



**Co-Chair**

## **INFORMAL HIGH LEVEL ADVISORY GROUP**

**- Monday, 21 May 2007, Eltville -**

### **Introductory Document: Working Method of the Group**

#### **I. POSSIBLE PRIOR TARGETS FOR EUROPEAN HOME AFFAIRS UNTIL 2014**

The Group is to issue recommendations on political issues which it considers to be important for the design of the agenda of European Home Affairs policy until 2014. In developing long and medium term prior targets and possible ways to achieve these objectives, the Group should especially take into consideration whether European action in these fields generates an added value in accordance with the principles of subsidiarity and proportionality as enshrined in the Treaties.

#### **II. SOUND BALANCE BETWEEN EU ACTION, BI-/MULTILATERAL AND NATIONAL MEASURES**

We are aiming for a European Home Affairs policy that is coherent, better applicable and easier to understand. One main challenge in this respect is the complex allocation and overlapping use of responsibilities on the European and the national levels, and in some cases bi- and multilateral levels. All levels are essential, but their coexistence needs to be balanced and transparent.

The Treaties provide in specific areas for exclusive competence of the Community and in others for concurrent responsibilities of the European Union and the Member States.. This Group has the opportunity – in full respect of the treaties – to explore at a very early stadium where, within a given competency, EU action in the areas of concurrent responsibilities provides added value to national measures. At the same time, it can also analyse where national measures in those areas are sufficient and consequently Member States should retain policy discretion. Developing clear principles in this regard could lead to a better “disentanglement” of European Home Affairs and a sound and more efficient equilibrium between the different levels.

By which means can we achieve this objective?

As clarified at the informal meeting in Dresden in January 2007, this Group shall neither discuss issues of primary law nor issues related to the further debates on the Constitutional Treaty, but aim its discussions at secondary European Home Affairs law and policy.

Independent of these guidelines, the sole application of the principle of subsidiarity would not be sufficient for the political work of the Group; neither would the more technical principles of better regulation. The principle of subsidiarity is a legal condition for European measures. The right allocation of responsibilities merely constitutes a side effect of better regulation. Most important, both principles do in fact only apply when the planning of a project at the European level already is rather advanced. Therefore, the Group should focus on questions leading to a more political review that might take into account the underlying political principles of subsidiarity and better regulation in the current framework of institutional responsibilities.

It is suggested that the Group should structure its discussions about each subject on the basis of the subsequent questionnaire including principles for “political review” before a possible project is proposed for the report, being understood that this assessment does not impact on the Commission's right of initiative and its responsibilities in the preparation of future measures. For this purpose, the Group could address or take into account, where suitable, some or all of the following questions:

- Would measures taken at the European level provide added value, e.g. because:
  - They lead to a simpler solution?
  - They lead to a more efficient solution?
  - They further improve the exercise of a Fundamental Right or Freedom?
  - The nature of the problem to solve requires European cooperation (e.g. is related to globalisation, international terrorism, technological progress)?
  - Common rules are necessary to avoid fragmentation of the European legal space?
  - A cost/benefit analysis leads to a positive result?
  - Coordination of Member States’ administration is too complicated?
  - Existing information of Member States’ is to be made available mutually and for all?
  
- Would measures, in the areas of concurrent responsibilities, be more promising if taken at the national level allowing Member States to retain policy discretion, e.g. because of:
  - Substantial practical obstacles (e.g. language barrier, divergences of Member States’ administrative systems)?
  - Difficulties of implementation in Member States?
  - The lowest common denominator between Member States leading to an overall lower standard or a less sustainable solution?

- How can we avoid duplication or at least enhance coordination of measures taken at the European and national level?
- Should financing of a given measure be retained by Member States although the measure itself is taken on the European level?
- In which areas would be appropriate to pursue further action using the possibility of enhanced cooperation provided for by the Treaties?
- Where could cooperation between several states or groups of states be seen as appropriate in the form of Group(s) of forerunner or "pioneers" Countries?

It is obvious that the above questionnaire will not automatically lead to results. However, it will provide the Group with guidelines that could help to structure our debate and to facilitate political conclusions by the Group.