



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from : Presidency
to : Article 36 Committee

Subject : Presidency Programme on Police and Judicial Co-operation

The European Union is responsible, among other things, for making policy that actually enhances the security of its citizens by effectively fighting terrorism and organized and general cross-border crime.

Security cooperation has been intensified significantly by implementing the **Tampere multi-annual working programme**. We agreed priority targets for greater cooperation when we adopted the **Hague Programme**, the EU Strategy and the **EU Action Plan on Combating Terrorism**, the **EU Action Plan on Drugs** and the **Action Plan on Cooperation between Customs Administrations**. Concerning the EU's external relations, the European Security Strategy of 12 December 2003 contains important strategic objectives for a safe Europe, which in the field of justice and home affairs were amended by the "Strategy for the External Dimension of JHA".

Our main aim is to take concrete measures to improve the operational cooperation between the EU Member States and with EU structures, in particular Europol. This includes legal and practical measures to intensify cooperation between all competent authorities named in Title VI of the EU Treaty, including police, customs and other specialized law enforcement authorities. Our police and security authorities need quicker and easier access to relevant information. Cross-border cooperation needs to be optimized and, where necessary, to be governed by the same principles as cooperation at home. The European institutions need to be tied into this cooperation without duplicating efforts.

For these reasons we seek to

- transpose the **Treaty of Prüm**, which considerably improves cross-border police co-operation between the Member States, into the legal framework of the EU.
- expand the **European information network** in a sustainable manner by giving our police and security authorities the best access to information, thus creating a basis of comprehensive and current information. This is essential to fight terrorism and cross-border crime effectively;
- **enhance the SIS** by
 - actively promoting the development of the second-generation Schengen Information System (SIS II) with the urgently needed improvements;
 - supporting an expanded version of the Schengen Information System (**SIS one 4 all**) as one of the prerequisites for ending checks at the internal borders with the new Member States, and assessing the SIS-related aspects of the Schengen Acquis in the new Member States;
- strengthen the role of **Europol** by adding to its legal framework so that it can better assist the Member States in combating serious international crime;
- deepen cooperation between Member States and competent EU bodies in **the fight against terrorism** even further to counteract the persistent terrorist threat;

- further improve the **operational cooperation between EU Member States and competent EU bodies** using concrete measures, with a focus being placed on **prevention** as an important element of fighting crime;
- to ensure that JHA requirements are given a high priority also in the **EU's external relations**.

Specifically:

I. Expanding the European information network

A European information network is needed to implement the principle of availability and make sure our police and security authorities have an optimum supply of all necessary information. The “Communication from the Commission to the Council and the European Parliament on improved effectiveness, enhanced interoperability and synergies among European databases in the area of Justice and Home Affairs” contains proposals which need to be taken into account when expanding the European information network. We have to ensure that EU information systems (e.g. SIS, VIS and EURODAC) for countering terrorism and serious cross-border crime are available to all relevant police and security authorities concerned as needed to fulfil their tasks. Furthermore, Member States need to give one another access to their national information systems to the necessary extent. Access must also be granted to Europol and Eurojust as needed for discharging their duties. Transposing the Treaty of Prüm into the legal framework of the EU is the top priority in this context.

1. Making national data systems available to all Member States and Europol; transposing the Treaty of Prüm into the legal framework of the EU

Police and law enforcement authorities of the Member States have numerous databases to which the police and law enforcement of other Member States as well as Europol in accordance with its mandate need access. We wish to ensure that police and law enforcement authorities can access the databases of other Member States under the principle of availability as far as is necessary for the discharge of their functions. We wish to achieve this aim by transposing the Treaty of Prüm into the legal framework of the European Union. This Treaty provides for mutual online read-access (“automated request”) to specific national databases. The contracting parties can request motor vehicle registration data in full online access. Access to fingerprint and DNA analysis data will be in the form of a hit/no hit access. This hit/no hit system guarantees the protection of personal data and at the same time provides for substantial acceleration of information retrieval in the fight against crime. Integrating the Treaty of Prüm is a top priority. In addition, we wish to examine if and in what way mutual access can be made possible to existing data stocks of Member States via criminal records.

