

Agenda for the meeting of the Council of Justice and Home Affairs, 19 November 2004 in Brussels

B points

3. Evaluation of implementation of EU Drugs Action Plan (2000-2004)

document : COM (2004) 707 final (EN)
status of document : public
legal basis : Articles 29, 31(1)(e) of the European Convention and Article
152 of the EC Treaty

The Drugs Action Plan (2000-2004) proposed in 1999 by the European Commission and adopted by the Council in 2000 provided for both an interim and a final evaluation. This present Communication from the Commission contains the results of the final evaluation of both the Drugs Action Plan (2000-2004) and the EU Drugs Strategy 2000-2004. The information on which the final evaluation is based comes from a questionnaire which was completed by the Member States as well as from input from the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and Europol.

The object of the final evaluation was to establish in how far the actions proposed in the Action Plan have been carried out, to determine in how far these actions have contributed to achieving the objectives of the Drugs Strategy, and to estimate the impact of both Action Plan and Drugs Strategy on the drugs situation in the EU.

On the one hand the final evaluation shows that progress has been made in achieving the objectives of the EU Drugs Strategy 2000-2004. Moreover it may be stated that a large number of the actions proposed in the Action Plan have been carried out or are now being carried out. On the other hand, the available data do not confirm two of the objectives of the Drugs Strategy, which were a considerable decrease in drug use and a substantial reduction in the availability of drugs.

According to the final evaluation, the following conclusions can be drawn from these outcomes:

In future Action Plans, it is essential that clear and precise objectives and priorities can be translated into operational indicators and actions. Responsibilities and deadlines for implementation must be defined clearly.

In monitoring the drugs situation, the availability, quality and comparability of information must be improved; one reason behind this is that no comparable data proved to be available as yet in a number of fields (particularly in the field of enforcement).

The Multi Annual Programme to strengthen freedom, security and justice must subscribe to the objectives of the new EU Drugs Strategy 2005-2012 and the resulting Action Plans.

In its Conclusions on this evaluation of the EU Drugs Action Plan, which have yet to be published, the Council will take note of the evaluation, the content of which will be taken into consideration in formulating the new drugs strategy.

4. Draft framework decision on the retention of data in relation to the provision of public electronic communications services or data in public communication networks that have been processed and stored with a view to the prevention, investigation, detection and prosecution of criminal offences, including terrorism

document : 8958/04 CRIMORG 36 TELECOM 82 (NL)
status of document : public
legal basis : Article 34(2)b of the European Convention

This draft framework decision was discussed in the meeting of the Council work group for cooperation in the field of criminal law on 27 and 28 September 2004 and again on 19 and 20 October 2004. The draft is still being discussed by the Committee on Article 36 in preparation for the Council Meeting of 19 November 2004. A number of questions will be asked of the Committee on Article 36 in clarification of directional instructions given to the work group as to the scope of the draft framework decision. The focus will be a general orientation on the matter of the scope of an obligation to retain data, the consequences this may have for the legal basis of the framework decision, and in how far it is possible to achieve further harmonization in respect of the data referred to in Article 2(3) (b) and (c) of the draft framework decision (covering aspects such as instant messaging and internet services). Depending on the outcomes of the discussion in the Committee on Article 36, the questions can then be submitted to the Council. The desired scope depends, on the one hand, on the manifest need of the investigative services and the judicial authorities for data traffic and data location in concrete cases, and on the other hand, on an assessment of the effects on individual privacy of a general obligation to retain data, and the practical and financial consequences for telecommunications providers and government. Additionally, the choice of the scope of the framework decision cannot be viewed separately from the legal basis (Article 31(1) (c) and 24(2)(b) of Title VI of the European Convention) for its consideration by the third pillar of the European Union and the length of time this will take. The object of the draft decision is to harmonize existing legislation of the Member States on the retention of data by telecommunications providers with a view to the prevention, detection, investigation and prosecution of criminal offences so as to allow effective judicial cooperation in criminal proceedings. Considering the scope of the minimum set of data as proposed in Article 2(2) of the draft framework decision, it is of great importance to determine whether an obligation to retain data that is imposed on providers should be restricted solely to data which are retained for commercial or business purposes, or whether it should also cover data which the providers possess as part of their own business operations.

