RETSUDVALGET
(2. samling)
Alm. del - bilag 116 (offentligt)
ERU, Alm. del - bilag 47

Folketingets Erhvervsudvalg
Folketingets Retsudvalg
Christiansborg, den 14. januar 2002

Til udvalgets medlemmer og stedfortrædere.

EU-konference for parlamentarikere i Paris den 7. og 8. februar 2002 om bekæmpelse af økonomisk kriminalitet

Folketingets formand har fra den franske nationalforsamling (Assemblée Nationale) modtaget vedlagte invitation til en EU-konference for parlamentarikere i Paris den 7. og 8. februar 2002 om bekæmpelse af økonomisk kriminalitet. Ud over Folketingets formand er også to medlemmer af Folketinget inviteret til konferencen.

Formålet med konferencen er at nå til enighed om en tekst med opregning af en række emner, som der kan samarbejdes om særligt med henblik på at bekæmpe hvidvaskning af penge.

Et udkast til en sådan tekst vil forud for konferencen blive udarbejdet af en styringsgruppe bestående af en række parlamentarikere og nationale eksperter (dommere, embedsmænd, finanseksperter m.fl.). Ingen medlemmer af Folketinget er repræsenteret i styringsgruppen og efter det oplyste er heller ingen danske eksperter repræsenteret i styringsgruppen.

Følgende fire spørgsmål vil efter det oplyste blive taget op i teksten: Gennemsigtighed af kapitalbevægelser, håndhævelse af lovgivning om forbud mod hvidvaskning af penge (sanktioner), retligt og politimæssigt samarbejde og "forsigtighedsregler" (forebyggende foranstaltninger).

Så snart et udkast til en tekst foreligger, vil den blive omdelt i udvalgene.

Formanden for Folketinget har ikke mulighed for at deltage, men de to yderligere pladser bliver hermed udbudt til medlemmerne i Erhvervsudvalget og Retsudvalget.

Deltagelse i konferencen sættes på dagsordenen for næstkommende møde i de to udvalg, hvor interesserede kan melde sig. Såfremt flere end to melder sig, vil pladserne blive fordelt sådan, at begge udvalg og valgforbund er repræsenteret.

Med venlig hilsen

Lotte Schønau,
retskonsulent.

(Løbenr. 2126)

RÉPUBLIQUE FRANÇAISE
LIBERTÉ • ÉGALITÉ • FRATERNITÉ

ASSEMBLÉE NATIONALE

LE PRÉSIDENT

PARIS, LE 15 NOV 2001

Monsieur le Président,

La lutte contre les organisations criminelles transnationales est aujourd'hui au premier rang des priorités de tous les Européens. Dans la situation internationale dramatique que nous vivons, il y a véritablement urgence à mener, par une politique de fond, une lutte déterminée contre la délinquance financière.

A cet égard, l'Union européenne est investie d'une responsabilité particulière. En effet, une large part de cette délinquance est constatée dans des territoires liés –historiquement ou géographiquement- à l'Europe.

C'est pourquoi j'ai l'honneur de vous inviter à prendre part, en vous faisant accompagner de deux membres de votre Assemblée, à la Conférence européenne sur la lutte contre la délinquance financière, qui se tiendra à Paris les 7 et 8 février 2002. Cette conférence a pour objectif de parvenir à un texte commun par lequel les participants s'engageront sur des points précis à travailler au renforcement des législations qui, au sein de l'Union européenne, permettent de lutter contre le blanchiment.

Nous préparerons ensemble ce texte au sein d'un comité de pilotage que je vous propose de constituer. Appartiendront à ce comité de pilotage les experts - élus, magistrats, fonctionnaires des services répressifs nationaux, spécialistes financiers - de plusieurs Etats membres de l'Union européenne, qui figurent sur la liste ci-jointe.

Je vous propose de désigner, pour prendre part aux travaux de ce comité de pilotage, un membre de votre Assemblée et un expert national choisi, le cas échéant, sur cette liste.

Ce comité de pilotage se réunira une première fois le 3 décembre prochain à l'Assemblée nationale. Un projet de texte vous sera adressé pour le 26 novembre 2001, en vue de cette réunion.

Une seconde réunion de ce comité de pilotage se tiendra le 14 janvier 2002 à l'Assemblée afin de régler, dans la mesure du possible, les désaccords qui pourraient subsister entre les Parlements représentés.

