

Council Joint Action 1998/245/JHA (19 March 1998)

Caption: On 19 March 1998, on the basis of Article K.3 of the Treaty on European Union, the Council adopts the Falcone Joint Action establishing a programme of exchanges, training and cooperation for persons responsible for action to combat organised crime in the 15 Member States.

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Joint Action of 19 March 1998 adopted by the Council, on the basis of Article K.3 of the Treaty on European Union, establishing a programme of exchanges, training and cooperation for persons responsible for action to combat organised crime (Falcone programme)

(98/245/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article K.3(2)(b) and Article K.8(2) thereof,

Having regard to the concerted initiative by the Grand-Duchy of Luxembourg and the Commission,

(1) Whereas the Member States regard the fight against organised crime in all its forms as a matter of common interest;

(2) Considering the conclusions of the Amsterdam European Council meeting in June 1997, which adopted the action plan to combat organised crime ⁽¹⁾established by the high-level group, as reflected in the Council resolution of 18 December 1997 laying down the priorities for cooperation in the field of justice and home affairs for the period 1 January 1998 of the date of entry into force of the Treaty of Amsterdam ⁽²⁾;

(3) Whereas the Member States are mindful of the need for a coordinated multidisciplinary approach to prevention and enforcement at both legislative and operational levels;

(4) Whereas this programme should be focused on activities contributing to the implementation and monitoring of the action plan to combat organised crime;

(5) Whereas the institution of a framework to support measures designed to facilitate the implementation of the action plan, in particular action involving multidisciplinary meetings and exchanges, research, studies and other ways of improving skills and operational methods with a European dimension for those responsible for action against organised crime is likely to strengthen and facilitate the struggle against this phenomenon and to reduce such obstacles as may exist to increased cooperation between Member States in this area, particularly in the customs, police and judicial fields;

(6) Whereas these objectives may be more effectively pursued at European Union level rather than at the level of the individual Member States, in view of the synergy which develops from the exchange of specific experience available in the Member States and the anticipated economies of scale and cumulative effects of the intended measures;

(7) Whereas this Joint Action is without prejudice to the powers of the European Community and therefore does not detract from Community measures taken or likely to be taken in the areas covered by the action plan;

(8) Whereas, however, the enforcement and judicial aspects affecting those areas may be considered part of this programme when they complement Community measures; whereas it is therefore necessary for the implementation of this programme to adopt a broad approach to the phenomenon of organised crime, including economic crime, fraud, corruption and money-laundering;

(9) Whereas this Joint Action should not overlap with other programmes under Title VI of the Treaty; whereas the annual priorities for those programmes should be adjusted accordingly to exclude in future operations specifically relating to the implementation of the action plan to combat organised crime;

(10) Whereas this Joint Action does not affect existing procedural rules on customs, police and judicial cooperation;

(11) Whereas the instruments adopted by the Council to combat organised crime include the Joint Action of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union ⁽³⁾;

(12) Whereas a financial reference amount, within the meaning of point 2 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995, is included in this Joint Action for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty;

(13) Whereas the Presidency has consulted the European Parliament in accordance with Article K.6 of the Treaty,

HAS ADOPTED THIS JOINT ACTION:

Article 1

1. A programme (Falcone) to promote coordinated measures for those responsible for the fight against organised crime, in order to facilitate the implementation and monitoring of the action plan to combat organised crime, is hereby established for the period 1998 to 2002.

2. For the purposes of this Joint Action, 'persons responsible for the fight against organised crime' means the following categories of persons inasmuch as they have responsibilities in the area concerned under their national legislation: judges, public prosecutors, police and customs departments, civil servants, public tax authorities, authorities responsible for the supervision of financial establishments and public procurement, including the fight against fraud and corruption, and representatives of professional circles who may be involved in the implementation of some of the recommendations in the action plan, as well as the academic and scientific world.

3. The programme covers measures in the following fields:

- training,
- joint projects to improve skills and operational methods in cooperation in the fight against organised crime,
- programmes of traineeships, organisation of meetings and seminars,
- research, specialised studies, including operational feasibility studies, and assessment,
- dissemination and exchange of information, and

all other measures that may promote the implementation of the action plan to combat organised crime.

