

JHA k4
34.8(a)

EUROPEAN UNION
THE COUNCIL

Brussels, 6 March 1997

6204/1/97

REV 1
LIMITE

ENFOPOL 35

NOTE

from : "Drugs and Organised Crime" Working Group

to : K.4 Committee

No. prev. doc. : 12247/1/94 ENFOPOL 161 REV 1; 5717/97 ENFOPOL 22; 6204/97
ENFOPOL 35

Subject : Revision of doc. 12247/1/94 ENFOPOL 161 REV 1 on the basis of doc. 5717/97
ENFOPOL 22 as a result of the expert meeting of 13/14 February 1997 on the
mechanism for EU reporting on organised crime

1. At its meeting of 29/30 November 1993, the Council agreed on setting up a common mechanism for the collection and systematic analysis of information on international organized crime (Cf. doc. 9908/2/93 REV 2 CRIMORG 1). This mechanism was described in doc. 12247/1/94 ENFOPOL 161 REV 1. It was understood that the mechanism should be used for a period of at least two years. On the basis of the experiences acquired, the mechanism could be reviewed after that period.

The mechanism was used for EU situation reports on 1994 and 1995. On 13th and 14th of February, 1997 a meeting on expert level was held to evaluate the mechanism and to draft recommendations for elaboration and improvement of the mechanism. The results of the discussions are presented in ENFOPOL 22 REV 1. They lead to a revision of the mechanism as described in doc. 12247/1/94 ENFOPOL 161 REV 1. The revised mechanism is described in the annexes of this document. A distinction is made between the purpose and the organisation of the mechanism (annex I) and the methodology (annex II). Changes in regard to doc. 12247/1/94 ENFOPOL 161 REV 1 are in bold.

2. At its meeting of 5 March 1997 the group Drugs and Organised Crime agreed, subject to linguistic verifications, on the texts in the annexes. The group concluded that evaluation of the mechanism is not foreseeable in the near future. Minor adjustments can always be agreed within the working group. The new mechanism will be used for the report on 1997. The network set out in Annex I point 2 can be used already for the 1996 report. The group emphasized that the quality of report depends to a great extent on the quality of data assembling within the Member States and the quality of national reports. This is likely to remain the major weakness of the system in spite of the improved mechanism.
3. The K.4 Committee is invited to confirm the agreement in view of its adoption by the Council.

Annex I. PURPOSE AND ORGANISATION

The main goal is to produce an annual report to the Council on the scale of and trends in organised crime especially with regard to its international ramifications.

1. The first step on the way to reach this goal is the drawing up of situation reports by NCIS' of all of the Member States by using the guidelines as described in annex II. Each of these reports should contain a description of the national situation on organised crime. This description could be based on information from different sources. Member States transmit the national reports to the Presidency, including a description of the methodology used. Each Member State sends by May its report on the preceding year.
2. The Presidency has the responsibility of preparing the European Union Situation Report summarising the National Reports. For this purpose the Presidency can proceed to the necessary consultations, using a Contact and Support Network. This network consists of contact persons appointed by each of the Member States. The objective of the network is to actively assist a Presidency in refining and elaborating the method used in the drawing up of the situation report on organized crime in the EU. Members of the network can be convoked by the Presidency, when needed, on an ad hoc basis using existing structures. The network could already be used for assisting in the drafting of the 1996 situation report. EDU/Europol will be closely involved in the work within the remits of its programme. Under the responsibility of the Presidency EDU/EUROPOL will be given a gradually increasing supporting position in the drawing up of the EU report so that earlier experiences can be used in an efficient manner and progress and continuity are better safeguarded.

The Presidency, in cooperation with EDU/Europol, elaborates when needed in ad hoc consultation with the Contact and Support Network

- a draft report that will be discussed by the Drugs and Organised Crime Working Group, to be forwarded to the K4 Committee and COREPER in view of its submission to the Council for adoption and eventual transmission to the European Parliament;
- a detailed draft report containing confidential information. This report will, after discussion in the Drugs and Organised Crime Working Group, be made directly available through members of delegations to their ministers and competent national authorities as a confidential document.

The Presidency presents in September the draft annual reports.

3. Based upon the results of a comparative analysis of the National Reports, the characteristics and the other aspects of the data collection procedures used by the Member States, the mechanism for measuring organised crime may be further improved each year.

I. General

The annual national situation reports should address all of the topics mentioned in the following paragraph. The list of topics and accompanying recommendations should be viewed as guidelines for further improvement of the quality of the national situation reports in the near future, recognising the fact that Member States will - insofar as possible - gradually implement changes.

Some reference to trends (qualitative, quantitative or estimated) should be included in the treatment of all topics which are addressed by the situation reports. Member States indicate trends per subject and present an evaluation and expectations for the future.

II. List of topics

A. Introduction

B. Organized Crime Situation

1. Suspects involved in Organised Crime

- * Nationality
- * Geographical or other elements of origin
- * Form of cooperation with other suspects
 - structure
 - composition
 - relationship
 - nationally
 - internationally

Where a large network could be described as a single entity as well as a collection of separate groups, the description should reflect both realities.

