



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 September 2011

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"I" ITEM NOTE

from: Presidency
to: Coreper
Subject: Recommendations for JAIEX working methods

In 2008, COREPER adopted a proposal by the French Presidency to set up a Working Party for JHA-External Relations (JAIEX)¹. This JAIEX working party became permanent by COREPER's decision of 17 December 2009².

After 2,5 years, the JAIEX working party considered it appropriate to evaluate its own functioning. To that end, the Hungarian Chair launched a questionnaire to which almost all delegations replied.

The findings of this evaluation as well as proposals to enhance the role of the JAIEX working party were summarised by the Polish Presidency in 13351/11. The JAIEX group unanimously subscribed to these recommendations at its meeting on 9 September 2011.

COREPER is invited to take note of these recommendations for the JAIEX working party as set out in Annex.

¹ 14431/1/08 REV 1 JAI 546 RELEX 772

² 17653/09 POLGEN 239 JAI 931 COMIX 979

Recommendations for JAIEX working methods

After three years of functioning as an ad hoc working party and then a permanent one, JAIEX has carried out an assessment of its own activity with a view to improving its working methods. For this purpose, **the Hungarian Presidency issued a questionnaire** to identify the key challenges for JAIEX and to gather opinions from delegations on what are the best ways to fulfil its mandate and enhance its contribution to achieving external cooperation objectives in the areas of mobility, security and justice.

The whole exercise has been grounded in a common recognition of permanently increasing linkages between JHA actions and external relations, and the importance of JHA - Relex activities in the overall external relations of the EU.

Content of JAIEX meetings

Member States' replies to the questionnaire, later supplemented by the contribution from the EEAS, clearly indicated that JAIEX should continue to work in line with its mandate and fulfil it more strictly. This opinion was confirmed at the JAIEX meeting on 8 July 2011. The mandate of JAIEX was established in two documents issued during the French Presidency (14236/08 – Creation of an information and coordination mechanism concerning the external dimension of JHA questions, and 14431/08 REV 1 – Creation of an Ad Hoc Group concerning the external dimension of JHA questions) and is worded as follows:

“Point 3:

(...) The Group's aim would be to facilitate the exchange of information and contribute towards more strategic and horizontal reflections in that area, with a view to supporting the work of the relevant RELEX and JHA committees and working parties by helping to ensure their consistency, but without prejudice to their mandates. It could act as a matter of priority in areas in which coordination currently appears to be lacking.

Point 4:

This (...) Group would:

*ensure the proper functioning of the information and coordination mechanism;
facilitate a regular flow of information between the JHA-RELEX working bodies on questions relating to events, initiatives and projects in the JHA-RELEX area;*

ensure horizontal follow-up to preparations for JHA-related meetings with third countries wherever such meetings involve several JHA committees or working parties, and report back on such follow-up to CATS, SCIFA, the High-Level Working Group on Asylum and Migration, the Committee on Civil Law Matters (General Questions) and the competent geographical or thematic RELEX working party;

contribute towards the future updated JHA-RELEX Strategy, in cooperation with the competent committees and working parties. Where appropriate, the Ad Hoc Group could also take part in strategic reflections on thematic and geographical issues linked to the external JHA dimension in order to enable the competent committees and working parties to discuss those issues in more detail. In particular, at the request of the competent geographical working parties, it could focus on certain geographical areas which are of priority interest to the Union.”³

The first task of JAIEX is to ensure proper **information exchange and coordination** among all parties involved in the external dimension of JHA. To this end, JAIEX should remain an **information hub**, but the way information is exchanged and distributed should be improved. Information on items related to current and, in particular, standard activities should be exchanged in written form to save space on the JAIEX agenda for more substantial debates. Information should be regularly collected and distributed by the Council General Secretariat in the form of structured overviews based on contributions provided by the Commission, the EEAS and Member States.

Information points should be included in the meeting agenda on request and only to discuss specific issues if the Member States, the Commission or the EEAS wish to do so.

The strategic role of JAIEX should be ensured. Overviews of selected thematic and geographical priorities should become the core topics at meetings, which should be devoted to one or two substantive discussions. Debates should be centred around specific questions and be aimed at working out specific assessments and recommendations for diverse aspects of the external dimension of JHA and suggestions for its further development. JAIEX should also issue written opinions based on own initiative or upon request (including discussion papers) to other working parties and offer to brief them (JHA working parties and Committees and FAC preparatory working parties if needed).

