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Subject : Evaluation of the implementation of the Council Recommendation of
27 April 2006 on the drawing up of agreements between police, customs and other
specialised law enforcement services in relation to the prevention and combating
of crime (OJ C 124, 2006, p. 1)

I. Introduction

In its Recommendation of 27 April 2006 the Council made recommendations to Member States for improving cooperation between their police, customs and other specialist law enforcement authorities in preventing and combating crime, by establishing formal agreements or other arrangements at national level. The Council wished to be informed within 3 years of the measures taken in response to the Recommendation.

In view of that evaluation, the Presidency issued a questionnaire (doc. 6259/07 ADD 1), to which 21¹ Member States replied.

The current document presents a summary of the replies and some preliminary general conclusions.

¹ No reply was received from EE, ES, IT, LU, MT, UK.

II. Formal agreements

Most Member States with the exception of BE have formal agreements or other arrangements at national level between police forces and customs authorities or other competent authorities for the prevention and combating of crime.

In CY a formal agreement exists in the form of a Memorandum of Understanding between the Customs & Excise Department and the Police.

In EL the Police acts as an independent prosecuting authority and it has not concluded official co-operation agreements with Customs and other competent authorities; however, the Hellenic Police co-operate with them at staff and operational levels.

In DK and FI the Police and the Customs Authorities are in the process of formalizing their cooperation in a framework agreement.

Although nearly all Member States have formal agreements or other arrangements, the areas in which they apply and the authorities involved differ.

Main fields of activity are combating drug trafficking (DE, DK, EL, FR, IE, CY, AT, PT, RO), organised crime (DE, FR, CY, LV, SI), trafficking in human beings (EL, CY, LT, RO), cross-border crime (CY, LT, RO), financial crime (DK, FR, AT, PT) and money laundering (DE, CY, AT, PT, RO) as well as activities in improving the exchange of information (CZ, FR, HU, NL, RO, FI).

Police and Customs offices with subordinated agencies are always involved authorities.

Furthermore, the Ministry of Interior and Ministry of Finance (BG, CZ, FR, AT, PL, SK) are often mentioned and in some cases the Border Guard Service (LV, LT, PL, FI). In addition, in BG there is an agreement for cooperation and joint actions between the Supreme Prosecutor's Office of Cassation and the Customs Agency.

III. Involvement

The vast majority of Member States has agreements or other arrangements including provisions on precise delineation of the spheres of competence of the individual authorities involved.

Only in six countries no such agreements or arrangements exist (EL, LV, AT, PT, SI, FI).

In DK the police initiates, upon report or by own virtue, investigations, when there is reasonable supposition that a criminal offence has been committed. In SI the provisions are not formalized but limited by the jurisdiction for each authority.

In all Member States except for AT the agreements and other arrangements include provisions on exchange and sharing of relevant information and strategic, tactical and operational intelligence between police, customs and other competent authorities for the prevention and combating of crime. Such provisions are mainly intended for the exchange of operational information about goods (BG, NL, RO), vehicles (BG, SK) and drugs (EL, IE).

Furthermore, these agreements and other arrangements include in most Member States except for EL, NL and AT provisions on exchange and sharing of personal data between the named agencies. Main fields of information exchange are the exchanges concerning wanted persons (BG, FR, SK) and stolen vehicles (BG, FR, SK).

Finally, all Member States except for EL have facilitated mutual access to databases. In some Member States the access is direct (HU, NL), in some indirect (BG, CZ, IE, LV), in most Member States the access is direct or indirect depending on the database (DE, FR, CY, LT, PL, PT, RO, SK, FI, SE). The indirect access is organised through a liaison officer (IE, SI), via contact points nominated by each authority (LV) or following a particular request (BG, FR, LT) of a judicial authorisation (LT). The access to databases regarding vehicles (CZ, DE, FR, CY, LT, HU, NL, PT, SK), foreign nationals (CZ, FR, SK) and missing or wanted persons (CZ, FR, NL) is mostly facilitated.

Agreements or other arrangements include the development and promotion of best practice in most Member States except for LV, HU and PT.

Furthermore, agreements or other arrangements include procedures for operational matters in most Member States. In NL this is confined to matters of information sharing and exchange. In RO it is not on a regular basis but in some cases regulated by standard operational procedures. Only in LV and SE there is no inclusion of procedures for operational matters.

