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# SEMDOC

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## NOTE

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to : Collective evaluation Working Group

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**Subject: Joint Action establishing a mechanism for collective evaluation: procedure and methodology**

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## Introduction

1. On 10 June 1998, Coreper set up the expert Group referred to in Article 2 of the Joint Action establishing a mechanism for collective evaluation (O.J.L. 191, 07.07.1998, p. 8).

This Group shall have 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 Presidency plans to convene this Group three times in 1998 (30 September, 18-19 November and 14 December after the JHA Council).
3. After a reminder of the objectives of the collective evaluation mechanism and its close links with the enlargement process, the present document seeks to present possible working methods on which delegations are invited to comment.

## The collective evaluation mechanism and the enlargement process:

4. The following features of the collective evaluation mechanism can be drawn from the Joint Action:
- The evaluation is a continuing process which will last until accession takes place. 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).
  - The evaluation is a collective process (Article 2.1) which will depend on Member States' willingness to cooperate fully (Article 1(2)) either by giving particular assistance in preparing and maintaining for a particular candidate country comprehensive reports (Article 2(1)) 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 might help the Commission to adjust the priorities and objectives of the accession partnerships and feed the future discussions on enlargement (Article 4.2).
  - The first assignment of the Group is to set up country reports which will form the basis of the evaluations. The result of the evaluations will be forwarded to the Council (Article 2(2)).
  - In order to avoid duplication of work, the group shall, as a first step, collect and compile all existing information to be provided by Member States (capitals, embassies, Schengen), the Commission and the Council of Europe (Article 3(2)). Only when available information appears insufficient, and when additional information cannot be collected through embassies, experts missions may be sent in the candidate countries (Article 3(3)).
5. 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(2)). On the other hand, the evaluation exercise,

which is conducted by the European Union only, has to be distinguished from two other exercises that the European Union conduct together with the candidate countries, i.e. the Pre-Accession Pact on Organised Crime and the European Conference.

#### 5.1 Enlargement process

##### - Justice and Home Affairs Acquis

Identification of the JHA acquis is important for accession negotiations. Draft lists of acquis have been examined by JHA counsellors, K.4 Committee and COREPER. At its meeting of 27 May, COREPER agreed on the acquis set out in doc. 6473/3/98 JAI 7 REV 3.

This document has been made available to applicant countries.

The Schengen acquis will be determined in accordance with the Schengen protocol to the Amsterdam Treaty. The decisions determining and distributing the acquis will be adopted by the Council on the date of entry into force of the Amsterdam Treaty.

##### - Accession-partnership

Accession partnerships are the key feature of the enhanced preaccession strategy for the applicants. They provide single frameworks within which all forms of assistance to the applicants can be mobilized in support of their accession programmes. They cover for each applicant the priorities to be observed in adopting the acquis and the financial resources available for that purpose. In the accession partnerships short and medium term objectives have been defined for a range of sectors including Justice and Home Affairs. The accession partnerships for all applicant countries were agreed on 29 March 1998 by the Council (O.J. C 202, 29.06.1998, pp. 1-102). Their implementation will be monitored in the framework of the European Agreements with applicant countries.

- National Programmes for the Adoption of the Acquis (NPAA's)

Every candidate country was invited to establish a National Programme for the Adoption of the Acquis. The candidate should indicate precisely how it intends to implement the priorities identified in the Accession Partnership. The NPAA's contain the engagements of the candidate countries in term of planning and the making available of human and financial resources.

All candidate countries have inserted in their NPAA's chapters dealing with Justice and Home Affairs, which mostly are quite substantial and have proposed many concrete initiatives regarding JHA.

- Screening process

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.

This "screening" exercise will start mid-October for the chapter on Justice and Home Affairs with Bulgaria, Romania, the Slovak Republic, Latvia and Lithuania. The screening of this chapter for the other six candidates will start in early 1999. The aim of the screening is:

- Provision of complete information to the candidates concerning the Union Acquis;
- Identification of:
  - The technical adjustments of which it will be necessary to take account during the accession negotiations;
  - for all candidates, problems of substance of which account will need to be taken in the pre-accession strategy, and for the six, those which could arise during the 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 on a case by case basis as observers.

## 5.2 Pre-accession pact on organised crime

An important element of Third Pillar strategy towards accession is the Preaccession Pact on Organised Crime. This is a political commitment agreed by Member States of the European Union and the CCEE and Cyprus on 29 May 1998 (O.J.C 202, 15.07.1998).

The text of the pact has been prepared by the Multidisciplinary group on Organised Crime, K.4 and COREPER. Representatives of applicant countries were consulted on the text on various occasions. The pact will enable existing cooperation to be intensified during the preaccession period.