³ 14431/1/08

The role of JAIEX should be advisory and performed in a proactive manner, i.e. it should be the forum for exploring ways to resolve difficult issues and for proposing updated evaluation of some objectives in the area of the external dimension of JHA, in particular under changing circumstances. In the opinion of Member States, JAIEX should be more involved and proactive in the preparations for **EU ministerial level meetings with third countries**. This could be achieved by holding discussions in JAIEX with a view to suggesting items for inclusion on the agenda of these meetings, by improving information exchange and cooperation with the working parties responsible for preparing them⁴, and by ensuring adequate follow-up of the Ministerial Conferences. This should be carried out with full regard for the competence of all institutions and bodies dealing with the relevant dossiers.

Cooperation with all those involved

Cooperation in the area of the external dimension of JHA should ensure coordination of action undertaken by all parties involved and help to increase the effectiveness of such action.

JAIEX, in compliance with its mandate, should **closely cooperate with JHA thematic WG and Committees** offering them information and written opinions on the external dimension of JHA and *reports on follow-up JHA-related meetings with third countries*.

Cooperation with the Commission is key to further development of the external dimension of JHA. Cooperation with DG Home and DG Just on the content of horizontal, strategic and geographical discussions, as well as on preparation of Ministerial Conferences is crucial.

There is also general agreement by the MS on inviting other DGs when the topic of the discussions in JAIEX is in compliance with their mandate.

⁴ See possible ways to enhance cooperation with FAC preparatory working parties.

There should be close cooperation between the **EEAS** and JAIEX. Practical arrangements should enable mutual feedback and a timely response to all problems and situations that may arise. EEAS is invited to participate actively in JAIEX discussions on geographical and thematic areas. This would include participation of desk officers from the relevant geographical and thematic departments and presentation of information from EU delegations, where appropriate.

The information flow between JAIEX and the FAC preparatory working parties should be improved. This could be done inter alia by organising informal meetings as necessary between JAIEX and FAC preparatory WG chairs, with the participation of COM and GSC or, after previous agreement between the chairs, by organising joint meetings of JAIEX and the FAC preparatory working parties⁵. Before deciding whether to propose a joint meeting with a FAC preparatory working group, JAIEX should discuss the matter internally and decide on the objective of such a meeting.

JAIEX should also issue written opinions and offer to brief FAC preparatory working parties. The possibility of setting up a system of cross-referencing acronyms to documents of potential common interest should be explored.

All the above arrangements must comply with existing competences and the existing decision-making procedure⁶.

There is also a need for Member States to ensure coordination in their capitals between delegations to JAIEX and delegations to the FAC preparatory working parties in order to enhance information flow.

In order to achieve JAIEX objectives, there is a need to enhance cooperation with **EU agencies** operating in the JHA area, especially Frontex, Eurojust, Europol, the European Police College (CEPOL) and the European Asylum Support Office (EASO). Agencies should contribute to the discussions in JAIEX. Presentations or contributions in writing about agencies' activities will be welcomed. Updated information in writing should be submitted by agencies to JAIEX about ongoing cooperation and agreements (at all stages of negotiation and signature) with the third countries at least once per Presidency.

⁵ Joint meeting means meeting of one of the relevant working party with the participation of invited members of the other working party.

⁶ Additional EEAS comments on this point: All the above arrangements should be fully in line with the working method for closer cooperation and coordination in the field of EU security (internal/external) and joint meetings and exchanges should be guided by a needs-based approach.

Liaison officers should also be involved in JAIEX work when needed. Their expertise could be a useful contribution to the planning of agendas for Ministerial Conferences with third countries. Participation of **external experts** in JAIEX meetings was considered. Member States agreed that external experts could be invited to take part in JAIEX discussions only in exceptional cases when their presence would constitute clear added value.

Format of JAIEX

The format of JAIEX meetings should be appropriate to their content. MS agreed not to create a Brussels-based working party. Each MS should decide individually on which delegates to send to JAIEX. Only in exceptional circumstances, when there is no other way to ensure an effective JAIEX contribution to preparatory work in the Council, the Chair of JAIEX will be allowed to convene an extra meeting of JHA Counsellors in Brussels format.

To best fulfil the JAIEX mandate, the working party should in principle meet once a month and preference should be given to full-day meetings.

The technical organisation of JAIEX should also contribute to improvement of the working party and the quality of discussions. To that end, the documents for each meeting should be issued on time.

JAIEX should also consider using the silence procedure if necessary.
