

AMENDMENT FORM

Suggestion for amendment of Article 17 (Title Area of freedom, security and justice, Part II of the Treaty)

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Article 17: [Substantive criminal law]

1. The European Parliament and the Council, in accordance with the legislative procedure, may adopt framework laws containing minimum rules concerning the definition of incriminations and sanctions in the areas of particularly serious crime with cross-border dimensions resulting from the nature or impact of the offences or of a special need to prosecute them jointly. These areas of crime are the following:

- terrorism;**
- trafficking in human beings and sexual exploitation of women and children;**
- illicit drug trafficking;**
- illicit arms trafficking;**
- money laundering;**
- corruption;**
- counterfeiting of means of payment;**
- computer crime;**
- organised crime;**

- **fraud affecting the financial interests of the Union;**
- **Euro counterfeiting;**
- **assistance for illegal entry and residence;**
- **counterfeiting and piracy of goods;**
- **environmental crime;**
- **racism and xenophobia.**

~~in areas of crime affecting a common interest which is the subject of a Union policy, if criminal sanctions prove essential to ensure the effective implementation of that policy.~~

- 2. The Council, on the basis of developments in serious cross-border crime and acting unanimously after obtaining the assent of the European Parliament, may identify other areas of crime that meet the criteria specified in paragraph 1.**

Explanation:

The areas in which approximation of the minimum constituent elements of substantive criminal law is necessary should be defined as precisely as possible in the Treaty. Union competence in this field should be defined in an exhaustive list of crimes confined to serious crimes having a clear cross-border dimension. The double criteria of the seriousness and cross-border nature of the crime should also apply to crimes directed against the common interest of the Union. In other words, the fact that a particular kind of crime could potentially be directed against the Union's interests and that criminal sanctions were deemed to be required for the effective pursuance and implementation of the Union's policies should not in itself be regarded as a sufficient ground for enacting Union legislation on substantive criminal law. Of course, crimes directed against the Union's interests would also have to be listed in an exhaustive fashion in the Treaty.

While there should be flexibility to amend the list, the Union's action on substantive criminal law should not be driven by short-term pressures. The power to add to the list should be reserved for cases where new forms of serious transnational organised crime emerge, and where a Union response is clearly required.