

Statement by Mr Henrik Hololei
Alternate Member of the Convention
Government of Estonia
on the articles about the area
based on freedom, security and justice

3-4 April 2003, Brussels

Ladies and Gentlemen,

Thank you very much Mr. Chairman. I would like to congratulate you and the Presidium of their hard and good work in presenting these well-prepared draft articles to the Convention.

The draft articles on the area based on freedom, security and justice represent a remarkable step forward. This is one of the main areas in the Union where there is certainly a demand for more Europe. The response to the demand has so far not been adequate. However, the steps towards giving the Union more powers in the area, give us hope that we can achieve better results in the future. Notably, the extension of qualified majority voting, more involvement of the European Parliament and the European Court of Justice and notably the European Commission may give us better tools for fighting and preventing cross-border crime and addressing the fears of our citizens.

However, I would like to make a couple of remarks about the draft articles that do not seem sufficiently clear to me.

First, article 10 refers to a “gradual introduction of a common integrated management system for external borders.” Several speakers have already voiced their concerns about the meaning of this article. Does one envisage here the creation of an integrated border control unit, i. e. joint border-management units? I believe that the implementation of the border control should remain as the responsibility of each member state and one should rather concentrate on common standards, joint financial responsibility i.e burden sharing and solidarity as well as possibly co-operation regarding training. Perhaps this has been the intention but to me it is not really sufficiently understandable in its current wording.

Secondly, article 17 allows the adoption of laws and framework laws “in the areas of particularly serious crime with cross-dimensions”. This is certainly necessary and clear. At the same time, in the second paragraph we intend to adopt common acts “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.” Perhaps we could use a list of areas or examples here where such action would be necessary. In its current wording the paragraph raises more questions than it answers.

Thirdly I would like to join those who have advocated for more limited scope in the Art 21. I am afraid that otherwise we would go too far in the sovereign issues of the Member States and I believe we should limit it to police, customs and civil protection authorities.

Finally I would like to raise my doubts about the creation of the European Public Prosecutor's Office. I agree very much with Dick Roche. The tasks and in particular the competence of the Office remain largely unclear and I would be very cautious about the development of this institution with large enforcement powers and competencies to be exercised in the area of sovereign responsibility of the Member States. I am not fully convinced of the need of the creation of this institution at this stage and mentioning of that in the Constitutional Treaty and I believe that it can evolve from the current Eurojust in due time.

Thank you !