In most Member States joint actions are included in agreements or arrangements, except for LV. In two Member States joint operations have been carried out by competent enforcement agencies (EL) or by ad hoc joint actions (SK) but not within the framework of a formal agreement.

Joint operations have been carried out in all concerned Member States through a cooperation between Police and Customs Services. In addition, Border Guards (PL), gendarmerie (FR) or the State Security Department (LT) can be involved.

The types of crime most targeted are drug trafficking (BG, CZ, DK, EL, FR, IE, CY, HU, NL, AT, PT, RO, SK, SE), smuggling of cigarettes (BG, CZ, EL, FR, HU, NL, AT, SE), smuggling of goods (BG, FR, PL, PT, RO) and economic crime or fraud (BG, DK, IE, RO, FI).

In SI the agreement provides for joint actions but no joint police-customs operations have so far been organised.

Half of the Member States include in their agreements or other arrangements joint mobile patrols (BG, CZ, DE, CY, LT, HU, AT, PL, RO, SI, FI). In the other Member States there is no standing agreement on the implementation of joint mobile patrols (DK, EL, FR, IE, LV, NL, PT, SK, SE), but such patrols can in some cases be carried out in the framework of joint operations (FR, IE).

In some Member States joint mobile patrols are envisaged for all types of crime within the competence of Customs, Police or Border Guard Service (DE, LT, AT, SI). In other Member States mobile patrols are envisaged mainly for the prevention of smuggling goods (BG, CZ, DE, CY, HU, PL, FI), for combating illegal immigration (BG, DE, HU, PL, FI) and for the detention of persons who have committed violations against the customs, currency, excise or border regime (BG, CZ, CY, PL). In RO there is a special collaboration protocol aimed at preventing and combating of crimes, ensuring order and public safety in the river and maritime harbours, on passenger and goods ships navigating on the Romanian sector of the Danube River and the Black Sea.

In most Member States, except BG, EL, LV and NL, joint investigation teams are included in the agreements or other arrangements, in FR, concerning the Judicial Customs Service, only in the context of a joint referral activated by a rogatory letter, in Austria at the petition of public prosecutor's office and in DK by the police when there is reasonable supposition that a criminal offence has been committed.

The main types of crime are smuggling of drugs (DE, FR, IE, CY, RO, SK), tax and duty frauds (CZ, CY, AT, PT, RO, SK) and money laundering (DE, FR, CY, PT, RO).

Predominantly joint intelligence teams are not included in Member State's agreements or other arrangements. In DE and FR there is no standing agreement on the implementation of joint intelligence teams but operational information is exchanged daily. Only in seven Member States there is an inclusion of joint intelligence teams (DK, CY, HU, AT, RO, SE, FI). Romania has set up 3 "TRIDENT" offices, which comprise 2 analysts from each institution and which aim at obtaining joint analytical products, that are forwarded to the prosecutor, and at operationally informing the special units.

Most Member States reported on an inclusion of sharing of equipment by the police and customs services except for DK, EL and NL. Mainly special technical equipment (BG, CZ, DE, LV, SE) especially for observation and control (BG, FI) like x-ray-machines (IE, CY, AT, FI) is shared as well as software products (CZ, RO, SK). In some Member States service vehicles are shared as well (DE, FR, HU, RO).

More than half of the Member States have included cooperation on the development (IE, LV, FI), purchasing (CZ, CY, FI), deployment (SK) or use (FR, LT, PL, PT, AT, RO, SE) of technology. There is no cooperation in this field in BG, DK, DE, EL, HU, NL, SI.

Most Member States except for EL, RO and SK include in their agreements or other arrangements the exchange of liaison officers at national headquarters level. In some Member States there are only customs liaison officers (DK, DE, FR, SI) or police liaison officers (PL), in other Member States there are liaison officers from both customs and police (BG, NL, SE). In FR customs liaison officers are seconded to different multi-agency centers and agencies.

The Nordic Police and Customs Cooperation (PTN) includes both police and customs Liaison offices.

More than half of the Member States second customs officers to the Europol national unit and for the national desks in Europol (CZ, DE, EL, FR, IE, CY, HU, AT, RO, SI, SK, SE, FI).

