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REPORT

from : Council (Justice and Home Affairs)

to : European Council

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Subject: Racism and xenophobia – interim report

The Council (Justice and Home Affairs) hereby forwards to the Essen European Council the attached report which it approved at its meeting on 30 November and 1 December 1994.

SEMDOC

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A. INTRODUCTION

The CORFU European Council devoted itself at length to the problem of racism and xenophobia and approved a detailed timetable and programme of work.

The proceedings conducted in the Justice and Home Affairs sector are to be outlined in a report to be submitted to the JHA Council on 30 November 1994. The report is to cover the progress made and other specific measures deemed appropriate on the basis of the work done during that period.

The final outcome of the proceedings within the JHA Council framework is to be submitted for the JHA Council meeting in March 1995 so that it can be incorporated into the Union's draft overall strategy which the European Council has to adopt in June 1995.

This report contains a description of the progress of the work done within Steering Groups II (Police and Customs Cooperation) and III (Judicial Cooperation). Steering Group I (Asylum and Immigration) will also examine the questions for which it is competent.

B. POLICE AND CUSTOMS COOPERATION

In the light of the proceedings of the Working Parties on Terrorism and Police Cooperation, the following conclusions were reached. These conclusions amount essentially to recommendations for the attention of the police departments in the Member States with the aim of transposing the specific measures proposed to national level.

1. Training and continuing training

Training and continuing training within the police force could contribute significantly to the police becoming more aware of the problems of foreigners and minorities in their country and recognizing that the phenomenon of xenophobia/racism must be vigorously combated. Such training must not merely pass on abstract ideas which it is difficult to carry over into everyday professional life. On the contrary, what is important is to improve the understanding of different cultures and different attitudes. Current problems should be discussed, and experience peculiar to the country as well as its historical experience (e.g. right-wing extremism, anti-semitism) should be covered in the training. Personal encounters, events and discussions on questions of common interest should supplement the programme of training and continuing training.

In addition, it would be useful for the duties and modus operandi of the police to be discussed using actual cases (e.g. everyday conflict with foreigners and minorities or confrontations with xenophobic demonstrations). If police cooperation is to be improved in this respect it is important to begin by stepping up the exchange of experience between the police forces of the Member States.

Furthermore, special seminars should be held for "disseminators" (heads of educational establishments and services) at EU level to establish the different initial conditions and experiences and reach balanced basic insights which could then be worked into national training programmes. The common democratic value system and the tradition of human rights should provide the leitmotivs for all such seminars. Academics (e.g. historians/social scientists) could participate in these seminars.

In addition to the above activities, the Member States should incorporate training on the relevant topics into police training programmes at all levels as soon as possible. They should also study the extent to which police officers who have already completed their training can be made aware of the problems within the framework of existing continuing training measures.

The potential of training and continuing training to combat racism and xenophobia should not, however, be overestimated. How day-to-day tasks are actually handled is also important as is the imposition, if need be, of appropriate sanctions for unreasonable behaviour. Questions of leadership, the culture of the organization and how situations are tackled during everyday duties are of at least equal importance.

2. Statistical survey

To ensure that the range and extent of the racism/xenophobia phenomenon, both as currently observed and in any future development, are immediately recognizable and the appropriate conclusions drawn, the members of the Working Party on Terrorism agreed that a statistical survey should be carried out according to the following pattern:

	Xenophobic/racist/ anti-semitic offences	Victims
Murders – committed – attempted		
Attacks involving explosives/arson (including attempted attacks)		
GBH		
Total		

The table should, in addition, specify:

- the modus operandi;
- the grounds;
- whether the perpetrations belong to a group.

The (provisional) restriction of this survey to crimes of violence ensures that:

- the data from the individual Member States are comparable, since the corresponding offences are punishable in all Member States,
- particularly in the introductory phase, the organizational effort – especially for Member States which do not as yet collect specific data nationally for these phenomena – is justifiable.

The presentation of the survey can very easily be extended to cover additional manifestations of racism/xenophobia/anti-semitism which emerge.

3. Definition

All relevant statistical figures will be recorded in the Member States on the basis of the following definition:

Xenophobic/racist/anti-semitic offences are crimes which

- are directed against persons whom the perpetrators (owing to their intolerance) deny the right to stay or the right of residence in their vicinity or in the country as a whole, given their actual or presumed:
 - . nationality or membership of an ethnic group
 - . race, colour
 - . religion
 - . originor
- are committed against persons/institutions/objects, where the perpetrators act for xenophobic/racist/anti-semitic reasons.

4. Information procedure

With respect to the collection, processing and presentation of these Union-wide statistics, the Working Party on Terrorism agreed that:

- 4.1. The statistical data in each Member State would be compiled or updated for a one-year period, namely from January to December each year.
- 4.2. By 31 March of each year, each Member State would send the previous year's national figures to the Presidency, which would compile a comprehensive survey.

- 4.3. The President-in-Office would forward this compilation to the Member States as annual statistics.
- 4.4. This procedure would begin with 1994.
Exceptionally where 1994 is concerned, given that the definition (see 3) cannot have retroactive effect, the Member States may also submit the figures underpinning their national definition basis.
- 4.5. In view of the fact that, in the United Kingdom, statistics on racist offences are collected for the period running from April to March of the following year and since an updated account for the previous year is thus not possible by 31 March of the next year, the following exceptional arrangements will apply for the United Kingdom:
the United Kingdom will forward by 1 April each year the available figures on a provisional basis with an indication of the months covered.
These data will be supplemented on 1 June of each year when the United Kingdom forwards its overall figures to all Member States.

