

5449/98

LIMITE

CRIMORG 7

NOTE

from : The Presidency

to : Multidisciplinary Group on Organized Crime

Subject: Mutual Evaluation System

The Joint Action of 5 December 1997 established a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime in Member States. Such evaluations would take place on a basis of equality and mutual confidence to ensure that each had implemented the instruments of co-operation intended to combat international organised crime. One of the considerations which led to the adoption of the Joint Action was experience within the International Financial Action Task Force on Money Laundering. Member States undertook to ensure that their national authorities co-operated fully with the evaluation teams set up under the Joint Action.

1. The first prerequisite of the evaluation is the preparation of a questionnaire, which has to be submitted to the MDG for approval. This questionnaire will deal with delays in mutual legal assistance, asset tracing and restraint of property (see doc. 5434/98 CRIMORG 6). The draft of the questionnaire will be considered at the meeting of the MDG on 5/6 February 1998. The questionnaire will form the basis of the evaluations which will take place and this paper sets out in broad outline the procedure to be followed thereafter. The questionnaire will of course be the same for all Member States. It is essential that the MDG adopt the questionnaire at its meeting on 5/6 February if any of the evaluations is to be completed in 1998.
2. The order for evaluation of Member States will be in reverse order of Presidency, starting with Luxembourg, and it is proposed that all Member States will be evaluated over the next three years. There will therefore be five evaluations in each of 1998, 1999 and 2000. The programme for evaluations according to this structure would be as follows:

1998	Luxembourg	1999	Denmark	2000	Portugal
	Netherlands		Spain		Finland
	Ireland		Belgium		Germany
	Italy		Sweden		Austria
	Greece		France		United Kingdom

There is additionally, however, an agreement within MDG that no Member State should be evaluated during its term of Presidency, or 6 months before it holds the Presidency. Since Portugal will hold the Presidency in the first half of 2000, and is also, according to the above timetable, due to be evaluated in that year, it is proposed that Portugal should be evaluated in the first half of 1999, and Spain be evaluated in 2000. (An exchange between Portugal and any of France, Sweden or Belgium would result in the same problem arising.) The proposed timetable is therefore as follows:

1998	Luxembourg	1999	Denmark	2000	Spain
	Netherlands		Portugal		Finland
	Ireland		Belgium		Germany
	Italy		Sweden		Austria
	Greece		France		United Kingdom

3. Since the questionnaire is of fundamental importance in the evaluation process, it is of course essential that Member States ensure that they reply to the questionnaire in the time allowed, and as fully as possible, attaching where necessary all legal provisions and technical and practical data required. Although Member States will of course be aware of the precise content of the questionnaire from the time that it is adopted by the MDG, they will be asked individually to respond to the questionnaire in a time scale to correspond with the above planned timetable of evaluations. It is anticipated that Member States will not be required to respond to the questionnaire in less than two months. They are however urged to keep closely to the timetable set out, as delays in submission of the replies will jeopardise the completion of the evaluations in the agreed timescale. In particular it is inevitable that in the early stages of the process in 1998, shorter time scales may be necessary to ensure that the programme commences as soon as possible.

4. As agreed in the Joint Action, each Member State should have nominated, by the end of January 1998, up to three experts who are prepared to participate in at least one evaluation exercise. The names of these experts will be contained in a list drawn up by the Presidency and forwarded to the MDG. From that list, the Presidency shall choose a team of three experts for each evaluation, ensuring that they are not nationals of the Member State in question. The team shall be assisted in all its tasks by the General Secretariat of the Council.

5. A draft programme of evaluation is shown below, indicating when it is hoped that individual evaluations will take place. It also gives details of when the questionnaire will be sent out to each Member State, and when for each it is envisaged that replies to the questionnaire will have to be returned. Replies should not be returned before the month stipulated, but it will not be possible to give extra time, because of the tight timetable that the evaluation teams will have to work to. It should be emphasised that these dates are indicative only at this stage, but it will be necessary to maintain a challenging schedule to ensure that the overall aim of completing all the evaluations in 3 years is met. Finalising and agreeing reports on evaluations will occupy the remainder of 2000.

Country	Send Questionnaire	Return Questionnaire	Evaluation visit
Luxembourg	February 1998	April 1998	June 1998
Netherlands	February 1998	April 1998	June 1998
Ireland	February 1998	June 1998	September 1998
Italy	February 1998	July 1998	October 1998
Greece	February 1998	July 1998	November 1998
Denmark	September 1998	December 1998	March 1999
Portugal	September 1998	December 1998	April 1999
Belgium	September 1998	January 1999	May 1999
Sweden	September 1998	February 1999	June 1999
France	September 1998	March 1999	September 1999
Spain	July 1999	October 1999	January 2000
Finland	July 1999	November 1999	March 2000
Germany	July 1999	December 1999	April 2000
Austria	July 1999	January 2000	May 2000
United Kingdom	July 1999	February 2000	July 2000

6. A programme of visits will in due course be drawn up by the Member State to be evaluated, in consultation with the evaluation team, who will of course have regard to the answers to the questionnaire. Each visit will take place in the Member State over a period of 4 consecutive days.

7. Within one month of the visit to the Member State of the evaluation team, a draft report will be drawn up by the evaluation team and submitted to the Member State for comment. The evaluation team will consider any comments made by the Member State before completing its draft report, which will then be sent, through the Presidency, to members of the MDG. The report will be confidential, as will the answers to the questionnaire and any other material submitted by the country.

8. The members of the evaluation team shall present their report to a meeting of the MDG, and the Member State shall offer any explanation, comment or information as appears necessary. The MDG shall then discuss the draft report, possibly at 2 meetings, and adopt its conclusions by consensus. The results shall be reported to the Council each

year, and the Council may address any recommendations to the Member State concerned, with an invitation to report back to the Council within a deadline which it may set.

9. At the end of a complete evaluation exercise, the Council shall take appropriate measures.