As provided for in the Treaty of Prüm we wish to transpose its provisions into the legal framework of the European Union. The intention is to start relevant consultations during the German EU Council Presidency.

2. Improving the functionalities of the EU information systems

a) Schengen Information System (SIS)

SIS needs to be upgraded to SIS II, improving the possibilities of police search measures. Under revised plans by the Commission the launch of SIS II is scheduled for June 2008. The Commission is requested to further develop this schedule with regard to SIS one 4 all and to keep to a minimum the delays resulting from this. The new Member States, the United Kingdom, Ireland and Switzerland are to be connected to SIS II as soon as possible.

We intend to bring about the following measures:

- Final adoption of the legal instruments concerning SIS II;
- Looking after the activities for launching SIS II.
- Monitoring and evaluating the individual development stages both of national projects and the central network to be set up within the responsibility of the Commission by the “Task Force” already established.

In order to ensure that the abolition of controls at the internal borders with the new Member States need not be postponed owing to delays of SIS II, the intention is to extend the current SIS 1+ to the new Member States (“SIS one 4 all”). The project SIS one 4 all is technically feasible, and its implementation requires the greatest commitment by all parties involved. Germany, Portugal and Slovenia will work closely in order to make sure that the SIS one 4 all is ready on time to allow for the abolition of checks at internal borders to take place as of December 2007 and by March 2008, at the latest, if all the other preconditions for the full application of the Schengen acquis are fulfilled.

We intend to implement the following measures:

- Technical adaptations of the C.SIS, which are required so that the new Schengen Member States can be integrated into the current SIS 1+ in accordance with the intended time schedule,
- Coordination and looking after the necessary adaptations at the competent national units (SIRENE offices and VISION applications),
- Extension of the contract on the existing network (SISNET) or its replacement by a new network.

b) EU visa information system (VIS)

The visa information system (VIS) is intended to make the common visa policy more efficient and to contribute to internal security including counter-terrorism. In its conclusions of 7 March 2005 the Council explicitly stated that the aim of enhancing internal security and counter-terrorism can only be fully achieved if it is ensured that the Member States' authorities responsible for internal security have access to the VIS when exercising their powers in the field of the prevention of criminal offences and their detection and investigation, including terrorist activities or threats. After the efforts made from the outset at European level to give police and security authorities access to the VIS, it is our aim to bring the advanced negotiations about the necessary Council decision to a successful conclusion.

The following measures have to be implemented as soon as possible:

- Launching VIS;
- Concluding the negotiations on the Commission proposal of November 2005 concerning the Council Decision on VIS access for police and security authorities.

c) EURODAC

Frequently, asylum-seekers and foreigners who are staying in the EU unlawfully are involved in the preparation of terrorist crimes, as was shown not least in the investigations of suspects in the Madrid bombings and those of terrorist organizations in Germany and other Member States (for instance, two of the five accused in German proceedings against the terrorist group "Al Tawhid", which prepared attacks against Jewish institutions in Berlin and Düsseldorf, were asylum-seekers.) Since January 2003, the fingerprints of asylum-seekers and persons who have entered the EU illegally have been stored in EURODAC. The police and law enforcement authorities therefore need greater access to EURODAC, because in many cases this is the only way of identifying suspected offenders or of detecting aliases of suspects. Access to EURODAC can help provide the police and law enforcement authorities of the Member States with new investigative leads making an essential contribution to preventing or clearing up crimes.

We intend to amend the EURODAC Regulation and to bring about a fresh Council Decision to grant police and law enforcement authorities greater access to this database, because this would help to identify suspected terrorists or other offenders and to detect the aliases used by suspects, thus making a decisive contribution to preventing or clearing up crimes, in particular terrorist offences.

d) Modernizing the functionalities of the Customs Information System (CIS)

CIS supports cooperation between the Member States' customs administrations both in the field of the first and the third pillar. The use of CIS has already noticeably improved the operational results of customs cooperation; the planned operation of the customs investigation database FIDE will add another significant possibility for information retrieval to this cooperation.

