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**NOTE**

from :	Presidency
to :	Working Party on Illicit Drug Trafficking/Mixed Committee (Norway/Iceland)
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Subject:	Proposed recommendations for examinations conducted in the EU and Schengen areas to detect the smuggling of drugs inside the body

**INTRODUCTION**

The smuggling of drugs inside the body is a well-known method of smuggling in countries including those of the EU. This kind of smuggling is particularly difficult to control and detect. For this reason, organised criminal groups tend to use couriers who swallow or otherwise conceal in their bodily cavities waterproof packages containing narcotic substances in order to smuggle them inside their bodies to their destinations. Normally drugs classified as extremely dangerous are transported in this manner. It is notable that it is in checks conducted on air travel that smugglers are most frequently found. Action on the matter is not facilitated by the differing surveillance and investigation practices used in such cases in the Member States. A questionnaire on the legal aspects was drawn up in the EU's Working Party on Illicit Drug Trafficking in spring 1999, and that document has been used as the basis for the recommendations herein.

It is difficult to obtain a clear picture of the real extent of smuggling inside the body from the replies. It is however indisputable that the problem exists and that it must be tackled by more effective and more uniform means than was previously the case.

The aim of this document is to submit recommendations to the Member States on how the problem of smuggling inside the body may be tackled more successfully than in the past.

The recommendations are not intended to be binding or as obligations to alter Member States' national legislation, but as encouragement to improve cooperation between law enforcement authorities in the uncovering of drug smugglers, to standardise and at the same time rationalise countries' surveillance practices and give the Member States ideas for adopting new surveillance practices and equipment with the aim of a uniform, more effective and more extensive surveillance strategy than in the past. These recommendations are a first step towards more uniform drug control practice for the detection of drug smuggling inside the body. In future, endeavours will be made to concentrate in particular on the development and harmonisation of a profile for the detection of persons smuggling drugs inside the body.

## **RECOMMENDATIONS**

In all Member States it should be possible to carry out an x-ray or comparable examination in order to establish whether a person is guilty of smuggling drugs inside the body. Depending on national legislation, the order for an examination could be given by the surveillance, investigation or judicial authority. In matters relating to the state of health of the suspect, the authority to take measures should lie with a physician or other health care personnel. In all Member States it should be possible to conduct an examination even WITHOUT the consent of the suspect, at least so that the suspect could be kept under observation for a sufficiently long period for any drugs packages to be eliminated from the body by natural means. The Member States should however proceed with the aforementioned measures only where there are reasonable grounds to suspect the person of smuggling drugs inside the body. When considering whether to take such measures, great care should be taken to observe the principles of proportion and delicacy.

The authorities of the Member States should have the right to arrest or detain a suspected person long enough for the swallowed drugs packages to be eliminated from the body by natural means, if the use of purgatives or laxatives is not possible because of national laws or other provisions. When using pharmaceuticals to speed up the elimination of the drugs the instructions of the medical expert must be followed and account must also be taken of the suspect's state of health. If the suspect's state of health should worsen to the point where the only course of action open is the use of purgatives or laxatives, the physician should have the right to prescribe such pharmaceuticals for the suspect.

The Member States should use the highest possible quality of surveillance equipment and pay particular attention to the application and development by the Member States of a risk profile for the detection of potential smugglers. Efforts should be put into the training of surveillance personnel in risk analysis work and use should also be made of experience gained in other countries with the detection of drug smuggling inside the body.

Computerised data exchange between surveillance authorities should be fast and the authorities should also have access to the records and databases of other national authorities in order to ensure more effective data exchange. In addition to this, the surveillance authorities should make the widest possible use of international cooperation of various kinds to guarantee the functioning of the system.

Taking into account the scale and extensiveness of the problems relating to illicit drug trafficking, the development and employment of new technology should receive an appropriate amount of EU funding and other support.

Cooperation with airlines and shipping companies should be further developed and intensified, in particular by making use of the MOU agreements concluded between the authorities and enterprises in many Member States. It would be especially important to get private cooperation partners to understand the extent of the problems relating to drug smuggling inside the body and the importance of cooperation with the authorities.