5. Draft conclusions of the Council on strengthening the operational collaboration of police forces (European Police Chiefs' Task Force)

document : not available
 legal basis : Articles 29, 30 and 32 of the European Convention

The declaration of the European Council of March 2004 on the fight against terrorism includes the following request: "Moreover, the European Council underlines the role of the Police Chiefs' Task Force in coordinating operational measures in response to, and prevention of, terrorist acts. The European Council calls on the Task Force to review how its operational capacity can be reinforced and to focus on proactive intelligence." It is up to the Dutch Presidency to elaborate this in further detail and to reach agreement on it yet this year.

Negotiations are still being conducted at an official level. The discussion is concentrated on defining the strategic and operational duties of the Task Force, and more specifically the relationship of the Police Chiefs' Task Force to Europol.

6. Draft framework decision on simplifying the exchange of information and intelligence between the law enforcement authorities of the Member States of the European Union, particularly in respect of serious crimes such as terrorist acts

documents : 10215/04 CRIMORG 46 ENFOPOL 69 COMIX 382 + ADD 1 (NL)
 status of documents : public
 legal basis : Article 34(2)(b) of the European Convention

This proposal is intended to bring about faster exchange of information between competent authorities in the area of prevention, investigation and detection of criminal offences. Exchange of information for use in criminal investigations and investigations that have not yet attained this status ought to take place within a time frame as set down in this framework decision. The information thus obtained may not be used as evidence in a criminal procedure.

This proposal responds to one of the action points of the anti-terrorism declaration by the European Council of 25 March. It also complies with one of the deadlines of the EU Anti-Terrorism Action Plan. The Council must adopt this proposal by 30 June 2005 at the latest.

Discussion of this proposal currently centres around a number of subjects. One such point is the definition of 'competent law enforcement authority'. The specific focus is to what extent 'judicial authorities' can be involved in the exchange of information that may not be used as evidence. Another discussion point is what types of information would qualify for exchange under this proposed regime. An interim report will be submitted to the Council.

7. Terrorism: state of affairs

document : none
legal basis : Article 29 of the European Convention

As agreed earlier, at each Council meeting a summary is given of the current state of affairs in the implementation of the EU Anti-Terrorism Action Plan. Progress has been made in discussions of the country reports in the mutual evaluation on terrorism. The interim report containing findings from the country reports will be presented to the Council at its meeting of 2-3 December. Discussions are also taking place of the draft framework decision on simplification of the exchange of information and intelligence between the law enforcement authorities of the Member States and the proposal for a framework decision on retention of traffic data. In the meantime, the Council has adopted the regulation setting up the agency for external borders and has reached general political agreement on the regulation on standards for security features and biometric characteristics in passports of European citizens.

8. Draft conclusions of the Council concerning preparations for the JHA ministerial meeting with the Western Balkans on 3 December 2004

document : 13657/1/04 CRIMORG 112 (NL)
status of document : not public
legal basis : not applicable

After the meeting of the Council on 3 December, a JHA ministerial meeting will take place between the EU and the five Western Balkan countries (Albania, Bosnia-Herzegovina, Croatia, former Yugoslavian Republic of Macedonia and Serbia-Montenegro) (among others). The Presidency has already indicated that this meeting will focus on the following two subjects: the fight against organized crime, and integrated management of the external borders. The Presidency will ask the five Western Balkan countries for an active contribution on both these topics, whilst the Member States and other parties will be invited to make a written contribution if they should wish.

The first item on the agenda will probably include the following topics:

Following up the Special Action Oriented Measures as agreed between the EU and the Western Balkans and set forth in the Thessaloniki Agreements, and monitoring the implementation by the Western Balkan countries of specific action oriented measures to combat organized crime.

Strengthening the role of the Regional Centre for Combating Trans-border Crime of the SECI (South East European Cooperative Initiative).

Cooperation in the area of the judiciary and law enforcement.

Presentation of the results of the report of the Friends of the Presidency on organized crime originating in the Western Balkans.

This report was discussed at the meeting of the Multidisciplinary Council Work Group on Organized Crime on 22 October 2004. In general terms, the report was well received by the Member States. It contains a number of concrete recommendations intended on the one hand to improve cooperation between the EU organizations which are active in the region and on

the other hand to give a new impetus to the cooperation between Member States (and their organizations) and local organizations charged with fighting organized crime. A number of recommendations revolve around the collection, exchange and analysis of criminal intelligence, which is seen as an absolute requirement in effectively combating organized crime. The report proposes setting up a network of Intelligence Development Officers (IDOs) who would take this task upon themselves.