We want to improve the third pillar CIS functions and functionalities in line with the development of the first pillar CIS in cooperation with OLAF. Our aim is to further develop its possible uses and to simplify the technical approach. In particular, we want to examine whether a new function allowing integrated risk analysis in the field of EU customs can be developed.

II. Strengthening the role of Europol

The increasingly pan-European and international nature of crime requires strengthening the role of Europol. This holds good irrespective of the further development of the Treaty Establishing a Constitution for Europe. Above all, the added value that Europol presents in operational terms needs to be highlighted. Europol's capacities for sharing and analysing information must be expanded and intensified. Finally, we also intend to review Europol's internal administration so as to enable it to act even more flexibly and effectively.

1. Strengthening the operational work of Europol

On the basis of the Council Conclusions on the future of Europol, we especially wish to strengthen Europol's operational work further. The European Police Office should support the police authorities of all Member States in the fight against serious international crime even better in the future. In this context we wish to expand Europol's field of responsibility to all serious criminal offences committed across borders. This includes, amongst others, the dissemination of child pornography via the Internet, major disruptions of public security by travelling violent offenders, hooligans, and other groups of persons. Europol is thus given the possibility to advise and assist Member States in *preventing non-organized* serious offences.

2. Further developments in data processing

a) Extension of access rights to the Europol Information System (IS)

Pursuant to Art. 4 para. 2 of the Europol Convention the national unit is the only liaison body between Europol and the competent national authorities of the Member States. Even the third amending protocol does not allow other national police or public prosecutors direct access to the IS.

In order to improve information-sharing between the various law enforcement agencies, we deem it necessary to grant additional national law enforcement authorities direct access to the IS; the national unit should be informed of such fact.

b) Technical improvement of the IS

After the system has gone into operation and has been approved for use by the Member States, we should **seek to introduce a new version of the IS**, to improve existing functions and integrate new ones that had been envisaged for the then EIS but have not been implemented in the IS. We should pursue a policy of gradual development with short development cycles to reduce development risks and make improved functions available more rapidly.

For these reasons, we will submit the following proposals:

- creating additional links to data objects in the IS;
- enhancing the quality of data by introducing automatic control mechanisms used when entering data and through technical improvements making it easier to detect multiple spellings (of names, places of birth etc.) during queries;
- enhancing the possibility to visualise the information in the IS so as to make contexts more apparent;
- examining ways to improve connections between the IS and the national systems.

3. Bureaucracy reduction and transition to flexible internal rules and procedures at Europol

Basically, internal organization of Europol is the director's task. But the director's scope of action is of course limited by the rules on internal management of Europol. In some cases these rules have proved to be too restrictive, e.g. there are too narrow constraints for re-assigning staff within the organization in order to meet new operational priorities.

We want to scrutinise the rules on internal management of Europol and change them where necessary in order to make the organization more flexible and effective.

III. Specific measures to intensify cooperation in counter-terrorism

The plans for attacks in London uncovered in August 2006 and the suitcase bombs which did not, fortunately, detonate in trains in Germany have again made clear that the terrorist threat persists also in Europe. Therefore, resolute and targeted action continues to be necessary to break up terrorist networks. In this context, it is essential to expand the European information network. In addition, it is important to revise and update the EU Action Plan on Radicalization and Recruitment. Apart from giving the numerous initiatives at European level a clear structure as part of a coherent strategy, we recommend the following specific measures in addition to the measures already taken at EU level; they should take effect already before terrorist attacks are launched, possibly preventing such attacks:

1. Sharing and analysis of information about potential terrorists

The international activities of terrorists require comprehensive sharing of information in the possession of national police and security authorities concerning the Islamist threat potential, in particular concerning potential terrorists. Sharing lists of potential terrorists is crucial to fight terrorism effectively. Such information-sharing could focus for example on persons who spent time in training camps in North Africa and Afghanistan.

Rules on the exchange of data on potential terrorists have already been included in the Treaty of Prüm. 11 EU Member States have already agreed to adopt these standards.