The agreement or other arrangements in most Member States include joint training schemes by the competent authorities, except for CZ, EL, NL, AT, SK. The joint training schemes concern for example courses on serious economic crime (DK), operating at crime scenes, the search of persons, legal procedures (IE) etc. Romania has series of protocols concluded at inter-institutional level, which comprise articles and provisions establishing plans and joint actions in point of training, for the prevention and combating of crime.

The support of CEPOL is only mentioned by DE and CY. In FR, despite the fact that CEPOL courses are still not open to French Custom officers via the French CEPOL National Contact Point, some common training schemes are planned.

Most Member States reported that their agreements or other arrangements include the exchange of information on analytical and investigative techniques and except from SI also on a common evaluation of the application of these techniques. Only five Member States do not have such information exchange (DK, IE, AT, PT, SK). In three Member States special efforts have been taken like an operative coordination centre which prepares a joint evaluation based on regular information exchange (BG), the secondment of a customs officer to the inter-ministerial service for technical assistance (FR) or a current cooperation framework at domestic level based on several protocols (RO).

The exchange of information mainly concerns prevention and counteraction of illicit trafficking in drugs (CZ, EL, FR, CY, LV, LT, RO), of customs, currency and excise duty frauds (BG, CZ, CY, LV, NL, RO) and of smuggling and trafficking in human beings (BG, CY, LV, LT, RO).

In nearly all Member States the agreements or other arrangements include exchange of crime statistics except for four Member States (EL, IE, HU, AT) whereas they include in only six Member States the development of a common system for the collection of crime statistics (FR, CY, LT, SI, SK, FI).

Exactly half of the Member States (CZ, DE, FR, LT, HU, PT, RO, SK, SE, FI) reported on a promotion of the idea of a multi-agency platform at national level, consisting of officers from police, customs and other competent authorities. In FR there is no standing agreement, however, operational information is exchanged daily, especially in the fight against drugs.

Multi-agency platforms are, besides those for all types of crime (LT, PL, FI), mainly envisaged for combating drug trafficking (CZ, DE, FR, PT, RO, SK), combating tax and duty frauds (CZ, PT, RO, SK) and combating money laundering (DE, PT).

Half of the Member States include in their agreements or other arrangements participation in multilateral permanent structures for cooperation between police, customs and other law enforcement authorities in regions at Member States' internal borders (BG, CZ, DK, DE, FR, LV, PL, PT, RO, SK). SE does not have any formal PCC-Centres but has set up a similar kind of cooperation next to the Norwegian and Finnish borders. In LV the instruction foresees an advanced mechanism with cooperation groups in 2 levels – management cooperation group and regional cooperation group.

These multilateral permanent structures for cooperation are used in some Member States for combating all types of crime connected to cross-border activities (BG, DE, FR, PL, SE), in other Member States for combating crime in specific fields like drugs trafficking (CZ, DK, LV, PT, RO, SK), trafficking in human beings (DK, LV, RO) or tax and duty frauds (CZ, LV, RO, SK).

Most Member States reported on an inclusion of the introduction of arrangements for close liaison at local level. Only in a few Member States there are no of such arrangements foreseen (EL, NL, AT, SK, SE). These arrangements are in some Member States envisaged for crime fields falling within the competence of police and customs authorities in general (DE, LV, LT, HU, PL, SI, FI). In other Member States these arrangements are mainly envisaged for combating drugs trafficking (CZ, DK, FR, IE, CY, LT, PT, RO) and tax and duty frauds (BG, CZ, IE, CY, PT, RO).

In most Member States agreements or other arrangements include joint press statements in the event of joint actions (BG, CZ, DK, DE, IE, CY, HU, RO, SK, FI, SE). In Slovenia both authorities will agree on any information to the press/public on joint activities.

IV. Preliminary general conclusions

At this stage, without entering into the detail of the Member States' answers, two general conclusions can be drawn:

1. Having regard to the great number of answers to the questionnaire, 21 replies, it is obvious that Member States show a particular interest in cooperation between law enforcement services.
2. One answer per Member States was received which show a good coordination at national level between the different authorities involved in the fight against crime and especially between customs and police. even if other authorities were also mentioned on very few occasions (Border Guard Service, gendarmerie, State Security Department).