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THE COUNCIL

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REPORT

from: Working Party on International Organized Crime

to : Steering Group III (Criminal Matters)

Subject: Implementation of the Berlin declaration on increased cooperation in combating drug crime and organized crime in Europe

I. Introduction

1. At its meeting on 22 September 1994 the K.4 Committee instructed the Working Party on International Organized Crime ([1]) to:

   - examine practical implementing measures in the context of implementing the Berlin declaration;
   - draft proposals for some measures that can be implemented in the short term and submit them to the K.4 Committee for its November 1994 meeting;
   - subsequently discuss further measures that could be considered.

2. On the basis of those instructions, the Working Party on International Organized Crime (Judicial Cooperation) examined the matter at its meeting on 4 October 1994, bearing in mind the Berlin declaration of 8 September 1994 (8990/3/94 REV 3 ENFOPOL 107).

([1]) See 9533/94 CK4 72, points 4 and 7.

II. **Measures which could be carried out in the context of judicial cooperation**

3. The Working Party considered that some of the measures referred to in the Berlin declaration came within the framework of judicial cooperation in criminal matters. Those measures were as follows:

- Illicit drug trade

  - facilitation of transboundary observation;
  - cooperation with regard to "controlled deliveries";
  - cooperation in the use of informants and under-cover agents.

- Theft of and illegal trade in radioactive and nuclear material

  - mutual assistance of prosecuting authorities in investigations by means of harmonized measures and mutual support in terms of staff, equipment and organization;
  - penalties for the theft of and illegal trade in radioactive and nuclear material, and
  - regulations on the forfeiture of illicit proceeds from such crimes.

- Traffic in human beings

  - drawing up of a manual on legislation and administrative practice in the fight against illegal traffic in human beings.

- Illegal immigration networks

  - to the extent that it has not yet been done, the introduction of provisions that also penalize the illegal smuggling of aliens also into the territory of other participating States;
  - regulations governing the forfeiture of illegal profits from such crimes.

- Illegal transfer of motor vehicles

  - aiming at the approximation of legislation to make possible the effective return of stolen vehicles.

- Review of whether existing legal bases are adequate to guarantee effective cooperation in combating drug crime and organized crime
  (see point 4 of the declaration)

  - in particular, the expeditious provision of legislation to combat money laundering (1988 United Nations Convention).

- Judicial measures to fight these forms of crime
  (See point 5 of the declaration)

  - highest possible degree of compatibility of legislation.

- United Nations Conference for Combating Organized Crime (Naples, 21 to 23 November 1994)

  - due regard to the adoption by the Conference of measures along the lines of the declaration.

III. Measures that could be implemented in the short term

The Working Party considered that most of the measures referred to in Section II required longer-term discussion which would continue in 1995.

However, in fulfilment of the K.4 Committee's instructions, the Working Party considered that the following measures could be proposed for implementation in the short term:

1. Theft of and illegal trade in radioactive and nuclear material

   The Working Party suggested that Romania should ratify the Convention on the Physical Protection of Nuclear Material concluded in the framework of the International Atomic Energy Agency and opened for signature on 3 March 1980.

2. Key conventions concluded in the framework of the Council of Europe

   The Working Party considered that the States of Central and Eastern Europe could be invited to sign and ratify certain key conventions in the framework of the Council of Europe. Those conventions could be:

- the 1959 European Convention on Mutual Assistance in Criminal Matters and the 1978 Additional Protocol;
- the 1988 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime;
- the European Convention on Extradition and the second Additional Protocol.

3. Mutual judicial assistance

The Working Party considered it desirable to step up work to encourage mutual judicial assistance with the States of Central and Eastern Europe. In this context, consideration should be given to the possibility of:

- developing networks of contacts between judicial authorities, possibly those dealing with particular fields;
- setting up networks of contact magistrates for direct contacts in other areas of cooperation, and exchanging liaison magistrates;
- facilitating direct contacts between local competent authorities, bearing in mind the respective roles of those authorities and the central authorities of the Member States.