In consultations on the transposition of the Treaty of Prüm into the legal framework of the European Union, the Treaty provisions governing the data sharing on potential terrorists should also be integrated.

2. Shared analysis, with EUROPOL's assistance, of websites with a terrorist dimension - "Check the Web"

Internet sites of extremist and terrorist organizations are increasingly used to distribute propaganda and coded insider information. Given the huge amount of information and the great number of languages involved, such analysis requires a lot of resources. It is nearly impossible for individual Member States to monitor all suspicious activities on the Internet. Therefore, analysis of Internet publications should be intensified for publicly accessible sources by sharing this task among the Member States, taking advantage of the various language and technical skills available in individual Member States.

So as to detect terrorist activities on the Internet at an early stage, we intend to develop a new form of analysing Internet content based on sharing responsibilities between the security authorities of the Member States concerned and involving Europol in monitoring and assessing readily accessible sources. To this end, we intend to submit a draft JHA Council decision focusing on the following:

- exchanging contact data, link lists, special information on linguistic and technical expertise, publications by terrorist organisations and assessment results;
- the co-ordinating role of Europol.

3. Prevent the dissemination of Internet publications of instructions for making bombs

Publication on the Internet of instructions for making explosive and incendiary devices significantly facilitates attacks and poses a serious threat. Due to the trans-frontier nature of the Internet, national measures are not sufficient even if national legislation provides for appropriate punishment. For this reason, concerted action at European level and a uniform legal basis are urgently needed. We therefore need to improve the current European legislation for more efficient prosecution of those who publish such instructions on the Internet. Websites containing criminal material must be shut down. Providers must be held responsible to a greater extent in the future, taking the E-Commerce Directive into account.

Together with the Commission we will make every effort to better fight the dissemination of Internet publications of instructions for making bombs.

4. Better monitoring of specific primary substances used in the production of explosives

It is necessary to intensify controls of primary substances used for the production of explosives to prevent or at least noticeably impede access to certain chemicals which so far have been very easily or even freely available. The use of such substances cannot be monitored completely. However, EU Member States have to monitor in particular the routes of primary substances for certain frequently used improvised explosive devices more strictly throughout Europe. The control and inspection of explosives manufactories, as well as the commercialization, transportation and use of explosives is crucial to prevent illegal traffic or misemployment of these substances by organized crime or terrorist groups. A monitoring regime of the competent authorities and all actors in the industry involved is urgently required.

We wish to improve the monitoring of specific primary substances used for the production of explosives and implement efficient control mechanisms (monitoring regime) to this end.

We will work to ensure that by the end of 2007 the EU adopts an “European Plan on Enhancing the Security of Explosives” which integrates the results of the endeavours of the Expert Group as regards public-private cooperation and includes new instruments for cooperation between specialised services in the member states.

5. Harmonize the collection of data on stolen or lost firearms

Due to the huge number of crimes committed in the EU in connection with firearms, we have to strengthen and harmonize monitoring mechanisms. At the initiative of Sweden, the Manual for Firearms Tracing, Identification and Analysis (Doc. 7329/05 ENFOPOL 27) has been drawn up to harmonize the collection of data on stolen or lost firearms by using standardized forms throughout the European Union. The aim is to create a reliable basis for analysing the routes of arms trafficking by using the standardized forms specified in the manual throughout the European Union. So far, Member States may decide for themselves whether to use the forms provided in the manual.

To improve the fight against the illicit trading in weapons, we wish to make it obligatory for all Member States to use the forms contained in the “Manual for Firearms Tracing, Identification and Analysis”.

6. Improve the protection of critical infrastructures against terrorist attacks

Important critical infrastructures, such as energy supply systems, are linked across the borders of Member States. The failure or destruction of an infrastructure institution can therefore have effects on the utilities of other Member States. In order to improve the protection of critical infrastructures against terrorist attacks, priorities must be set with regard to the affected sectors, protective aims and programme implementation on the basis of the Commission Draft for the European Programme for Critical Infrastructure Protection (EPCIP).

