



SG2 WP7
011

**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 1 December 1999 (03.12)
(OR. fin)**

**12554/1/99
REV 1**

LIMITE

STUP 23

NOTE

from :	Presidency
to :	Working Party on Illicit Drug Trafficking/Mixed Committee (Norway/Iceland)
No. prev. doc. :	8489/99 STUP 1 COMIX 1; 8492/1/99 STUP 4 COMIX 4 REV 1; 11004/99 STUP 16; 12554/99 STUP 23
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 often 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 Schengen 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 step up cooperation between law enforcement authorities in the uncovering of drug smugglers, to improve countries' surveillance practices and to give the Member States ideas for adopting new surveillance practices and equipment with the aim of a more effective and more extensive surveillance strategy than in the past. These recommendations are a first step towards more effective drug control practice for the detection of drug smuggling inside the body. In implementing these recommendations attention should first and foremost be paid to national legislation. 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

1. 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, national legislation permitting, 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. Where measures are put in hand, principles generally accepted in national and international law, such as the principle of proportion, should be observed.

2. 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 emetics or laxatives is not possible because of national laws or other provisions.
3. 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.
4. Computerised data exchange between surveillance authorities should be fast and the authorities should also have the best possible access to the records and databases of other national authorities in order to ensure more effective data exchange. Such exchange should take account of both national and international data protection provisions. In addition to this, the surveillance authorities should make the widest possible use of international cooperation of various kinds, e.g. Europol projects, to guarantee the functioning of the system.
5. Taking into account the scale and extensiveness of the problems relating to illicit drug trafficking and in order that development should be as uniform as possible in all Member States, the development and employment of new surveillance and investigation technology should also receive an appropriate amount of EU funding and other support.

6. Cooperation with land, sea and air transport companies and other carriers should be further developed and intensified, in particular through recourse to the MOU agreements concluded and to be concluded between the authorities and enterprises in many Member States. It would be especially important to make private cooperation partners understand the extent of the problems relating to drug smuggling inside the body and the importance of cooperation with the authorities.
 7. In order to monitor the situation regarding inside-the-body smuggling in general, Member States should ensure that the law enforcement authorities have at least yearly data on the situation regarding all forms of such smuggling in the various Member States. It is recommended that such data e.g. the smuggler's country of origin and country of destination, nationality, sex, the drug smuggled and the quantity involved etc. be clearly evident from, for example, Member States' drug statistics. When notifying these data attention should be paid to cooperation in the Member States on approximating drugs statistics. Such statistics on inside-the-body smuggling could thus continue to be used in charting the situation regarding smuggling and in devising improved surveillance strategies.
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12554/99

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