4. The financing of measures under this programme shall preclude cumulative recourse to any other programme under Title VI of the Treaty or to other Community financing programmes, with the exception of Community programmes specifically aimed at supporting the efforts of applicant countries to prepare for accession to the European Union.

Article 2

The financial reference amount for the implementation of the programme, for the period mentioned in Article 1(1), shall be ECU 10 million.

Annual appropriations shall be authorised by the budget authority within the limit of the financial perspective.

Article 3

Subject to the provisions of Article 1(4), training projects having the following aims may be eligible:

- knowledge of specific aspects of regulations, legislation, procedures and practices relating to the various aspects of the fight against organised crime referred to in the action plan, as regards prevention, enforcement and prosecution,
- preparation of teaching modules for measures involving training, exchanges and traineeships, conferences or seminars organised under this programme.

Article 4

Consideration may be given, for the purpose of cooperation between the Member States, to joint projects of limited duration, including aspects relating to their preparation, and the temporary secondment of experts organised by the persons responsible for the fight against organised crime. Such projects shall be designed to improve skills and operational methods in combating various forms of organised crime. The Europol Drugs Unit and, after the Convention has entered into force, Europol shall be invited to participate in projects within their sphere of responsibility.

Article 5

As regards traineeships, exchanges and the organisation of meetings and seminars, projects having the following aims may be eligible:

- the organisation of visits and limited-duration traineeships with public bodies which have been given particular responsibilities in the fight against organised crime,
- the organisation and holding of seminars on specific aspects of organised crime.

Article 6

As regards feasibility studies and research, priority shall be given to those specifically recommended in the action plan; in addition projects having the following aims may be eligible:

- definition of common standards and methodology to facilitate identification of the phenomenon and data collection, while taking account of the relevant data protection laws in the Member States,
- implementation of scientific, technical or comparative research on specific aspects of the fight against organised crime or coordination of research on the matter,
- comparison and assessment of instruments directly or indirectly applicable to the fight against organised crime (prevention, enforcement and prosecution), including, where appropriate, instruments and procedures used by the applicant countries, to identify possibilities for defining common policies against organised crime and measures for convergence or harmonisation which could constitute a long-term objective of the European Union,
- comparison and assessment of methods used in the fight against organised crime by operational departments (police, customs and the judiciary) to identify means of improving and, where appropriate, coordinating the methods in question.

Article 7

As regards dissemination and exchange of information, projects having the following aims, as laid down in

the action plan to combat organised crime, may be eligible:

- assistance in setting up networks of contact points to facilitate the dissemination of information and cooperation procedures between the departments concerned (data collection and analysis system, enforcement and judicial agencies and integrated multidisciplinary teams),
- aid for the creation and development of databases or electronic data networks containing legislation and case-law on the fight against organised crime for the purpose of facilitating the action of the persons responsible for the fight against organised crime,
- dissemination of information on the operations referred to in Articles 3, 5 and 6 and, where appropriate, operations under Article 4.

Article 8

1. Projects receiving Community financing must be of interest for the European Union and involve more than one Member State.
2. The bodies responsible for projects may be public or private organisations, including research institutes and institutions for basic training or for continuing training.
3. The projects to be financed shall be subject to a selection procedure taking into account in particular the following criteria:
 - compatibility to topics covered with work undertaken or planned under the multiannual cooperation priorities established by the Council for justice and home affairs and in particular with the action plan to combat organised crime,
 - input towards the framing or implementation of instruments adopted or to be adopted under Title VI of the Treaty,
 - complementarity between the various projects,
 - number and nature of the departments or categories of persons targeted,
 - quality of the institution responsible,
 - degree of preparation of the participants,
 - scope for drawing on results achieved in order to reinforce cooperation between Member States.
4. The projects may involve those responsible in applicant countries, with a view to familiarising them with the European Union acquis in this field and helping them prepare for accession, or in other non-member countries where it serves the aims of the projects.

Article 9

Financing decisions and the contracts deriving from them shall provide in particular for follow-up and financial monitoring by the Commission and audits by the Court of Auditors.

Article 10

1. All types of expenditure directly attributable to implementation of a project and incurred during a contractually set period shall be eligible.

