

Note from the General Secretariat of the Council on the working parties in the JHA area (20 December 2001)

Caption: In a note dated 20 December 2001, the General Secretariat of the Council analyses the working parties which operate in the field of justice and home affairs (JHA), their rationalisation and a possible reduction in their number.

Source: Note from General Secretariat of the Council to Coreper. Subject: Working methods at the Council (JHA area) – Analysis of the Working Parties in the JHA area, 155515/01, JAI 184. Brussels: Council of the European Union, 09.01.2001. 7 p. <http://register.consilium.europa.eu/pdf/en/01/st15/15515en1.pdf>.

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http://www.cvce.eu/obj/note_from_the_general_secretariat_of_the_council_on_the_working_parties_in_the_jha_area_20_december_2001-en-d1e5cdcc-2deb-4185-ac75-a15f3b6cb338.html

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Note from the General Secretariat of the Council to the Coreper (20 December 2001) Working methods at the Council (JHA area) – Analysis of the Working Parties in the JHA area

At its meeting on 5 September 2001 Coreper continued its analysis of the document on working methods in the JHA area (10336/01 JHA 66).

Following the discussion the General Secretariat was asked to produce a document containing an analysis of Working Parties in the JHA area and the possible reduction of the number of such working parties.

That document is annexed hereto.

Annex

Analysis of the Working Parties in the JHA area

Apart from the Article 36 Committee provided for under the Treaty [Article 36 TEU], the JHA sector comprises 25 Working Parties or Committees (see 10279/1/01 POLGEN 16 REV 1) ¹ (see Annex).

On analysis, considerable differences in structure are found in the various areas.

1. The Asylum and Immigration area includes the Strategic Committee (SCIFA), which operates as a Steering Committee.

Work in the six Working Parties ² is submitted to SCIFA before being placed on the COREPER/COUNCIL agenda.

This structure can no longer be justified at a time when the first pillar's working methods should be applied (route: Working Party – Coreper – Council). It is therefore proposed that SCIFA be dissolved. The continued existence of the various Working Parties can be justified in particular by the workload (a dozen Commission proposals are on the table in the asylum and immigration sectors). ³

2. Regarding civil law, rationalisation has already taken place and the work as a whole is done within a single Working Party (matters relating to the first pillar).

3. The judicial cooperation in criminal matters sector (third pillar) comes under the Article 36 Committee. Two Working Parties operate within this framework with quite distinct mandates:

- Working Party on Substantive Criminal Law (dealing in particular with problems in harmonising laws) and
- Working Party on Mutual Assistance in Criminal Matters (dealing with matters such as mutual assistance, recognition of judicial decisions, etc.).

These two Working Parties will remain.

4. Police and customs cooperation

This operates under the supervision of the Article 36 Committee and currently comprises five Working Parties: Police Cooperation, Customs Cooperation, Europol, Terrorism and Drug Trafficking.

Rationalisation in this area is a possibility. The Police Cooperation and Customs Cooperation Working Parties should remain.

The Working Party on Drug Trafficking could be dissolved and its work taken over by the Horizontal Working Party on Drugs (HDG).

The Europol Working Party should continue to operate for the time being (amendments to the Europol Convention) but would ultimately be dissolved.

The Working Party on Terrorism should remain, but its activities should be redefined on the basis of Council decisions (meeting on 20.9.01). Part of its work (threat analysis) could be done by Europol: cooperation/coordination with the COTER Working Party (CFSP) also needs redefining.

5. Working Parties linked to the operation of SIS (Schengen Information System)

Three Working Parties work on the problems (mostly technical) of the SIS (SIS-TECH, SIRENE, SIS Working Party). The SIS Working Party plays the role of "steering group" examining - before they are handed over to the Article 36 Committee - the dossiers coming from the technical Working Parties. In so doing they do not lend very much added value to the debate. The SIS Working Party should therefore be dissolved, on condition that the Article 36 Committee assumes its functions, thus removing a level in the structure of the meetings (Working Party → Article 36 Committee → Coreper → Council).

6. Other working parties ⁴

6.1. The Working Party on the "Schengen Acquis" meets only occasionally (e.g., when Schengen cooperation is extended to new countries or when there is a modification [SIS II]). The Working Party should continue to exist but should only be convened when necessary.

6.2. The Working Party on Schengen Evaluation, in accordance with the Schengen acquis, evaluates conformity with the Schengen rules, both in the countries acceding to Schengen (in order to determine application of the Schengen rules) and in third countries linked by Schengen cooperation (for the evaluation and proper implementation of the Schengen rules).