For better protection against terrorist attacks, we intend to

- define priority infrastructure sectors;
- develop common minimum protection standards for these sectors;
- further develop the European exchange of information about the threats to and protection options for critical infrastructures.

IV. Improving operational police and judicial cooperation between EU Member States

1. Developing the Convention Implementing the Schengen Agreement (CIS) further

In an area of freedom, security and justice, criminals must not be allowed to go unpunished because of obstacles hampering cooperation between the police forces of EU Member States. Cooperation in preventing crime and threats to public safety and order has to be intensified as well.

In the process of developing the CIS further, we intend to limit ourselves to measures which bring about practical added value to police co-operation and which have already stood the test in the practice of bilateral and multilateral co-operation. For this reason, in particular the relevant provisions of the Treaty of Prüm should be used to develop the CIS further. These provisions are characterized by the fact that 11 EU Member States have already agreed to adopt these new higher standards of police co-operation and that they are very practice-oriented rules.

In consultations to transpose the Treaty of Prüm into the legal framework of the European Union, we also wish to ensure that the provisions of the Treaty on police cooperation are integrated:

- Types of joint operations, such as joint patrols
- Measures in case of imminent danger, e.g. ad hoc situations such as detecting helpless persons or suicidal persons
- Assistance in major events, disasters and serious emergencies
- Co-operation upon request, i.e. specific expansion of police exchange of information according to Article 39 of the CIS.

2. Specific customs measures

Cooperation in the field of customs between the Member States' competent authorities needs to be developed further and improved. To prevent and fight crime, a cross-pillar and inter-agency approach including persons and goods is of central significance. In this respect, carrying out the new Action Plan on Customs Cooperation which will enter into force on 1 January 2007 and consistently implementing the recommendations of the previous Action Plan on Customs Cooperation 2004-2006 are of high priority.

We want to improve customs cooperation in particular through the following measures:

- Carrying out joint customs operations within the framework of a modernized and simplified procedure;
- Drawing up further comprehensive analyses of threats in the field of customs;
- Developing integrated risk management;
- Strengthening cooperation between customs and police authorities as well as with the competent EU authorities (OLAF, Europol and Eurojust), e.g. by involving police authorities more often in joint customs operations and through a joint meeting of the Council Working Parties on Customs Cooperation and Police Cooperation;
- Practical cooperation between the Member States in the framework of joint investigation teams in the field of customs, with support from EUROJUST and EUROPOL; and elaborating best-practice conclusions;
- In the context of the evaluation of FRONTEX (European border management agency), examining whether and to what extent the work of European customs authorities needs to be coordinated more intensively than it has been up to now.

3. Evaluation of the Naples II Convention

The 1997 Naples II Convention is the essential legal basis for law enforcement cooperation of the Member States' competent customs authorities. The Convention provides for numerous important instruments and special forms of bilateral and multilateral cooperation which are indispensable for fighting cross-border crime. Thus, priority has to be given to concluding the ratification process as soon as possible.

In compliance with the Hague Programme's objectives, a project group of the Council Working Party on Customs Cooperation will evaluate the application of the Naples II Convention, draw up a report and present recommendations to the Council.

4. European Police College (CEPOL)

CEPOL was set up to deepen the knowledge of the European police officers about EU structures and instruments for cross-border police cooperation and to enable them to make optimum use of these structures and instruments in their daily police work.

We want to place emphasis on:

- Consolidating the role and strategy of CEPOL as the European body linking national training institutes in charge of the basic and further training of senior police officers;
- Harmonising the training of senior police officers in the EU, taking the Bologna process into account
- Elaborating and developing joint curricula for the basic and further training of European police officers in the field of cross-border police cooperation; supporting the Member States in implementing this measure;
- Taking the priorities into account that have been defined by the Council, the ECPTF, Europol and other relevant structures for basic and advance training measures;
- Increasing systematic exchange programmes for police authorities;
- Offers for basic and advanced training measures to deepen the police forces' knowledge about EU cooperation structures, especially involving Europol and Eurojust;
- Further developing a European approach of police science and police-related research;
- Setting up and expanding the electronic network to support information exchange and documentation and to extend and support police training measures in Europe.
- First steps for the introduction of a quality management system.