2. Financial support from the Community budget may not exceed 80 % of the cost of the project.
3. Translation and interpreting expenses, data-processing costs and expenditure on durables or consumables shall be taken into consideration only when they constitute a necessary support for carrying out the measure and may be financed only up to a maximum of 50 % of the subsidy, or 80 % where the very nature of the project makes them indispensable.
4. Expenditure relating to public premises and equipment and to remuneration of officials of State or public bodies may be taken into consideration only in so far as it concerns uses and tasks not linked with a national purpose or function but specifically connected with implementation of the project.

Article 11

1. The Commission shall be responsible for implementing the measures provided for in this Joint Action and shall adopt the detailed procedures for applying it, including the eligibility criteria for costs.
2. It shall draw up each year, with the assistance of specialists in the fight against organised crime who shall be identified by the members of the Committee referred to in Article 12, the draft annual programme implementing this Joint Action in terms of the thematic priorities and the distribution of available appropriations between fields of activities. In this context, account shall be taken of the results of the assessment of the measures undertaken pursuant to paragraph 3.
3. It shall undertake each year an assessment of the measures implementing the programme for the previous year.

Article 12

1. The Commission shall be assisted by a committee consisting of one representative from each Member State and chaired by a representative of the Commission.
2. The Commission shall submit to the Committee the draft annual programme referred to in Article 11(2), together with proposals for implementing rules and for project assessment. The opinion shall be delivered by the Committee, acting unanimously, within a period of two months. This period may be reduced by the Chairman for reasons of urgency. The Chairman shall not vote.

If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw its proposal or submit a proposal to the Council, which shall take a decision unanimously within two months.

3. Once the annual programme is adopted, the Commission shall immediately forward it to the European Parliament and shall keep the Committee continually informed of the views of the European Parliament.

Article 13

1. Projects for which financing is requested shall be submitted to the Commission for scrutiny within a time limit to be determined in the annual programme referred to in Article 11(2).
2. The Commission shall examine the projects that are submitted to it with the assistance of the specialists referred to in Article 11(2).
3. Where the financing requested is less than or equal to ECU 50 000, the representative of the Commission shall submit a draft to the Committee referred to in Article 12(1). The Committee, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The Chairman shall not vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to

have its position recorded in the minutes.

The Commission shall take the fullest account of the opinion delivered by the Committee. It shall inform the Committee of how it has done so.

4. Where the financing requested exceeds ECU 50 000, the Commission shall submit to the Committee referred to in Article 12(1) a list of the projects submitted to it under the annual programme. The Commission shall indicate the projects it selects and shall give reasons for its selection. The Committee, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on the various projects within a period of two months. The Chairman shall not vote.

If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw the project(s) concerned or submit it (them), with any opinion from the Committee, to the Council which, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall take a decision within two months.

Article 14

1. Measures covered by this programme and financed by the general budget of the European Communities shall be managed by the Commission in conformity with the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁴⁾.

2. When presenting the financing proposals referred to in Article 13 and the assessment provided for in Article 11, the Commission shall take account of the principles of sound financial management and in particular of economy and cost-effectiveness as required by Article 2 of the Financial Regulation.

Article 15

1. The Commission shall organise an evaluation of the programme by impartial experts from outside the programme, appointed in agreement with the Committee referred to in Article 12.

2. Each year the Commission shall prepare a summary report on the operations undertaken and the evaluation carried out, to be sent to the European Parliament and the Council. The first report shall be presented at the latest by the end of the year in which all the operations relating to the first year of operation are completed.

Article 16

This Joint Action shall enter into force on the day of its adoption.

It shall be applicable until 31 December 2002, at the end of which it may be extended.

Article 17

This Joint Action shall be published in the Official Journal.

Done at Brussels, 19 March 1998.

For the Council

The President

J. STRAW

(1) OJ C 251, 15.8.1997, p. 1.

(2) OJ C 11, 15.1.1998, p. 1.

(3) OJ L 105, 27.4.1996, p. 1.

(4) OJ L 356, 31.12.1977, p. 1. Regulation as last amended by Regulation (EC) No 2444/97 (OJ L 340, 11.12.1997, p. 1).