



**EUROPEAN UNION
THE COUNCIL**

Brussels, 31 May 1999

8614/99

LIMITE

CRIMORG 60

OUTCOME OF PROCEEDINGS

From : Multidisciplinary Group on Organised Crime

dated : 11/12 May 1999

1. ADOPTION OF THE AGENDA

The agenda was adopted as in telex 2084 of 5 May 1999.

2. UN ORGANISED CRIME CONVENTION

The Finnish delegation reported on the outcome of the third session of the UN Ad Hoc Committee on the elaboration of the convention and provided information concerning a number of relevant resolutions which had been adopted at the eighth session of the UN Commission on Crime Prevention and Criminal Justice. The Presidency also briefed the MDG on the specific discussions, which had taken place within the UN Ad Hoc Committee on the draft firearms protocol.

Further consideration was given to the draft Joint Position on the firearms protocol and in that context the Commission indicated its views on the provisions of the draft protocol with reference to existing Community obligations in the area firearms and ammunition. In particular, delegations considered the weapons, which should be covered by the protocol and reference was also made to the fact that the provisions dealing with matters such as marking could be applied on a limited basis. Furthermore, it was stressed that it would be necessary to clarify how the issues, which were the subject of the 1991 Directive and other Community instruments, should be dealt with. The Presidency indicated that the Council Legal Service would be asked to advise on that point and the Commission said it would also address the matter. At the conclusion of the discussion the Presidency undertook to revise the draft Joint Position for the next MDG meeting in the light of the comments that had been made by delegations.

The Council Secretariat introduced the discussion relating to possible draft Joint Positions on the protocols to the UN convention concerning trafficking in women and children and smuggling/trafficking of migrants. In addition the Presidency confirmed that the conclusions of the immigration experts, which had recently considered the matter, was that the issue of whether provisions on illegal migration should be included in the protocols was one that should be pursued within the MDG. It also made the point that, as in the case of the firearms protocol, the Council Legal Service would be consulted with a view to determining the appropriate means for handling matters which fell within Community competence. Following a brief discussion the Presidency invited delegations to submit any written observations they might wish to make in relation to this matter which would be examined in more detail at the next meeting.

3. MONEY LAUNDERING; FOLLOW UP TO DISCUSSION ON 22 APRIL

(docs 6409/99 CRIMORG 30, 12706/98 CRIMORG 173, 7305/98 CRIMORG 47)

The Presidency informed delegations that until now, four contributions regarding the document CRIMORG 30 had arrived. France announced to send in their contribution before the next meeting of the MDG on 6 and 7 June. Europol informed delegations about their document Europol 2550-33R1 concerning financial investigations.

The Presidency concluded that this subject would be discussed again during the next meeting of the MDG in June based on a German proposal on how to further proceed.

4. ORGANISED CRIME SITUATION REPORT

The Presidency reported about the meeting of the Contact and Support Network at Europol in The Hague in February 1999. During the meeting, Member States agreed to set up an informal voluntary reflection group, which should have the task to elaborate a template to facilitate the standardisation of Member States' contributions to the EU situation report on organised crime. This informal group met for the first time on 15 April in Brussels.

Furthermore, the Presidency presented a draft version of a revised version of doc. 14385/98 CRIMORG 205 (issued as doc. 8469/99 CRIMORG 55). Delegations welcomed the document. The UK expressed a scrutiny reserve.

Europol informed Member States that so far only eight contributions for the Organised Crime Situation Report 1998 had reached them and reminded delegations to send in their contributions as soon as possible, latest until 20 May of this year. Short versions of these contributions, which are destined for the information of the European Parliament, should be sent in English.

The Presidency concluded that there was general consent among Member States to continue as proposed in the draft revised version of CRIMORG 205. A in-depth discussion would take place in the informal voluntary reflection group.

5. PREPARATORY MEETING OF THE PAPEG SCHEDULED PROVISIONALLY FOR 23 - 24 JUNE

The Presidency gave an overview on the provisional planning for the next meeting of the Pre-Accession Pact Experts Group (PAPEG) on 23 and 24 June 1999 and asked delegations to come forward with further proposals for the agenda.

The Commission expressed concern that the presentations envisaged in the provisional programme could duplicate the work undertaken during the screening process. It was however also underlined that work in PAPEG was characterised by cooperation between equal partners. Nevertheless, all efforts that were already undertaken (screening, collective evaluation) should be used in its work.

Austria offered to make a presentation on offshore investigations. Europol thought it might be useful to inform the applicant Countries on the contacts between Europol and third countries during the meeting. The UK delegation, supported by Luxembourg, proposed to have presentations of both applicant Countries and Member States on a common topic.

The Presidency announced that until the end of May the programme for the next PAPEG meeting would be completed. It would be presented during the next meeting of the MDG under German Presidency.

6. DRAFT JOINT ACTION ON CHILD PORNOGRAPHY ON THE INTERNET

- **examination of opinion of European Parliament**
 - **procedure to follow after entry onto force of the Treaty of Amsterdam**
- (doc 10850/5/98 ENFOPOL 95 JUSTPEN 83 CRIMORG 127 REV 5)

The Presidency made the following observations:

The Joint Action includes provisions to enhance police cooperation and to promote voluntary action in the fight against child pornography on the Internet. The European Parliament asked for a harmonisation of legislation and the introduction of cooperation duties for providers in this area.

If all the changes requested by the European Parliament would be incorporated, the Joint Action then would have to be treated as a "framework decision", as foreseen under Art. 34 (2) (b) TEU. The unchanged instrument would be a "decision" according to Art. 34 (2)(c) TEU. Delegations expressed different views on the legal character of the instrument.

