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WINNING THE FIGHT**

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## KEYNOTE SPEECH

Ladies and gentlemen,

The title of today's conference is "Winning the fight".

The speech of the Director of Europol this morning has illustrated what we are fighting against. Organised crime is serious, and it is well equipped.

How are we going to win the fight against this threat?

If I look at the budgetary situation in the Member States and the recent decisions of the Heads of State on the Multiannual Financial Framework, the famous MFF, I can say one thing with certainty: we are not going to win the fight by boosting the number and the staffing of our law enforcement authorities. With the current budgetary constraints, this is simply not an option.

## Impact of organised crime on the EU budget

However, our tight public budgets make winning this fight even more important. Organised crime not only poses a particular threat to the security of our citizens. Also the economic damage to our economies is enormous. Also the EU budget is affected. OLAF, the European Anti-Fraud Office, has analysed a sample of cases of fraud affecting the Union's financial interests. This analysis shows that, although the number of cases involving organised crime is limited, the financial impact of these cases is massive. We estimate that about 40% of all damage caused to the EU budget by fraud is linked to organised crime. This means that the impact of such cases on the EU's budget is four times bigger than that of other fraud cases.

The links between organised crime and fraud to the Union's budget have been acknowledged by EU leaders for a long time. They are already reflected in the Preamble to the 1995 Convention on the protection of the Communities' financial interests. They also result clearly from the annual reports of Europol, Eurojust and OLAF, the European Anti-Fraud Office. These reports highlight the important role of criminal organisations in offences like fraud, cigarette smuggling, euro counterfeiting and money laundering.

If we want to protect the EU's financial interests effectively, we therefore have to put a special focus on criminal organisations.

What does that mean in practice?

Criminal organisations nowadays do not limit themselves to one or only a few areas. Their activities are manifold. However, we see that they tend to focus on areas where profits are high but sanctions and enforcement capacities are comparatively low.

I would therefore like to highlight three areas that have proven to be particularly attractive to organised crime. And I will explain what the Commission does in order to make them less attractive in future.

#### Cigarette smuggling

The first area, and a particularly popular one amongst criminal organisations, is cigarette smuggling.

According to our estimates, cigarette smuggling causes a yearly damage of about 10 billion euro to the budgets of the Member States and the European Union. Therefore, in 2011, the Commission adopted the so-called Eastern Border Action Plan, focusing on fighting cigarette smuggling on the particularly vulnerable Eastern border of the EU. Since then, the illicit tobacco trade seems to have decreased at the Eastern border.

At the same time, however, evidence suggests that a greater part of smuggled cigarettes enters the EU through the sea ports. I have therefore decided to propose to my colleagues in the College of Commissioners, before the summer, a comprehensive and overall strategy for the fight against cigarette smuggling.

Why do we need this Strategy?

One main reason is that when it comes to cooperation between enforcement authorities across borders, we still need to do better. We have made a lot of progress over the last years in this field. However, sharing of data and information between agencies and authorities is still often subject to restrictions and difficulties, which render their work unnecessarily difficult. Coordinated action is needed.

At the European level, cooperation between OLAF, Eurojust, FRONTEX and Europol needs to be improved. These bodies have different mandates but fight the same criminals. They should for example be able to conduct common risk assessments and to share their operational expertise. Moreover, they should be able to share more easily information they gather on cases and criminal networks. These improvements would eliminate an important difficulty in the fight against organised crime.

The forthcoming Strategy against cigarette smuggling will also recommend introducing supply chain control measures, as provided for in the recently adopted Protocol to the Framework Convention on Tobacco Control. The Protocol requires in particular a system of "tracking and tracing". This will be a powerful mechanism in fighting illicit trade. The EU and the Member States should therefore proceed with the signature and ratification of the Protocol as quickly as possible.

## VAT Fraud

Another source of income for the Member States and the Union which is affected by organised crime is Value Added Tax. This is therefore the second area that I would like to mention today.

It is difficult to estimate the total impact of VAT fraud. However, according to our approximate calculations the VAT gap for the EU would be close to 12% of the theoretical VAT liability. This is equal to approximately 107 billion euro. The VAT gap is the difference between the theoretical net VAT yield for the whole economy and the actual VAT receipts. A considerable part of this gap relates to carousel fraud.

In carousel fraud, companies which should pay VAT on the intra-Community acquisition of goods or services disappear before paying the tax.

This allows the other companies in the fraudulent chain to benefit from lower prices. This means that carousel fraud needs a specific organisation involving several actors. And therefore, we are again talking of organised crime.

The consequence of carousel fraud is a tax loss in the Member States affected by the fraudulent chain and a distortion of competition in the market.

In 2006 and 2008, the Commission proposed a set of anti-fraud measures to make it more difficult for fraudsters to set up carousel fraud mechanisms. Most of these measures were adopted by the Council. These measures mainly comprise faster exchange of information and the creation of EUROFISC.

EUROFISC's main mission is to detect the "missing traders" established with the only purpose of defrauding VAT. This objective is sought through a system of multilateral exchange of early warning signals and targeted information between Member States. The role of the Commission is to provide EUROFISC with technical and logistical support.