This Working Party could be merged with the Working Party on Collective Evaluation (which evaluates the candidate countries regarding the JHA acquis, including the Schengen acquis.)

6.3. The Working Party on Data Protection is no longer active and could be dissolved.

6.4. The Multidisciplinary Group must be kept (execution of action programmes against organised crime). The Working Party on the Contact and Support Network exists for the purpose of preparing an annual report on developments in organised crime. This report could be drawn up in future by Europol and referred directly to the Multidisciplinary Group (which, where necessary, could invite experts to join it for that purpose.) The Working Party on the Contact and Support Network could then be dissolved.

6.5. The Working Party on the European Judicial Network must remain; it was set up on the basis of a Council joint action. Its work is confined to three meetings per year (one in Brussels and one in each of the capitals of the Presidency, with the Presidency defraying the interpreting costs).

6.6 The High-Level Working Party on Asylum and Immigration should be kept (drawing up of action plans with the countries of origin – multidisciplinary role).

Final comments

The activities of the Working Parties (as well as those of the Council General Secretariat) in third pillar areas differ from those of the first pillar: their work is harder to plan because of the Member States' right of initiative. Moreover, owing to the absence of rules concerning the execution of the measures decided on, this execution often is the responsibility – in one form or another – of Council bodies and is managed at Working Party level (reports on implementation of instruments of the third pillar, network management, evaluation reports, drafting and evaluation of questionnaires, instructions and handbooks for practitioners, etc.). While some may be of the opinion that such work is of secondary importance as compared with actual law making, it cannot be dispensed with without compromising the efficiency of the Council's work in this

sector.

To conclude, it is proposed that the following be dissolved:

- the Strategic Committee on Immigration, Frontiers and Asylum (G 1)
- the SIS Working Party (G 10)
- the Working Party on Drug Trafficking (G 16)(by merging it with the Horizontal Working Party on Drugs)
- the Working Party on Data Protection (G 9)
- the Working Party on the Contact and Support Network (G 25)
- [possibly] CIREA (G 5)

and the Working Party on Schengen Evaluation merged with the Working Party on Collective Evaluation (G 20 and 21).

In any case, if a Working Party remains on the List of Committees and Working Parties involved in the Council's preparatory work, it is only obliged to hold the number of meetings strictly necessary for it to carry out the programme of the various Presidencies. It is therefore possible for a Working Party not to meet for six months.

Annex: Extract from 14132/01 POLGEN 16 REV 1

JUSTICE AND HOME AFFAIRS

G.1 Strategic Committee on Immigration, Frontiers and Asylum

G.2 Working Party on Migration and Expulsion

G.3 Visa Working Party

G.4 Asylum Working Party

(a) Dublin Convention

(b) Eurodac

G.5 CIREA

G.6 CIREFI

G.7 Working Party on Frontiers ⁵

G.8 Committee on Civil Law Matters

G.9 Working Party on Information Systems and Data Protection (excluding SIS)

G.10 SIS Working Party

G.11 SIS-TECH Working Party

(a) General

(b) Sisnet

G.12 Sirene Working Party

G.13 Police Cooperation Working Party

(a) Telecommunications

(b) Investigative Techniques and Forensic Science

(c) Exchange of Police Intelligence

G.14 Europol Working Party

- G.15 Working Party on Terrorism
- G.16 Working Party on Drug Trafficking
- G.17 Customs Cooperation Working Party
- G.18 Working Party on Cooperation in Criminal Matters
- G.19 Working Party on Substantive Criminal Law
- G.20 Working Party on Collective Evaluation
- G.21 Working Party on Schengen Evaluation
- G.22 Working Party on the Schengen Acquis
- G.23 Multidisciplinary Group on Organised Crime ⁶
- G.24 Working Party on the European Judicial Network
- G.25 Working Party on the Contact and Support Network
- G.26 Working Party on Civil Protection

¹ The G 26 Working Party on Civil Protection appears on the list on the grounds that the question of civil protection comes under the same Council formation.

² Asylum Working Party, Working Party on Migration and Expulsion, Visa Working Party, Working Party on Frontiers and False Documents, CIREA and CIREFI.

³ CIREA's work could possibly be transferred to the Commission.

⁴ In order to improve coordination consideration could be given to adding a horizontal Working Party on Money Laundering to the working parties coming under JHA. This Working Party, which would be directly responsible to Coreper, would be in charge of implementing Tampere Recommendations 51 to 58, coordinating the Union's positions in other international fora (e.g. FATF, UN, Council of Europe) and preparing decisions on new instruments e.g. based on Article 38 TEU).

⁵ Including false documents.

⁶ Including the Pre-Accession Pact Experts Group (PAPEG).