

EUROPEAN UNION
THE COUNCIL

Brussels, 7 September 1998

7586/98

ADD 1

LIMITE

CRIMORG 52

ADDENDUM

Subject: JOINT ACTION of adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on making it a criminal offence to participate in a criminal organization in the Member States of the European Union

Delegations will please find enclosed an addendum to 7586/98 CRIMORG 52 as approved by the legal linguists' working party.

This addendum contains the declarations, as revised by the legal linguists, which were made in connection with the draft Joint Action but which have been omitted from 7586/98 CRIMORG 52.

The Belgian delegation still maintains a parliamentary scrutiny reservation.

Council Declaration

The Council will assess between now and the end of December 1999 Member States' compliance with their obligations under this Joint Action, with particular reference to implementation of Article 2 thereof. It may then decide to continue this assessment on a regular basis.

To that end, the Council will receive a report, based on the information provided by Member States, in accordance with the assessment mechanism adopted by the Council on 5 December 1997, which will:

- describe progress in implementing this Joint Action,
- outline the national measures applied under this Joint Action, and, in particular, consider practices used in prosecuting the offences covered by it,
- consider any measure needed to achieve more effective judicial cooperation on the offences covered by this Joint Action, by examining inter alia time limits for judicial cooperation and whether the double criminality condition contained in national legislation hampers judicial cooperation between Member States,
- explain, where appropriate, why implementation of this Joint Action has been delayed.

Declaration by the Austrian delegation re Article 3

Austria refers to the possibility afforded it in Article 18(2) of the second Protocol to the Convention on the protection of the European Communities' financial interests (OJ C 221, 19.7.1997, p. 11) not to be bound by Articles 3 and 4 of that Protocol for five years, and hereby states that it will fulfil its obligations under Article 3 of the Joint Action within the same period.

Declaration by the Danish delegation re Article 3

Denmark states that it does not intend to extend the applicable Danish rules on criminal liability in the case of legal persons in order to implement Article 3.

Declaration by the German delegation re Article 4(2)

Germany assumes that in the consultations provided for in the second sub paragraph of Article 4, due account will be taken of the main focus, i.e. area of operation, of the criminal organization or a component thereof.