In addition, the Action Plan on Fighting Tax Fraud and Tax Evasion that the Commission put forward in December 2012 explores a number of new areas for improvement in this specific field. They are: enhancing administrative cooperation with third countries; tackling new frauds as quickly as possible through the creation of a Quick Reaction Mechanism; and exploring how tax collection systems could be improved.

As regards the first area, the Commission believes that European agreements with third countries for cooperation in the field of VAT can help Member States to fight fraud in international trade, especially as regards e-commerce.

Secondly, in July 2012 the Commission presented a proposal for a Quick Reaction Mechanism that would allow Member States to take rapid action against new types of carousel VAT fraud. This Quick Reaction Mechanism intends to combat sudden and massive fraud schemes that cannot be stopped via traditional control and enforcement means. Under this mechanism, derogating measures would be granted to Member States within 1 month and for a maximum period of 1 year.

Discussions in Council have unfortunately not yet been conclusive. This is notably because some Member States fear a loss in sovereignty. However, the Commission will continue assisting the Presidency in striving for a compromise.

Thirdly, the Commission also assists Member States in making their tax administration more effective and efficient by providing technical assistance in particular as regards taxpayer compliance and risk assessment.

Finally, the Action Plan stresses the importance of inter-agency cooperation also in the fight against tax fraud, tax evasion and tax related crimes. Europol can play an important role in enhancing information exchange by contributing to the identification and dismantling of criminal networks or groups.

In addition, the Commission recently tabled its proposal for a new Directive to combat money laundering. In that proposal, it explicitly mentions tax crimes as predicate offences to money laundering, in line with the 2012 recommendations of the Financial Action Task Force. Such initiative will facilitate the cooperation between tax authorities and judicial and financial supervisory authorities in order to tackle serious infringements of tax law.

Co-operation could be further facilitated by an EU-wide harmonisation of the money laundering offence, its definition and related sanctions. In this regard, the Commission plans to propose a specific Directive towards the end of 2013.

#### Euro counterfeiting

The third and last area I want to mention today is currency counterfeiting.

In particular euro counterfeiting is typically a cross-border crime. Counterfeit euros are produced in one country and distributed through networks throughout the EU. Interpol confirms that professional distributors use almost identical distribution channels for currency counterfeiting on the one hand and for drug trafficking and other typical organised crime offences on the other hand.

Again, difficulties in cross-border cooperation of enforcement authorities and low sanctions make euro counterfeiting attractive. The Commission therefore proposed three weeks ago a Directive on the protection of the euro against counterfeiting by criminal law. In the coming months, this proposal will be discussed by the Council and the European Parliament. I hope that we will quickly arrive at an agreement. We need to protect the euro and other currencies, not least in difficult times.

These are three examples of action that we are taking to protect specific sectors from criminal activity. Such sectorial measures, however, are not enough if we want to protect the EU budget comprehensively.

## PIF Directive

In fact, the current considerable differences in the level of protection of the EU budget in the Member States pose a serious problem across the different sectors. These differences concern both the definition of and sanctions for the relevant offences. Furthermore, sometimes very short periods of statutory limitation can lead to crimes being time-barred before complex cross-border investigations can be concluded.

In July last year, the Commission therefore proposed a Directive for the protection of the Union's financial interests by means of criminal law. The proposed rules should make sure that criminal offences against the EU budget are defined in a similar way across the EU, and also punished in a comparable manner. Criminal organisations must be prevented from taking advantage of some Member States' weaker legislative framework by placing their criminal activities in these Member States. Furthermore, investigators should be given a reasonable time span to carry out their investigations and bring a case to court.

## EPPO

Even with these improvements however we will still face considerable restrictions in the protection of the Union's financial interests. In Europe, where crime knows no borders, simple judicial cooperation is not enough to fight crime which typically involves several Member States. For cases that concern a European good as the EU budget, we therefore need to create a new model for working across borders when fighting criminals.

The EU needs an integrated criminal investigation and prosecution function capable of acting across Europe. This means not only harmonising certain rules of substantive and procedural criminal law. We also need to establish a prosecution service at the EU level, providing it with the means and the powers necessary to effectively fight fraud against the EU budget. This is why I will put forward later this year a proposal for a European Public Prosecutor's Office, together with my colleague Vice-President Reding.

Such an Office would go beyond what the current European bodies, OLAF, Eurojust and Europol, can do. The European Public Prosecutor's Office should, throughout the Union, investigate, prosecute and bring to justice offences directed against the EU's financial interests. In doing this, it should act together with national law enforcement and judicial authorities in an integrated manner. Because it will have a European approach to cross-border cases, it will more easily be able to identify links between offences in different Member States. Also the procedures for sharing and communicating between law enforcement authorities in different Member States will be facilitated and faster.

## Conclusion

Ladies and gentlemen,

Let me put in a nutshell what I just said.

Member States authorities and different EU bodies such as Eurojust, Europol and OLAF in general are already doing good work to protect the EU's financial interests. However, the means that they currently have at their disposal, in particular to fight criminal organisations are inadequate. With the implementation of the Commission proposals that I have just outlined, the EU would take a great step in the right direction. A step towards a safer Europe under the rule of law, where the money of our citizens is protected better. Where the money of our citizens is used to improve their life in the EU, to create growth and jobs, instead of supporting criminal organisations.

Thank you for your attention.