The data thus assembled will form the basis for discussion at the subsequent meeting of the Working Party on Terrorism.

5. Exchange of information at operational level

The Working Party on Police Cooperation further recommends establishing a collection of data on racist and xenophobic acts in each country, to include all criminal offences (e.g. homicide, GBH, theft, arson, bomb attacks, desecration of graves, public racist utterances, support for crimes against humanity) as well as major demonstrations, marches and propaganda campaigns engaged in by members of extremist parties, associations and groups (including martial arts clubs). Member States are ready to make existing information available to other Member States on request.

6. Contact points

The Member States will designate contact points for the exchange of the information needed for the work of the Working Parties on Terrorism and Police Cooperation, in particular as regards cross-border organizational connections, and on racist or xenophobic action planned in other EU countries.

7. Research

There is probably broad consensus among Member States as to the general causes of the rise in xenophobic attitudes and behaviour. Fear, scapegoating and aggression are spreading against a background of radical change and economic difficulties, as a number of studies in recent years have shown.

Police research projects should therefore be designed to deal with specific causes and expressions of racism and xenophobia which relate directly to the work of the police. This should include developing a comprehensive strategy at Union level to combat acts of violence which are racially motivated or directed against foreigners. Research projects could cover the assessment of police action against racism and animosity towards foreigners as well as police officers' attitudes to ethnic minorities.

C. JUDICIAL COOPERATION

1. Terms of reference

The terms of reference given to Steering Group III consisted of an examination of the possibilities of approximating legislation and practices with respect to combating racism and xenophobia.

The Working Party made a comparative study of the legislation on the basis of a questionnaire.

In making its examination, the Working Party bore in mind that:

- the Commission had already carried out a comparative study in 1992 on the legal means existing within the European Union of combating racism and xenophobia;
- the Council of Europe was conducting proceedings on the matter, in particular examining the provisions existing in the Member States.

2. Progress with work already in hand and future prospects

Within the context of the established terms of reference, the Working Party spread its proceedings over two stages: a survey of the legislation applicable in the Member States; an examination of the situation and possibly any specific proposals deemed necessary.

(a) Survey of national legislation

The Working Party surveyed all the national legislation applicable in this area. A summary of each set of legislation is currently in preparation and is set out in a separate document (9728/2/94 REV 2 JUSTPEN 62).

This summary of the provisions of criminal law in force in the Member States relates to crimes involving:

- acts of violence motivated by racism and xenophobia;
- the manufacture and circulation of racist and xenophobic propaganda materials;
- incitement to racism and xenophobia;
- measures taken against associations or groups.

All Member States have provisions of criminal law designed to combat racism and xenophobia at national level. This is not true of the printing and circulation of propaganda materials.

It has been demonstrated that in a large number of States national legislation already covers to a significant extent acts of a racist and xenophobic nature which have repercussions in a second Member State. However, frequently such acts take place in the second Member State so as to allow their author to escape from prosecution or from a sentence in the country of origin or to allow further activities based in the second State. The Working Party noted that this type of difficulty was particularly likely to arise with the printing of racist and xenophobic propaganda in one Member State with a view to disseminating it in another Member State.

The Working Party also noted that if Member States were proposing to amend their national legislation in the near future they would need to take account as much as possible of this transnational element in combating racism and xenophobia.

It was also confirmed that the Member States already had available to them a number of judicial cooperation mechanisms such as extradition which could be used in this context provided Member States' provisions were compatible.

(b) Future prospects

These points, however, have emerged from an initial brief examination. The provisions must now be given careful study.

For its further proceedings it is suggested that the Working Party:

- continue its actual assessment of Member States' national provisions and practices as regards the combating of racism and xenophobia with a view to establishing their implications for cooperation and consider how such cooperation could be improved;
- examine the possibility of recommending solutions, including if need be suggestions for the approximation of national legislation, in accordance with the timetable set by the Council, in the light of the work completed.

D. CONCLUSIONS

Proceedings to date within the various Working Parties have produced the following results:

- questions of racism and xenophobia must be covered in police training. Practical proposals regarding this training have been made (training for trainers, continuing training, exchange of experience between police forces in the Member States);
- a model for the uniform compilation of national statistics on the most significant racist/xenophobic phenomena has been prepared and is to be applied from 1 January 1995;
- a definition of racist/xenophobic offences has been adopted with a view to uniform application of the concepts;

- each Presidency is to collect the statistical data to be provided by the Member States in accordance with the timetable adopted;
- on request, Member States will exchange information on racist and xenophobic incidents;
- contact authorities are to be nominated by the Member States particularly for the exchange of information on racist and xenophobic activity with implications for another Member State;
- police research projects are planned on the causes and manifestations of racism and xenophobia;
- a comparative study of legislation is under way with a view to determining whether the state of legislation in the various Member States makes judicial cooperation possible or whether discrepancies or lacunae in the legislation of certain Member States prevents such cooperation from functioning and, in that case, to proposing solutions to remedy that situation.

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CORRIGENDUM

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Page 5 of the above document should be replaced by the page attached (see 10595/1/94
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⁽¹⁾ Indicate only number of victims of murders committed.