The implementation of the preaccession pact has been entrusted to a group composed of both the Member States and the candidate countries (Preaccession Pact Experts Group - PAPEG (see document 10903/98 CRIMORG 129 PECOS 112)). The Multidisciplinary Group on Organised Crime has elaborated a document proposing measures for the practical implementation of the pact (doc. 11096/98 CRIMORG 133 PECOS 114) which has been transmitted to the candidate countries in preparation for the first meeting of the experts group which will take place on 9 October 1998.

## 5.3 European Conference

On 12 March 1998 the inaugural meeting of the European Conference was held. It concluded inter alia that the Presidency would urgently convoke experts from countries of the European Conference who would with the European Commission quickly consider the problems associated with organised crime and the trafficking of drugs. Recommendations of this group will be submitted to the Conference within 12 months.

A first meeting of the European Conference experts group on Organised Crime and Drugs Trafficking was held on 10 June 1998. Switzerland, Norway and Iceland were invited to this meeting (ref. doc. 9862/98 CRIMORG 109 CEDCO 1).

Agreement was reached on a number of early action points (contact points, seminars, good practice and networks) as well as on issues for further consideration (joint law enforcement operations, money laundering, information on organised crime, Europol, coordination of efforts between existing fora, EU Third Pillar spending programmes).

Moreover broad agreement was reached on possible chapters of a report to the European Conference meeting in March 1999.

## 6. Working methods and procedures

6.1 As stated above, the first objective for the Group is to produce rapidly for each candidate country a "country report" drawing on expertise and knowledge available in each Member State and the Commission.

6.1.1 In addition to the Langdon Report provided to the K4 Committee in October 1995, the Commission has produced the following documents so far:

- Opinions on the application for membership of the 11 States (see Bulletin of the E.U., 7/97).
- Accession Partnerships (see O.J. C 202, 29-06-1998, pp. 1-102)
- Reports of the PHARE General missions on JHA. Reports on Hungary, Czech Republic, Slovakia and Slovenia have been forwarded to Member States through the network of National Contact Points. Reports on Latvia, Lithuania, Estonia and Poland will be made available by end October 1998 and reports on Romania and Bulgaria by end November.

6.1.2 At the May meeting of the Multidisciplinary Group on Organised Crime, the French delegation presented an oral report of a study which gives insight to experiences of the French authorities in the field of police cooperation with applicant countries.

6.1.3 The British Presidency (President of the Council/K4) undertook a series of visits to some applicant countries in April and May 1998 (Czech Republic, Poland, Hungary, Estonia, Latvia and Lithuania). Reports of these visits will be made available to the heads of delegation at the first meeting of the collective evaluation Group (for a first conclusion of the visits, see doc. 10117/98 CK4 33, pp. 16-19).

6.2 The Presidency assumes that additional information will be provided by Member States.

The question will then be to define the most efficient method to digest all the information collected and to produce 11 country reports. The Presidency invites the Group to consider the following possible approaches which are not mutually exclusive:

- a. Circulate reports already prepared for the Commission by Member States experts following series of missions, inviting further comments, improvements and filling of gaps.

Advantage: The Group can start working without delay. Easier to preserve Member States' anonymity in these drafts, already sanitised partly because they have been available to candidate countries.

Disadvantage: Ministers have already clearly expressed their conviction that these reports are not enough, despite the fact that they have been submitted to capitals for comments already. Not clear what would be added value of this new Group if such a procedure were to be adopted. A senior level representation in the Group should however ensure that comments on the existing reports would be more comprehensive, co-ordinated and thorough.

- b. Invite individual Member States, or group of Member States, to produce first draft of "country reports" for candidate countries which they know best. Draft could be circulated by written procedure for comments, then discussed in Group before being finalised;

Advantage: Distillation and first analysis will be done by Member State(s), thus reducing mass of paper which would risk swamping any chosen central point. Should provide earlier first "target" text on which to concentrate.

Disadvantage: Difficult to preserve anonymity of judgements offered in first draft. Not necessarily easy to agree among Member States on who should cover which candidate.

- c. Invite all Member States to send in all their material to the Council Secretariat to be digested, distilled and turned into first drafts of country reports.

Advantages: would ensure completeness of available information and confidentiality of its sources (Member States might be more willing to provide everything they have if they get the assurance that the report preserves anonymity).

Disadvantage: If the method produces more material than can be easily or quickly absorbed and processed, it will delay any operational output (unless 2 or 3 national experts be seconded to the General Secretariat, as was already indicated during the British Presidency when preparing the Joint Action, see footnote (1) in document 8182/2/98 JAI 13 ELARG 54).

6.3 The Joint Action rightly insists on the useful role that EU Embassies and Commission delegations in the candidate countries can play throughout the evaluation exercise.

They could be invited to comment on the draft country report, to answer questionnaires on particular aspects and to update regularly the initial evaluation and assess the progress achieved.

In order to mobilize them, the Presidency plans to instruct its ambassadors in the candidate countries to set up the necessary procedures (invite each EU embassy to designate someone in charge of JHA affairs, organize regular meetings of these JHA counsellors, etc). The Commission will be invited to do the same with regard to its delegations.

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