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EUROPEAN UNION
THE COUNCIL

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NOTE

from : German delegation

to : K.4 Committee

No. prev. doc.: 9703/97 CK 4 29

Subject: Cooperation between Interpol and the European Union

I. Preliminary remarks

1. A number of Working Parties, Steering Group II, the K.4 Committee and various Schengen groups, right up to the Schengen Executive Committee, have for some time been discussing cooperation with Interpol and trying to define a suitable framework for cooperation. The K.4 Troika has had two meetings with the Presidency/General-Secretariat of Interpol (the latest on 26 June 1997, see 9703/97, CK 4 29).

2. Germany applauds and supports the basic aims of these measures, which, in the EU framework, had the backing of the previous Presidency. These aims are:

   - to avoid duplication of effort by the two "organizations",
   - to create working contacts,
   - to promote exchange of experience,
   - to coordinate findings and follow-up measures.

The prime necessity is to create a suitable framework for practical cooperation between crime-fighting agencies. One such agency at EU level is the European Police office (Europol), currently being established, or its predecessor the European Drugs Unit (EDU).

Germany sees no need for an institutionalized, structured political dialogue between the EU (i.e. the K.4 Troika) and Interpol ([1]). General discussion of relations between Interpol and the EU, without reference to practical issues and without EDU/Europol participation, leads nowhere.

Nor is there any point in the EU holding high-level talks with Interpol on Third Pillar-related work programmes. The coordination required here is rather a matter for agencies and units below the political level.

3. It can be assumed that the questions that need to be asked in this connection about the different tasks of Interpol and Europol can in principle already be answered.

The chief tasks of the International Criminal Police Organization Interpol (approximately 177 members) are to offer general support for the criminal investigation authorities in the individual Member States, to facilitate exchange of knowledge and experience of criminal investigations and to provide channels of communication ([2]). Interpol acts above all as an official channel for tracing persons and objects and for exchanges of experience in matters of criminal investigation. At the same time it is the channel for responding to requests for assistance, and is specifically referred to in the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 (Article 15(5)) and the European Convention on Extradition of 13 December 1957 (Article 16(3)).

([1]) The same could basically be said to apply to Schengen cooperation (until it becomes fully integrated into the EU framework).

([2]) Interpol traffic is bilateral in well over 80% of cases; in most cases information is exchanged directly between National Central Bureaux (NCBs)

Recently Interpol has had some involvement in analysis. It has no executive powers.

Europol is a Union-wide system for the exchange and analysis of information in key areas of the fight against organized crime, but is not an investigative instrument. Criminal analysis is the particular area in which its tasks might overlap with those of Interpol. However, the basic point about Europol is that cooperation between the EU Member States is much more intensive than is possible in the case of Interpol. With the Europol Convention the Member States entered into binding cooperation commitments. Strategic crime analysis and analysis of specific cases demand central evaluation and storage of personal data. Europol's mandate makes it ideally suited to that purpose.

Both Interpol and Schengen run investigation systems, but the scope and depth of each and the legal instruments which apply are very different ([1]).

A European Information System (EIS) based on the Schengen Information System – acting as a European investigation system – and Europol – acting as a European central analysis agency – would be complementary, particularly if the Member States were to agree to give Europol access to the EIS. The start made in the Amsterdam Treaty on incorporating the Schengen "acquis" into EU cooperation would provide a framework for such access.

On the basis of these differences it is possible to establish more accurately how and where there can be practical cooperation between Europol and Interpol, how far such cooperation is legally permissible and what practical arrangements can be made on the ground.

([1]) The Schengen States are unanimous that SIS notification takes precedence over Interpol. This is not surprising, for international searches via Interpol cannot compare with the quality of SIS search.

II. Special aspects of the Interpol-EU relationship

A thorough analysis of the tasks, legal framework and powers of each "organization" should form the basis for defining a cooperation framework and for practical coordination, e.g. on the use of information technology, an important instrument now and destined to become even more so in the future.

Hence:

- Any expansion of the computerized Interpol Information System must be scrutinized by the EU and Schengen States from the point of view of the aims of the Europol Convention and the Convention Applying the Schengen Agreement. The main question here is whether all the data gathered under these two Conventions is to be made available to Interpol. Interpol's wish for a permanent link between the information systems of the "organizations" and for comprehensive data exchange is problematic because of the different legal conditions which prevail ([1]).

- Interpol is and will remain an important instrument of international police cooperation because of the very wide scope which it affords. For investigations in States bordering the Schengen area and for international investigations worldwide Interpol is and will basically remain the instrument of choice.

- Any further intensification, particularly in qualitative terms, of police cooperation in the EU area can be achieved solely through Europol (complemented by a European Information System) and Schengen. In both cases binding agreements concluded in international law and approved by the Parliaments form the legal basis.

- Greater account should be taken of them in the multiplicity of international talks and bodies. Europol and Schengen should be used as central notification points.

([1]) That applies equally to the Schengen Information System.

III. Conclusions

1. Germany sees no need at present for further talks between the Interpol General Secretariat and the K.4 Troika.

2. The Working Party on Europol should be given responsibility for elaborating an outline proposal, in collaboration with the Working Party on Police Cooperation and the Working Party on Drugs and Organized Crime ([1]). Against the background of the basic legal framework, this outline should describe in more detail a practical procedure for cooperation with Interpol in all areas of police cooperation under the Third Pillar. Points covered in 7919/2/97 EUROPOL 25 REV 2 on cooperation between Interpol and the European Union could be included ([2]).

3. At national level steps should be taken to improve the ongoing working contacts between the individual Interpol NCBs and national central offices, e.g. of Europol, on practical matters of everyday police work. It would be useful to designate a central office in each State for the purpose.

4. Germany will be submitting this note for information to the central Schengen group, to ensure a coordinated response. The Schengen Sirene Bureau will also need to be involved in the ongoing working contacts.

5. After thorough discussion in the K.4 Committee, the Luxembourg Presidency could inform the Interpol Secretary-General through the appropriate channels of the principles on which it is intended to proceed.

([1]) To speed up the process, consideration should be given to setting up an ad hoc Working Party. The necessary coordination at national level between the issues covered by the separate Working Parties could be dealt with rapidly by the representative on the ad hoc Working Party.

([2]) As regards relations between Schengen and Interpol, the Austrian Presidency has already put forward new initiatives for step-by-step preparation of all the individual practical issues in the Schengen framework and for possible subsequent decisions of the Executive Committee.