Monsieur Ivar HANSEN
Président
FOLKETINGET
Christianborg
DK – 1240 COPENHAGEN K
DANEMARK

D'ores et déjà, nous vous proposons d'aborder dans le cadre de ce travail collectif les thèmes suivants :

- La transparence des mouvements de capitaux, (les sociétés écrans, les sociétés clearing, le secret bancaire) ;
- le renforcement des sanctions contre les territoires non coopératifs ;
- l'approfondissement de la coopération judiciaire et policière ;
- le respect et le renforcement des règles prudentielles en vigueur ;

La journée du 7 février 2002 consacrera ses travaux à ces quatre thèmes au sein de deux forums comprenant chacun deux tables rondes simultanées - deux le matin, deux l'après-midi. Ces réunions nous permettront de parachever le document final de la Conférence.

Ces travaux s'achèveront par une séance solennelle qui se tiendra le matin du 8 février 2002 à l'Assemblée nationale, et au cours de laquelle ce document final sera soumis à l'adoption des participants.

Sur tous les sujets traités, notre objectif est de parvenir à un large accord, afin d'exprimer notre détermination à accomplir ensemble de nouveaux progrès en ce domaine. C'est pourquoi je souhaite très vivement que vous puissiez participer personnellement à cette Conférence et que votre Assemblée y soit, en tout état de cause, représentée.

Veuillez agréer, Monsieur le Président, l'assurance de ma considération distinguée.

Raymond FORNI

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Dear Mr. Speaker,

The fight against transnational criminal organisations is today a top priority for all Europeans. In the current dramatic international context it really is urgent that through substantial policies we show we are determined in the fight against financial crime.

In this respect, the European Union has a particular responsibility. A large part of this crime occurs in territories – geographically or historically – linked to Europe.

This is why I have the honour of inviting you to take part, accompanied by two members of your Parliament, in the European Conference on the Fight Against Financial Crime which will be held in Paris on February 7 and 8 2002. The aim of this conference is to achieve a common text in which the participants agree on specific points to work on the reinforcement of legislation which, within the European Union, enables us to fight against money laundering.

We will preparing this text together on a steering committee which I propose you create. This steering committee will include experts – elected representatives, magistrates, officials from national law enforcement departments and financial specialists – from several European Union member states, and are given in the enclosed list.

I propose you name, to take part in the steering committee's work, a member of your Parliament and a national expert chosen, if appropriate, from this list.

This steering committee will meet for the first time on December 3 at the National Assembly. A draft text will be sent to you for November 26 2001, in view of this meeting.

A second meeting of this steering committee will be held on January 14 2002 at the Assembly in order to settle, as far as possible, any disagreements which may exist between the different Parliaments represented.

We already propose you deal with the following subjects within the framework of this collective work :

- The transparency of capital movements, (cover companies, clearing companies, banking secrecy) ;
- the reinforcement of sanctions against uncooperative territories ;
- increased legal and police cooperation ;
- respect and reinforcement of prudential rules in force ;

February 7 2002 will be devoted to its work on these four subjects within the two forums each including two simultaneous round table meetings – two in the morning, two in the afternoon. These meetings will enable us to finalise the Conference's final document.

This work will finish with a formal session which will be held on the morning of February 8 2002 at the National Assembly and during which this final document will be submitted to the participants for approval.

In all the subjects dealt with our objective is to obtain a wide-spanning agreement in order to express our determination to make new progress in this field together, which is why I dearly hope that you will be able to take part in this Conference personally and that your parliament will be present, or at least represented.

Yours faithfully.

Raymond FORNI

RÉPUBLIQUE FRANÇAISE
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ASSEMBLÉE NATIONALE

FOLKETINGET
J.nr. 254-22-3

LE PRÉSIDENT

PARIS, LE 17 DEC 2001

Monsieur le Président,

Par lettre du 15 novembre, je vous invitais à Paris, les 7 et 8 février 2002, pour participer, accompagné de deux membres de votre Assemblée, à la *Conférence des Parlements de l'Union européenne contre le blanchiment*.

Le comité de pilotage, dont je vous annonçais la création, a tenu sa première réunion le 3 décembre. Chaque délégation parlementaire présente s'est exprimée sur un document de travail préparé au niveau administratif, et a présenté ses appréciations, objections ou propositions.

Comme l'on peut le constater à la lecture de l'avant-projet de déclaration, élaboré à l'issue de la réunion et à la lecture du compte rendu de celle-ci (copies jointes), la plupart des suggestions ont été retenues. Seules deux ne l'ont pas été :

- la référence à des textes ou à des dispositifs institutionnels nationaux ne semble pas justifiée dans une déclaration émanant de parlementaires des quinze pays de l'Union européenne et risquerait, par contagion, de l'alourdir par l'énumération des législations nationales de tous les Etats membres ;

- la référence à la liste des infractions entrant dans le champ du mandat d'arrêt européen ne semble pas opportune dans la mesure où une négociation se déroule actuellement sur ce point.

