



**COUNCIL OF  
THE EUROPEAN UNION**

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**LIMITE**

**ENFOPOL 72  
ENFOCUSTOM 41  
CRIMORG 70  
COMIX 381**

**NOTE**

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From: Presidency  
To: Mixed Committee at the level of Senior officials  
Mixed Committee at the level of Ministers

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Subject : Improvement of police cooperation between the Member States, especially at the internal borders

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**Introduction**

1. As set out in the Hague Programme (point 2.3)<sup>1</sup>, the Commission submitted a proposal for a Council Decision on the improvement of police cooperation. This text consisted on the one hand of an extension of the scope for cross-border surveillance and hot pursuit and on the other hand of proposals for additional measures to enhance day-to-day cooperation, in particular in the areas along the internal borders.

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<sup>1</sup> "The Council should develop cross-border police and customs cooperation on the basis of common principles. It invites the Commission to bring forward proposals to further develop the Schengen Acquis in respect of cross-border operational police cooperation."

## **State of negotiations**

2. The Police Cooperation Working Party has extensively discussed this proposal in every one of its meetings since September 2005 and the Article 36 Committee has also had substantial discussions on a number of issues.
3. There is broad agreement on a large part of the proposal, but this is partly due to the fact that a number of options and non-binding provisions have been inserted, allowing Member States to adapt the cooperation to local circumstances but also to apply more or less ambitious measures. Despite this rather flexible drafting, a number of fundamental reservations remain outstanding.

## **Evaluation of the current draft**

4. Because unanimity is required to adopt this Council Decision, these reservations, if not lifted, would lead to a weakening of the text to the extent that, combined with the flexibilities included, it should be seriously considered whether there is any added value in adopting this proposal.
5. Moreover, it should be borne in mind that many Member States have concluded bilateral or multilateral agreements with neighbouring states, which include provisions that not only go beyond what is provided for in the current provisions of the Schengen Convention but also beyond the current draft of the proposal for a Council Decision. In that context, it is not very clear why Member States find it difficult to develop these kind of provisions at EU level.
6. Bearing in mind the above, the Presidency finds that the current result of the negotiations on the Commission proposal almost undermines the political declaration of intent, as set out in the Hague Programme, to enhance the police cooperation and develop the Schengen Acquis in this matter. The Presidency also reminds delegations that the task of establishing an area of freedom, security and justice is a task for the whole European Union and a field in which Member States have the opportunity to deliver concrete results that are visible for the citizens.

## Conclusion

7. As a consequence, the Council is invited to decide upon one of the following two options
- there is a political commitment to adopt the text as currently resulting from the negotiations, subject to some drafting reservations, meaning that Member States and the Commission withdraw their substantial reservations; or
  - it is established that there is currently no unanimity to substantially develop the Schengen Acquis on police cooperation and therefore the negotiations on this text are suspended; the Commission together with the incoming Presidencies should reflect on appropriate ways to reach the aim of improving day-to-day police cooperation, especially in the areas along the internal borders.
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