The second item on the agenda will include further discussion of the implementation by the Western Balkan countries of measures arising from the Ohrid Regional Conference on Border Security and Management held on 22 and 23 May 2003.

The Council will adopt written conclusions in respect of the report by the Group of Friends of the Presidency. A statement by the Presidency will be adopted in respect of the ministerial meeting as a whole. The text of this statement is currently under official preparation.

9. Proposal for a Council directive for a specific procedure for admitting third country nationals with a view to scientific research

document : not yet available
legal basis : Article 63(3)(a), and 63(4) of the EC Treaty

The draft directive and the accompanying recommendations were presented by the Commission to the Council on 30 March 2004, and agreement on the recommendations was reached under the Irish Presidency. The Dutch Presidency aims to obtain approval of the draft directive. Two aspects of the draft directive are still under discussion.

The first point is the extent to which a research organization can be held financially accountable for a researcher from a third country. A few Member States take the position that a research organization can only be held liable in the event of default or fraud. Other Member States are of the opinion that once given, a guarantee is valid in all situations. Also on the subject of the guarantee, there is still discussion of what costs are covered by the financial responsibility. A few Member States feel that it ought to cover both costs of accommodation and costs of a return journey. Other Member States feel that this ought to be only the costs of a return journey.

The second point involves the mobility of researchers within the European Union. Still being discussed are the conditions to be met by a researcher from a third country if he intends to stay in another Member State for less than three months. The focus here is whether a researcher from a third country needs to meet all conditions for temporary residence in the second or subsequent Member State for the entire period. A majority of the Member States are of the opinion that only the conditions set by the first Member State need to be satisfied for such a short period. One Member State is of the opinion that not only must the conditions of the first Member State be satisfied, but also the conditions of the second or subsequent Member State, which may be different. This would mean, for example, that the researcher's income in the second or subsequent Member State would require adjustment because a different minimum wage applies there.

10. Common basic principles concerning integration policy in the European Union

document : not yet available
legal basis : not applicable

Further to the conclusions of the European Council of Thessaloniki of June 2003, the Dutch Presidency wants to encourage and foster a coherent framework for the integration of immigrants within the European Union and to develop a European vision on integration policy. To achieve this the Presidency will present to this Council a number of common basic principles (which are not legally binding) plus accompanying explanatory notes in respect of integration.

The basic principles, while respecting the national competencies, serve as a resource for strengthening coordination, cooperation and attunement of the integration policy between Member States. They provide a basis on which the European Union can more closely gear and further develop existing European instruments which include an integration aspect.

These principles assume an integral approach. To summarise the high points of the draft common basic principles: integration is a continuous two-way process; respect for the basic values of the European Union; work; basic knowledge of the language, history and institutions of the host society; education; openness of institutions, accessibility of goods and services; interaction between immigrants and society; the practice of culture and religion; participation in the democratic process; better coordination of integration measures; and formulating objectives, indicators and evaluation mechanisms.

These basic principles are similar to the tenets of the draft multi annual programme discussed by the Council in The Hague on 25-26 October: "Multi Annual Programme: strengthening freedom, security and justice in the European Union".

11. (Possibly) Council conclusions on a common minimum list of safe countries of origin, to be adopted as annex to the draft directive on minimum standards for the procedures in the Member States for the award or withdrawal of refugee status

document : not yet available
legal basis : not applicable

Upon reaching political agreement on the draft directive concerning minimum standards for asylum procedures on 29 April 2004, the Council decided to draw up a common minimum list of safe countries of origin. The common minimum list will form an annex to the directive. Before the contents of this annex can be determined, the Council must reach agreement on which countries will be included on this list. Draft council conclusions have been formulated for this purpose. You were most recently informed about this in the annotated agenda for the Council of 25-26 October 2004.

The Presidency aims to reach agreement during the Council of 19 November, so that the draft directive can be sent for advice to the European Parliament as soon as possible. The European Parliament has made known that it wishes to issue an advice on the draft directive in the very near future, which could mean that the directive will be adopted during the Dutch Presidency.