

Note from the General Secretariat of the Council on JHA activities other than legislative work (21 January 2002)

Caption: In a note dated 21 January 2002, the General Secretariat of the Council considers the working methods of the Council in the field of justice and home affairs (JHA), excluding legislative work. The Secretariat assesses, in particular, the usefulness of the reports and evaluations which are, in general, drawn up by the General Secretariat and adopted, in principle, by the Article 36 Committee.

Source: Note from General Secretariat of the Council to Coreper. Subject: Working methods at the Council (JHA area). JHA activities other than legislative work (reports, evaluations, etc.) - Draft Convention. Brussels: Council of the European Union, 29.01.2002. 6 p. <http://register.consilium.europa.eu/pdf/en/02/st05/05515en2.pdf>.

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**Note from the General Secretariat of the Council to the Coreper (21 January 2002)
Subject: Working methods at the Council (JHA area). JHA activities other than legislative work (reports, evaluations, etc.) – Draft Convention**

At its meeting on 19 December 2001 Coreper had a first discussion on the subject of working methods in the JHA area.

The issue was then discussed by the Article 36 Committee on the basis of 15512/01 JAI 183. The Committee's findings are attached.

Coreper is requested to take note of this document and to approve the approach set out in it.

Annex

JHA activities other than legislative work (reports, evaluations, etc.)

During the discussions in Coreper on 5 September 2001 attention was drawn to JHA activities, particularly those undertaken by the GSC, which do not involve legislative work. It was suggested that an examination be made to see whether certain JHA reports were essential or whether the work they created was disproportionate to the intended result.

The document under discussion contained the following proposal for long-term guidelines/best practice:

"14: Coreper is invited to examine the current reporting requirements under the Maastricht instruments with a view to reducing them."

The General Secretariat of the Council was asked to submit a document analysing the various reports whose utility was not obvious.

This document seeks to contribute to the discussion of that issue.

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I. Current situation

There are several types of reports: reports in the context of two specific Working Parties (Enlargement and Schengen) and specific or periodic reports provided for in European Council conclusions, Council conclusions or certain third-pillar instruments.

1. Activities of the two Evaluation Working Parties

Two GSC Working Parties are exclusively concerned with analysis and evaluation: the Working Party on Schengen Evaluation, and the Working Party on Collective Evaluation in the enlargement context. These Working Parties discuss reports prepared by the GSC using information obtained from a variety of sources or following evaluation missions (particularly in the Schengen context).

2. Other third-pillar activities

There are no "committee procedure" type arrangements for third-pillar instruments as there are for first-pillar instruments. As a rule, third-pillar instruments provide that, after a certain interval, a progress report is to be submitted to the Council. These reports are drawn up by the Presidency with the help of the GSC.

The Joint Action of 5 December 1997 establishes a mechanism for evaluating the application and implementation at national level of Member States' undertakings in the fight against organised crime. Subjects for evaluation (e.g. mutual legal assistance, drug offences, extradition) are selected and are evaluated in each of the 15 Member States in turn. Reports (which are frequently voluminous) are drafted by Member States' experts with the help of the GSC (one report per Member State) and discussed in the Multidisciplinary Group on Organised Crime (MDG). Once a year a report covering the entire year is sent to the Council. Under the Action Plan to combat terrorism, this method of peer evaluation was recently extended, in a simplified form, to the evaluation of national intelligence arrangements. In that context, successive Presidencies establish – with the GSC – the subjects for evaluation and a timetable.

In a number of areas (e.g. combating organised crime, combating drugs) annual or specific reports are either provided for in the action plan approved by the Council or are requested by the European Council.

In view of the confidential information they contain, there may even be two versions of some of these reports: an open document, to which the public may have access, and a restricted or confidential document. Since Europol has become operational, a number of these reports are now prepared by Europol or may be in future (situation report on organised crime, report on the terrorist threat, etc.).

As a result, it is worth examining how these various reports might be better managed so as to interfere less with the Council's other activities and constitute less of a burden on the GSC's resources.

II. Proposed solutions

From the point of view of relieving the Council's subordinate bodies of certain types of work, it would be advisable to discontinue reports that are no longer relevant or are produced in other fora (e.g. Europol, European Monitoring Centre on Racism and Xenophobia or European Monitoring Centre for Drugs and Drug Addiction).

Other reports, provided for in instruments under the Maastricht Treaty, cease to be produced when the joint actions that required them are replaced by framework decisions.

Generally speaking, the GSC's responsibilities in terms of reports should be confined to subjects where, using other sources of information, the GSC is in a position to verify and supplement the information supplied to it.

When assigning report or evaluation duties to the GSC, the Council's subordinate bodies should take care to avoid any overlap with work that falls within the Commission's area of responsibility.

Each Presidency should be allowed some leeway as regards the drafting and frequency of the various reports, in line with the priorities set out in its programme.

As a rule, reports should be discussed and adopted by the Article 36 Committee, which would at least take the burden off Coreper and the JHA Council.

The drafting and frequency of reports should be subject to the following rules:

- reports should be confined to essentials, i.e. an analytical section; they should be as concise as possible;
- the Council's subordinate bodies should refrain from routinely requesting a further report within a short deadline; additional reports should only be ordered when there is a proven need for them.

Specific situations:

(a) As regards the special reports requested by a European Council or a Council of Ministers – by a specific

date – there is little room for manoeuvre as far as postponement is concerned, with the result that, in such cases, the emphasis needs to be on concise, focused presentation and analysis.

(b) As regards the evaluations provided for in the Joint Action of 5 December 1997 with respect to the fight against organised crime (see point 9 of attached list), specific rules are laid down regarding the frequency of such evaluations (at least one topic to be evaluated in at least five countries every year) although the Joint Action allows the Council to make adjustments. Pending any adjustment, the rate of five countries per year should be maintained.

(c) As regards the tasks of the two Evaluation Working Parties, the frequency of evaluations may depend on external factors (progress of enlargement, implementation of Schengen vis-à-vis new States) or internal ones (frequency of evaluations of the implementation of the Schengen acquis vis-à-vis States bound by Schengen); in the latter case, some flexibility in the organisation of evaluation missions will have to be accepted.