many cases, administrative law also provides for a broader range of possible sanctions, from fines and suspension of licenses to exclusion from entitlement to public benefits, which can be tailored to the specific situation. In many cases, administrative sanctions may therefore be sufficient or even more effective than criminal sanctions.

4. CONCLUSION

Even though the new legal framework introduced by the Lisbon Treaty does not fundamentally alter the possible scope of EU criminal law, it considerably enhances the

²³ See the Communication 'A comprehensive approach on personal data protection in the European Union', COM (2010) 609 of 4.11. 2010, p. 9.

²⁴ See Communication 'Delivering an area of freedom, security and justice for Europe's citizens – Action Plan implementing the Stockholm Programme', COM (2010) 171 of 20.4.2010, p. 22.

²⁵ See Directive 2008/99/EC on the protection of the environment through criminal law, OJ L 328/28 of 6.12.2008; and Directive 2009/123/EC on ship-source pollution and on the introduction of penalties for infringements, OJ L 280/52 of 27.10.2009.

possibility to progress with the development of a coherent EU Criminal Policy which is based on considerations both of effective enforcement and a solid protection of fundamental rights. This communication represents a first step in the Commission's efforts to put in place a coherent and consistent EU Criminal Policy by setting out how the EU should use criminal law to ensure the effective implementation of EU policies. It needs to be designed focusing on the needs of EU citizens and the requirements of an EU area of freedom, security and justice, while fully respecting subsidiarity and the last-resort-character of criminal law.

For this purpose, the Commission will draft, in close cooperation with Parliament and Council, sample language. This should guide the EU legislator whenever drafting criminal law provisions setting minimum rules on offences and sanctions. This would contribute to ensure consistency, increase legal certainty and facilitate implementation of EU law. The Commission will also set up an expert group to assist the Commission in gathering factual evidence and in launching further discussions about important legal issues with a view to ensuring an efficient implementation of EU legislation into the national criminal law systems of Member States. This includes for example:

- the relationship between criminal and non-criminal sanction systems; and
- the interpretation of criminal law notions regularly used in EU legislation, such as the notion of "effective, proportionate and dissuasive sanctions", "minor cases" or "aiding and abetting".

Based on a thorough evaluation of existing EU criminal law measures and continuous consultation of Member States and independent experts, the Commission will continue to develop the EU criminal policy over the coming years.

Our vision for a coherent and consistent EU Criminal Policy by 2020:

- EU criminal law can be an important tool to better fight crime as a response to the concerns of citizens and to ensure the effective implementation of EU policies. .
- In fields of EU policy where there is an identified enforcement deficit, the Commission will assess the need for new criminal law measures based on an evaluation of the enforcement practice and in full respect of fundamental Treaty principles such as subsidiarity and proportionality. This concerns notably the protection of the functioning of the financial markets, the protection of the financial interests of the EU, the protection of the euro against counterfeiting, serious infringements of road transport rules, serious breaches of data protection rules, customs offences, environmental protection, fisheries policy and internal market policies to fight illegal practices such as counterfeiting and corruption or undeclared conflict of interests in the context of public procurement.
- There should be a common understanding on the guiding principles underlying EU criminal law legislation, such as the interpretation of basic legal concepts used in EU criminal law; and how criminal law sanctions can provide most added value at EU level.
- Criminal law measures should be firmly grounded in strong EU-wide standards for procedural rights and victims' rights in line with the EU Charter of Fundamental Rights.