With regard to the groups/investigations selected, both hard and soft data may be used. The nature of organized crime makes it difficult to obtain hard data about this phenomenon. Although the necessary caution must be applied in interpreting soft data, they offer a welcome supplement to the hard information.

If possible Member States should describe criminal groups on the basis of ongoing criminal investigations. If not possible, descriptions can be based on other methods, especially intelligence.

In an effort to estimate trends, comparable statistics for the previous year (where available) should be provided in parentheses after those relating to the year under review.

When quantitative data on the various nationals involved in organized crime are not available, situation reports should rank the principal nationalities in order of their presence among organised criminal suspects.

In cases where there are no hard, quantitative data, as many qualitative or indicative data as possible should be provided about the nature and development of a certain phenomenon.

2. Criminal activities of the suspects mentioned under number 1

- * Main criminal activities :
 - Narcotic drugs
 - Fraud
 - Counterfeiting/forgery
 - Armed robberies

- Kidnapping
- Extortion
- Vehicle theft (including receiving)
- 'Hit-and-run' burglaries
- Theft of artifacts and antiques/jewellery
- Other forms of theft/receiving
- Illegal firearms trading
- Traffic in human beings
- Prostitution
- Child pornography
- Environmental crime
- Illegal gambling schemes
- Other types of crime, namely :
- Money Laundering

* Criminal activities in more than one field of crime

Where hard data are not available, situation reports could rank the principal criminal activities in order of their estimated magnitude: a general assessment, based on intelligence, is preferable to no indication of the relative magnitude of the organised criminal activities.

3. Places and regions of activity

- * **within the Member State**
- * in other countries of the European Union
- * in countries outside of the European Union

As far as possible, indications should be given of the role of certain countries in criminal activities, for example, as a country of production, transit or consumption of drugs, or as an intermediate station in an international money laundering action.

4. Resources

- * Use of legal enterprises
- * Estimated profits of criminal activities (an estimation based on objective information)

5. Use of violence

- * Sanctions within the groups/cases
 - positive : supporting members of the groups/cases
 - negative : intimidation ; violence
- * Violence against other groups or individuals within the criminal world :
 - by intimidation
 - using violence against persons
- * Violence against individuals outside the criminal world such as :
 - use of firearms
 - bombings
 - extortion
- * Number of people killed
 - within the groups
 - outside the group, but within the criminal world
 - outside the criminal world

6. Use of influence

- * Public administration
- * Judicial authorities
- * Political world

- * Law enforcement authorities
- * Business sector
 - National companies
 - Foreign companies
- * Public media

7. Money laundering

- * The number of notifications on suspect transactions which were made during the year under review, with a brief explanation of the procedure that resulted in a notification.
- * A brief description of the criminal activities to which the notifications relate. How does money laundering take place? Which international aspects play a role?
- * The number of seizures and of confiscations.
- * The value of seized and of confiscated goods and other assets.
- * Use of financial routes abroad
- * Countries involved

C. Conclusions

- * Assessment of the threat
- * Trends
- * Prognosis

D. Measures against organised crime

A short description should be included in the situation reports of the manner in which the fight against organised crime has been given form in the year under review, the effects of this, and the most important initiatives which have been taken in this connection. The report should refer to Action Plans/Multi-annual work programmes. Where possible, statistics concerning actions aimed at combatting organised crime in the year under review should be provided, e.g. on the number of groups which were dismantled, the number of prosecutions instituted, the number of persons arrested and the number of persons convicted.

III. Methodological annex

The importance of a thorough description of the methodology used cannot be overemphasized. In the introduction to their national report, Member States should indicate where to find information regarding the methodology used in gathering and analysing information on the specific subjects in the report. In the description the following questions should be answered.

- * Which sources were used for each of the topics in the national situation report? For example: hard police data, soft police data (intelligence), data provided by other law enforcement agencies, public media and other open sources.
- * Which selection standards, definitions and instructions were used in collecting the data for each of the topics? The questionnaire used with pertaining explanatory notes may be made available.
- * Which criteria were used in the processing and analysing of the data?
- * To what extent does the method of working now being followed differ from the one used last time?
- * Which methodological problems arose during the collection of the data and the analysis? Which measures were taken in this connection or will be taken next time?

IV. Characteristics of organised crime

The following list of characteristics of organised crime may assist Member States prepare their National Situation Reports. At least six of the following characteristics must be present, **four of which must be those numbered 1, 3, 5 and 11**, for any crime or criminal group to be classified as organised crime.

1. Collaboration of more than 2 people;
2. Each with own appointed tasks;
3. For a prolonged or indefinite period of time (this criterion refers to the stability and (potential) durability of the group.);
4. Using some form of discipline and control;
5. Suspected of the commission of serious criminal offenses;
6. Operating on an international level;
7. Using violence or other means suitable for intimidation;
8. Using commercial or businesslike structures;
9. Engaged in money laundering;
10. Exerting influence on politics, the media, public administration, judicial authorities or the economy;
11. Determined by the pursuit of profit and/or power.