

7695/99
LIMITE

EVAL 32
ELARG 47

NOTE

from : The Presidency

to: Collective Evaluation Working Party

Subject: Draft report to the Council on the progress and results of the evaluations pursuant to Article 4 of the Joint Action of 29 June 1998

Delegations find attached the draft report to the Council on the progress and results of the evaluations pursuant to Article 4 of the Joint Action of 29 June 1998.

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**Report of the Collective Evaluation working group to the Council
on the progress and results of the evaluations
pursuant to Article 4 of the Joint Action of 29 June 1998**

I. Introduction

1. On 10 June 1998, Coreper set up the expert Group referred to in Article 2 of the Joint Action of 29 June 1998 establishing a mechanism for collective evaluation of the enactment, application and effective implementation by applicant countries of the acquis of the European Union in the field of Justice and Home Affairs.⁽¹⁾

This Group has the task of preparing and keeping up-to-date collective evaluations of the situation in the candidate countries on the enactment, application and effective implementation of the acquis of the Union in the field of Justice and Home Affairs.

2. The Group has held three meetings under Austrian Presidency (30 September, 18-19 November and 14 December 1998) and three meetings under German Presidency (27-28 January, 5 March and 4 May 1999). Further meetings under German Presidency are envisaged.

II. The collective evaluation mechanism and the enlargement process:

The following features of the collective evaluation mechanism can be drawn from the Joint Action:

- The evaluation is a continuing process which will accompany the enlargement process at all its stages. After an initial assessment of the effectiveness of the implementation of the JHA acquis by each candidate country, regular updates will be necessary (Article 2.1).

(1) O.J.L. 191, 07.07.1998, p. 8.

- The evaluation is a collective process (Article 2.1) which depends on Member States' willingness to cooperate fully (Article 1.2), be it by giving particular assistance in preparing and maintaining for a particular candidate country comprehensive reports (Article 2.2) or by providing the Group with all relevant information based on their direct experience of working with the candidate countries (Article 3.1 and 3.2) and by harnessing the experiences of their embassies in the candidate countries (Article 3.2).
- The outcome of the evaluation exercise should also help the Commission to adjust the priorities and objectives of the accession partnerships and feed the future discussions on enlargement (Article 4.2).
- The Joint Action insists on the need to ensure that the evaluation exercise remain consistent with the enlargement process and does not prejudice the competence of the Community or the established structures for determining the position of the Member States in accession negotiations (Article 1.1). On the other hand, the evaluation exercise, which is conducted by the European Union only, has to be distinguished from other exercises that the European Union conduct together with the candidate countries, i.e. the screening process, the Pre-Accession Pact on Organised Crime and the European Conference.
- The first assignment of the Group is to set up country reports on progress and results of the evaluation. The result of the evaluations are to be forwarded to the Council (Article 4.1).

III. Methodology of the work of the group:

1. Collection of information material:

- In order to avoid duplication of work with other institutions and bodies, the Group defined its first aim to collect and compile all existing information from any available source like Member States and their embassies, the Commission, the Council of Europe (Article 3.2), but also other international institutions and fora. All Member States agreed to provide the Working Group with information, be it from various internal sources, be it via their embassies in the applicant countries. Contacts have also been established with various international organisations.

- After analysing the documents received from various Member States, the Commission and the Council of Europe, the Working Group has established "questionnaires" which were sent to the EU Member States' embassies and the Commission's delegations in the respective candidate countries. The idea is that the embassies and Commission's delegations in those countries work together and use their personal contacts and experience from their day to day work in those countries in order to give the Working Group a clear picture on the factual situation in the respective applicant countries. This cooperation with embassies has proved to be very fruitful and useful information has been transmitted to the Working Group through these sources and fora.

- The Presidency conclusions of the European Council of Luxembourg state that the reinforced pre-accession strategy will be accompanied by an analytical study of the acquis of the European Union for each Applicant State taken individually. Conducted by the Commission, this "screening" exercise has started in mid-October for the chapter on Justice and Home Affairs with a multilateral session with Bulgaria, Romania, the Slovak Republic, Latvia and Lithuania. The multilateral and bilateral screening of this chapter for the other six candidates Hungary, Poland, the Czech Republic, Slovenia, Estonia and Cyprus took place in March 1999. The bilateral stage involving the countries of the second wave have been held from April 1999 on.

The aim of the screening is the provision of complete information to the candidates concerning the Union Acquis and the identification of the technical adjustments which will be necessary to take account during the accession negotiations as well as problems of substance of which account will need to be taken in the accession negotiations.

The screening of the Justice and Home Affairs chapter differs from the other chapters in the sense that the Presidency and the Member States of the European Union can participate in the screening process as observers. The information gained through this process so far was also of substantial use for the work of the Group.

Under the Austrian Presidency the Working Group has analyzed the material received on three of the eleven candidate countries; these countries were Hungary, Poland and Romania.⁽¹⁾ Under the German Presidency a first analysis of the material on the Czech Republic, Estonia, Slovenia and the Slovak Republic has been done,⁽²⁾ under the Presidency of Finland the same procedure will be kept for the remaining four countries Cyprus, Latvia, Lithuania and Bulgaria.

The goal of the Group's work during this first stage (collection and analysis of information) is to keep a detailed update of the information received, to analyze this information with a view to pointing out those areas in which further inquiry is necessary. Updated analysis of the material received on Hungary and Poland, taking into account particularly the bilateral screening results and the embassies' replies, have been established so far.⁽³⁾

The second stage the Group is now entering is the actual evaluation. Here, a final aim is the presentation of complete country reports on all applicant countries. Under the German Presidency the Working Group has established first evaluation reports on [countries]. Regular updates of the reports will be made.

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- (1) Asylum: doc. 12612/98 EVAL 6 ELARG 89
Migration: doc. 12611/98 EVAL 5 ELARG 88
Border control: doc. 12610/98 EVAL 11 ELARG 87
Police cooper: doc. 13840/98 EVAL 15 ELARG 104, doc. 13841/98 EVAL 16 ELARG 105
Judicial cooperation (criminal): doc. 13838/98 EVAL 13 ELARG 102
Judicial cooperation (civil): doc. 13842/98 EVAL 17 ELARG 106 JUSTCIV 135.
- (2) Asylum: doc. 5321/99 EVAL 4 ELARG 4
Migration: doc. 5297/99 EVAL 2 ELARG 2
Border control: doc. 5320/99 EVAL 3 ELARG 3
Police cooper: doc. 5945/99 EVAL 12 ELARG 18
Judicial cooperation (criminal): doc. 5946/99 EVAL 13 ELARG 19
Judicial cooperation (civil): doc. 5817/99 EVAL 11 ELARG 17 JUSTCIV 14.
- (3) Asylum: doc. 7554/99 EVAL 27 ELARG 42
Migration: doc. 7553/99 EVAL 26 ELARG 41
Border control: doc. 7201/99 EVAL 24 ELARG 39
Police cooper: doc. 7692/99 EVAL 29 ELARG 44
Judicial cooperation (criminal): doc. 7693/99 EVAL 30 ELARG 45
Judicial cooperation (civil): doc. 7202/99 EVAL 25 ELARG 40 JUSTCIV 57.