Cet avant-projet de déclaration sera de nouveau discuté, et, espérons-le, finalisé, à l'occasion de la deuxième réunion du comité de pilotage qui se tiendra à Paris, lundi 14 janvier 2002, avant l'adoption de la déclaration par la conférence le 8 février 2002.

Dans cette perspective, je vous serais reconnaissant de me faire connaître les observations que ce document appelle de votre part, et de m'indiquer – ou de me confirmer – le nom du parlementaire de votre assemblée désigné pour faire partie du comité de pilotage.

Je vous prie d'agréer, Monsieur le Président, l'assurance de ma considération distinguée.

Raymond FORNI

Monsieur Ivar HANSEN
Président
FOLKETINGET
Christiansborg
DK 1240 COPENHAGEN K
DANEMARK

Dear Sir,

In my letter dated 15 November, I invited you to participate, with two members of your Parliament, in the *Conference of European Union parliaments against money laundering* that will be held in Paris on 7 and 8 February 2002.

The steering committee, mentioned in my last letter, held its first meeting on 3 December. Each parliamentary delegation present expressed its position, objections and proposals concerning a working document prepared on the administrative level.

You will note on reading the draft declaration, prepared after the meeting and taking into account the minutes thereof, that most of the suggestions made were incorporated in the document. Only two were not.

- The reference to national institutional systems or texts was not deemed necessary in a document prepared by members of Parliament from the 15 member States of the European Union. The document would become unwieldy if the national legislation of all the member States were listed.

- The reference to a list of crimes covered by the European arrest warrant would not seem to be timely in as much as negotiations are currently underway on the subject.

This draft declaration will be discussed again and, we hope, finalised during the second meeting of the steering committee that will be held in Paris, on Monday, 14 January 2002, prior to acceptance of the declaration by the Conference on 8 February 2002.

In light of all the above, I would request that you send me your comments on the document and inform me on (or confirm) the name of the member of your Parliament appointed to take part in the steering committee.

Sincerely yours,
Raymond FORNI

CONFERENCE OF EUROPEAN UNION PARLIAMENTS AGAINST MONEY LAUNDERING

Blueprint for the final declaration in view of the meeting of February 8 2002

Version including the comments of the steering committee of December 3 2001

PREAMBLE

Criminal money laundering and financial crime have been on the constant increase over the last few years exploiting the potentialities given by the globalisation of financial markets ; they represent a direct threat to the stability of the global economy and also our democratic societies.

The financing of terrorism uses very different systems and some of these use the legal economy, although it also resorts to the same instruments as all organised crime.

Without the global coordinated mobilisation of States, crime prevention and law enforcement services and authorities will never be able to act as efficiently and as quickly as those they pursue.

~~From October 1 1996, during the Geneva appeal, European magistrates questioned political decision-makers about this acknowledgement of powerlessness.~~

In the fight against money laundering and the use of the financial system by criminal networks, Europe's exemplary behaviour must be without fault.

The persistence of legal mechanisms which lead to the impenetrableness of financial transactions, the use of "black holes" in the international financial system, a certain form of leniency vis-à-vis many non-cooperative countries and territories which come under the sphere of influence of European Union Member States can no longer be tolerated.

The European Union has however not been inactive since it has updated the directive against money laundering and it has constantly worked on strengthening the European police and legal system which lags behind economic and monetary union.

In a wider framework the Financial Action Task Force on Money Laundering has refined its analyses of the phenomenon and has defined criteria enabling non-cooperative countries and territories, and loopholes in the systems of cooperative countries to be identified.

Stemming from universal suffrage, the national parliaments must necessarily contribute to directing and stimulating the harmonisation of legislation and the cooperation of European Union Member States.

Following a debate bringing together many European experts, MP's and also academics and practitioners, the Conference of European Union Parliaments privileged four working subjects and adopted a series of concrete proposals in an attempt to improve efficiency in the fight against money laundering.

Subject n° 1 : The transparency of capital movements

An efficient fight against money laundering and financial crime means being able to reconstruct the history of capital movements. The traceability of transactions and order makers is therefore a priority objective, but it comes up against several obstacles, including :

– The impenetrableness of certain legal entities (trusts, institutions, foundations and limited partnerships) ;

– Objection to investigators with regard to different professional secrets including banking secrecy ;

– The existence of international financial services (remittance of funds, compensation and interbank transfers) which do not always enable the order maker to be identified.