The Presidency proposed to forward a request the Council Legal Service in order to get an answer to the question whether already the existing version of the Joint Action would fulfil the requirements of a "framework decision". The Presidency was in favour of concluding the Joint Action as it was "frozen" by the Council, but expressed the opinion that it might be advantageous to wait for the Council Legal Service's advice until the next meeting and to decide then about the legal character of the instrument.

7. MUTUAL RECOGNITION OF JUDICIAL DECISIONS AND JUDGEMENTS IN CRIMINAL MATTERS; INFORMATION ON DISCUSSION IN K.4. COMMITTEE
(docs 7090/99 CRIMORG 35, 12538/98 CRIMORG 168, 10066/98 CRIMORG 115, 10600/98 CRIMORG 121 CK4 39)

The Presidency pointed out that agreement should be reached during the next meeting of the Art. 36 - Committee on whether this initiative of the UK should be treated in the Working Group "Judicial Cooperation" or in the Multidisciplinary Group.

The UK delegation then introduced into the document 7090/99 CRIMORG 35 JUSTPEN 18, outlining the main ideas of their paper.

The Presidency concluded that this ambitious initiative should not be split into various parts but should be regarded and dealt with in an overall approach.

8. FOLLOW-UP AND FINAL DECISION ON NEW SUBJECT AND PROCEDURE FOR MUTUAL EVALUATION
(docs 14162/98 CRIMORG 203, 14161/98 CRIMORG 202)

The Presidency introduced into the topic and reminded delegations of the three proposals for possible topics of the next round of evaluations, which had been proposed under the Austrian Presidency. The proposal were the following:

- Topic A: illegal drugs trade and law enforcement
- Topic B: extradition
- Topic C: information collection and exchange

In the opinion of the Presidency, the group had already decided to take either topic A or C during previous meetings. Still these topics had to be developed in order to make them more concrete. Especially the work of other Council working groups should be taken into consideration to avoid a duplication of efforts.

Europol informed the group which aspects of the proposals A and C they had already tackled. It was underlined that the multidisciplinary character of the group should be reflected in the choice of a law enforcement topic for the second round of evaluations.

Following an indicative vote where delegations expressed their priorities delegations choose topic A for the next round of mutual evaluations.

The Presidency concluded that topic A still would have to be put into more concrete terms and requested the assistance of Europol in that respect.

The Commission requested – and the MDG consented – to be associated with the next round of evaluations.

9. INFORMATION BY THE COMMISSION REGARDING THE IMPLEMENTATION OF THE FALCONE PROGRAMME

The Commission informed the group which projects had been selected for the FALCONE programme this year. Out of 105 applications 38 projects had finally been accepted, most of them related to the fight against organised crime. This year 2 million Euro will be available for financial support of these projects.

The Commission intends to table a report on the results of FALCONE programme as soon as the last final reports of the various 1998 projects were available to them.

The Presidency reminded delegations of the importance to send in these final project reports in time.

10. EXAMINATION OF THE DUTCH MUTUAL EVALUATION REPORT

A member of the evaluation team then presented the report which was then discussed by the MDG. Following a question by the UK delegation, it was reminded that an annual report under the Joint Action to the Council still had to be drafted and decided upon by the group. This report should summarise the results of the first five evaluations and could also include conclusions and recommendations.

The Presidency concluded that a formal decision by the group on the evaluation report of the Netherlands had to be made during one of the following meetings. Delegations were given a deadline for comments to be made, if any.

11. CONTINUED DISCUSSION ON FOLLOW-UP AND STRENGTHENING OF EU ACTION TO COMBAT ORGANISED CRIME
(doc 7276/99 CRIMORG 39)

Delegations were reminded to send replies to the Finnish questionnaire on CRIMORG 39 to the Finnish delegation. First meeting dates of the MDG under Finnish Presidency will be on 6 July and 26 and 27 July 1999. As during the last meeting of the MDG, delegations welcomed the paper of the incoming Presidency.

The UK delegation expressed the view that it would be useful to strengthen the strategic role of the MDG. Austria supported the approach chosen by this paper, but also thought it might be necessary to analyse the problems related to the implementation of the Action Plan. The Netherlands emphasised that many parts of chapter IV of the Action Plan still had to be implemented. The Dutch delegation also expressed support for strengthening the strategic role of the MDG.

The Presidency underlined that Recommendations 13 and 14 of the Action Plan and the question of the relation between Europol and the judiciary still had to be addressed by the MDG. Delegations were requested to send in their written comments regarding CRIMORG 39. The Presidency also proposed to use CRIMORG 39 as a basis for a report to the Special JHA Council in Tampere. The topic will be dealt with again during the next meeting of the MDG in June.

12. QUESTIONNAIRE ON NEGLIGENCE AND THE REVERSAL OF THE BURDEN OF PROOF IN MONEY LAUNDERING LEGISLATION

13. QUESTIONNAIRE ON THE IMPLEMENTATION OF RECOMMENDATIONS 13 AND 14 OF THE ACTION PLAN TO COMBAT ORGANISED CRIME
(doc 7638/99 CRIMORG 45)

The Presidency introduced and explained the questionnaires and requested delegations to agree upon both questionnaires. Delegations were also requested to send in their answers until 1 June.

14. ANY OTHER BUSINESS

The Presidency reminded delegations of the "Video - Symposion", which will take place from 9 to 11 June in Bonn and a seminar organised by Finland on judicial cooperation between the EU and Russia from 7 to 9 July.

The Spanish delegation reported on the results of an international conference on drug precursors in Lima/ Peru, which took place in the framework of the FALCONE programme.

The UK asked for results of the questionnaire on interpretation before courts. The Presidency will come back to the results and an analysis of the answers at future meeting of one of the working groups.

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