5. Prevention

The Hague programme rightly stresses that crime prevention is vital for an area of freedom, security and justice. Thus, both repressive and preventive aspects have to be taken into account for all crime-specific measures of crime control.

- We will intensify the Member States' exchange of experience regarding efficient prevention methods and in this context focus in particular on the prevention of petty and mass crime and on their relation to organized crime and terrorism.
- We will propose to draw up a European strategy on community policing, respecting the principle of subsidiarity and the need to find local solutions to local problems. This strategy will underline the need to replicate best practices, projects and training aiming at the improvement of the relationship between communities, citizens and police.
- In order to increase the effectiveness of the European Crime Prevention Network (EUCPN) and finally improve existing prevention strategies, the progress made by the EUCPN will be reviewed internally. Cooperation options with other networks in the field of prevention will be explored. Furthermore, the website of the EUCPN will be developed further and individual prevention approaches of MS will be entered on the website on selected fields of crime in order to promote the exchange of strategic information.

V. Disaster control, civil protection

Natural disasters, terrorist attacks and other large-scale damage events can have devastating impacts extending beyond national borders. In order to protect persons, material assets and the environment, EU cooperation in coping with cross-border crises has to be improved. In the Hague Programme, the Council and the Commission were therefore asked to develop – within their existing structures and while absolutely respecting national responsibilities – integrated and coordinated EU crisis management provisions for cross-border crises within the EU. In addition, the Commission's monitoring and information centre has to assume a more active role in providing resources in case of shortage, and cooperation with international organizations, in particular the United Nations, has to be improved.

- On the basis of the Council Decision of 23 October 2001 we will promote further development of civil protection, taking into account the subsidiarity principle.
- We will continue work in developing integrated EU crisis management.

VI. External relations

As organized and serious crime often has an international dimension, many types of crime posing a threat to the safety of EU citizens have their causes or roots outside the EU. With this in mind, the Justice and Home Affairs Council adopted “A Strategy for the External Dimension of JHA: Global Freedom, Security and Justice” in December 2005. This strategy is rightly based on the assumption that the EU’s foreign policies have not always attached enough importance to justice and home affairs. It therefore calls upon the EU to make justice and home affairs a key priority in its external relations, and to ensure that the political dialogue with countries seeking a closer partnership covers the whole spectrum of issues in the area of freedom, security and justice (e.g. human rights, combating terrorism, organized crime, corruption, drugs). Furthermore, the strategy requires the Council to draft action oriented papers with regard to specific countries, regions or subjects. The first progress reports on the implementation of the strategy were adopted by the JHA Council in December 2006.

- We intend to ensure that the EU acts in a coordinated and coherent cross-pillar manner in its relations to third countries.
- With regard to the implementation of the “Strategy for the External Dimension of JHA” we will build on the already adopted measure-oriented papers by the Austrian and Finnish Presidencies and focus on the following issues in particular:
 - fighting drug cultivation in Afghanistan and the smuggling of drugs from Afghanistan, including the transit routes, and further implementation of the Action Plan drawn up during the Austrian Presidency
 - improving cooperation between the EU and the Western Balkan states, the ENP countries, in particular Ukraine and Moldova with regard to organized crime, corruption, illegal immigration and terrorism, and further implementing the Action Plan drawn up during the Austrian Presidency;
 - strengthening the cooperation on counter-terrorism with North Africa through the elaboration of an Action Oriented Paper, as foreseen in the "Strategy for the External Dimension of JHA";
 - strengthen the strategic partnership with the US, in particular through the renegotiation of the agreement on the processing and transfer of passenger name record (PNR) data;
 - implementing a common area of freedom, security and justice with Russia and implementing the Action Plan drawn up during the Finnish Presidency;
- We wish to improve the administrative and operational co-operation with the Gulf states also with regard to the fight against drug trafficking.