Proposals :

- Provide for a systematic report to the financial intelligence unit of transactions carried out using trust or assimilated funds whenever it is impossible to identify the beneficial owner.

- Control the form of trusts (standardised documents and ban of suspect clauses).

- Provide for the obligation to register trusts in a central register in addition to the identification of the beneficiaries.

- Harmonise professional secret release procedures

- Generalise access to information held by financial agencies for financial intelligence units.

- Create a central bank account register.

- Standardise the order maker's identification in international financial messages (remittance of funds, compensation and interbank transfers).

- Provide for the identification of financial transaction originators on the Internet by access providers.

Subject n° 2 : Sanctions against non-cooperative countries and territories

The identification of non-cooperative countries and territories in the fight against money laundering falls within the scope of the Financial Action Task Force on Money Laundering (FATF) whose 40 recommendations are the international reference standard. This process must guarantee objective assessment.

Determining and applying sanctions depends on the States. A coordinated action by the European Union in this field can only increase the efficiency of these sanctions.

Proposals :

- Strengthen the obligations of financial agencies to identify beneficial owner before establishing relations with individuals or entities in these countries and territories.

- Strengthen reporting mechanisms or provide for a systematic report to the financial intelligence unit of financial transactions with these countries and territories.

- Strengthen the prudential ratios applicable to financial transactions carried out with these countries and territories.

- Impose conditions on, restrict, overtax or ban transactions with individuals or entities located in these countries and territories.

- Ban European Union member country institutions from opening subsidiaries, branches or representative offices in these territories or from holding dealers' accounts there.

- Ban financial institutions whose head office is located in one of these countries or territories from opening subsidiaries, branches or representatives offices in the European Union.

Subject n° 3 : Legal, police and administrative cooperation

The fight against money laundering and financial crime necessarily involves legal, police and administrative cooperation due to the systematic globalisation of this type of crime.

Money laundering depends on cross-border economic and financial deals.

~~European magistrates questioned policy-makers on the obstacles encountered in cooperation from October 1 1996 during the Geneva Appeal.~~

The Egmont group has laid the foundations for operational cooperation between financial intelligence units and the setting up of the European Anti-Fraud Office is an initial community response. Nevertheless, police and legal cooperation lags behind somewhat.

Several international instances (UN, Council of Europe, European Union) have proposed States sign conventions aimed at improving this cooperation. Beyond the necessary ratifications of these texts, their application, often full of reserves, is not optimal.

The European Union has regularly endeavoured to encourage this cooperation. With this in mind, the European Council's summit meeting in Tampere namely announced the creation of Eurojust.

This process is however still too long and must be accelerated by measures which are well-known since they have been discussed for several years.

Proposals :

- Ratify, apply and strengthen the consistency of international conventions aimed at facilitating legal cooperation.
- Harmonise incriminations in terms of financial crime.
- Establish provisions for the sharing of the burden of proof on the criminal origin of money.
- Harmonise criminal sanctions namely by favouring the confiscation of revenue from crime and the instrument of money laundering.
- Mutually recognise decisions to freeze, seize and confiscate illicit assets.

- Provide for a mechanism for sharing between States credits confiscated as a result of international cooperation.

- Introduce financial crimes including laundering on the list of offences at the basis of the European warrant for arrest.

- Institute a European public prosecutor's office which initially has jurisdiction over community fraud and for offences which fall within the scope of the European warrant for arrest.

Subject n° 4 : Prudential rules

The world deregulation of capital markets has complicated the prevention of money laundering and financial crime, namely due to the acceleration and the growth in international financial flows that is has generated. The sophistication of techniques and trades which has accompanied financial globalisation needs the reinforcement of capital-adequacy standards and ethical obligations of markets.

This widening of controls and financial regulations should include all providers of financial and legal services, and also international networks, whether traditional and informal (''Hawala'' type) or, on the contrary, very well integrated in the international capital markets (remittance of funds, compensation and interbank transfers).

Propositions :

- Restrict cash payments beyond a given amount.

- Provide for the compulsory licensing by the financial services regulatory authority of:

☐ Agents belonging to a cash or security transfer network, including traditional, informal and parallel networks;

☐ Company formation agents.

☐ Foreign exchange offices.

- Strengthen prudential rules and, as necessary on an international level, the regulation of the activities of clearing companies, and fund and security payment-delivery companies.

- Match the breach of their obligations to supervise the professions subject to them with criminal sanctions.