

Note from the Presidency of the Council of the European Union concerning the responsibilities of Council bodies in the field of JHA (Brussels, 16 March 1999)

Caption: On 16 March 1999, the Presidency of the Council of the European Union forwards a note to Coreper on the responsibilities of Council bodies in the field of justice and home affairs (JHA), with a view to the imminent entry into force of the Treaty of Amsterdam.

Source: "I" Item Note from Presidency, dated 10 March 1999, to Coreper, Responsibilities of Council bodies in the field of justice and home affairs following entry into force of the Treaty of Amsterdam. 6166/2/99 REV2. Brussels: Council of the European Union, 16.03.1999. <http://register.consilium.europa.eu/pdf/en/99/st06/06166-r2en9.pdf>.

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URL:

http://www.cvce.eu/obj/note_from_the_presidency_of_the_council_of_the_european_union_concerning_the_responsibilities_of_council_bodies_in_the_field_of_jha_brussels_16_march_1999-en-a22f1a3d-e0e9-4816-91db-cc4ebca557df.html

Publication date: 24/10/2012

"I" Item note from the Presidency, dated 10 March 1999, to Coreper

Subject: Responsibilities of Council bodies in the field of justice and home affairs following entry into force of the Treaty of Amsterdam

1. So that the Council (JHA) ¹ is able to meet its responsibilities, Coreper decided, at its meeting on 10 March 1999 and on the basis of Article 151 of the TEC (future Article 207), that the working structures for establishing an area of freedom, security and justice following the entry into force of the Amsterdam Treaty should be as described in the Annex hereto.
2. Coreper reserves the right, on the basis of established need, to set up additional groups or subgroups with specific remits or to put an end to those which experience shows to be superfluous.
3. Coreper may adopt additional guidelines to ensure the proper functioning of the working structures set up.
4. Finally, it has been agreed that at the end of 2000, on the basis of a report by the Presidency, Coreper will re-examine the structure set up in order to simplify it still further, if possible.

An effort has been made to take into account the consequences of the association of Iceland and Norway with the development of the Schengen acquis. Without prejudice to applicable texts and future developments, Working Parties marked with an asterisk will always deal with questions relating to the development of the Schengen acquis. Working Parties marked "o" will sometimes deal with questions relating to the development of the Schengen acquis – depending on the agenda. These questions will be dealt with by the Joint Committee in accordance with the provisions of a Council Decision on the conclusion of the Agreement with the Republic of Iceland and the Kingdom of Norway concerning their association with the implementation, application and development of the Schengen acquis, to be adopted by the Council in due course.

Regardless of the proposed structure, Working Parties may, as the agenda requires, meet in special formations.

ANNEX

Working structures required to prepare the Council's discussions on developing the Union as an area of freedom, security and justice

1. Strategic Committee on Immigration, Frontiers and Asylum^o:

The task of this Committee consisting of senior officials, set up initially for a 5-year transitional period, is to issue strategic guidelines in matters relating to immigration, frontiers and asylum, to deal with questions arising from Articles 62, 63 and 64 of the TEC with a view to synthesising and, where necessary, solving them and to give substantive input to Coreper's discussions. The Strategic Committee must adapt its working methods so that questions which have been agreed at Working Party level may be quickly forwarded to Coreper. These questions are dealt with by the following Working Parties in particular:

- Migration
- Expulsion^o
- Visa*
- Asylum; appropriate subgroups continue to deal specifically with matters relating to Eurodac and the Dublin Convention. Once the proposed Community instrument relating to Eurodac has been adopted, the Eurodac subgroup will be subsumed into the subgroup dealing with the Dublin Convention.
- CIREA
- CIREFI*
- Frontiers* (including forged documents)

2. Committee on Civil Law Matters:

This Committee deals with specific topics and also ensures coherence in EU action in civil law matters, in particular those covered by Articles 65 and 293 of the TEC. The Committee may also advise on questions concerning judicial cooperation in civil matters arising in other areas of the EC Treaty, such as provisions specifying the competent court and questions of applicable law where Community instruments are concerned.

3. Article 36 Committee°:

Article 36 of the TEU provides for this coordinating Committee, composed of senior officials responsible for police, customs and criminal matters. These questions are in particular dealt with by the following Working Parties:

- Working Party on information systems and data protection (excluding matters relating to SIS)
- Information System (SIS)*
- Information System (SIS) Technology*
- Sirene*

The terms of reference of the last three Working Parties are the subject of recommendations by the SIS experts approved by Coreper and then "put on ice" (11560/4/98 SCHENGEN 44 REV 4).

– in police matters:

- Police Cooperation (including forgery of documents)°; an appropriate subgroup deals specifically with questions relating to telecommunications, questions relating to investigative techniques and forensic science as well as exchange of police intelligence
- Europol (without prejudice to the tasks of the Europol Management Board)
- Drug trafficking*
- Terrorism

– in customs matters:

- Customs Cooperation° (without prejudice to article 135 of the TEC)

– in criminal matters:

- Working Party on Cooperation in Criminal Matters°
- Working Party on Substantive Criminal Law

The existing essentially thematic Working Parties in the area of judicial cooperation in criminal matters (extradition, mutual assistance in criminal matters, disqualification from driving, criminal law/Community law) are superseded by two "jumbo" Working Parties on Cooperation in Criminal Matters and on Substantive Criminal Law². That should alleviate or at least minimise the problems which have arisen with the present Working Party structure in the area of judicial cooperation in criminal matters.

The restructuring is in line with the Amsterdam Treaty, in particular Article 61(a) of the TEC, which provides for progressive alignment of Member States' legislation in the areas of organised crime, terrorism and illicit drug trafficking, and Articles 29 and 31(e) of the TEU. All proposals chiefly relating to approximation in the area of substantive criminal law (including any relating to criminal process) are thus

dealt with by the Substantive Criminal Law Working Party. That also means that this Working Party will in future also handle questions concerning legal instruments in this area, hitherto discussed in the MDG (e.g. the Joint Action on making it a criminal offence to participate in a criminal organisation and the Joint Action on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds from crime). It will reduce the workload of the MDG and allow it better to perform its strategic function.

The new Working Party on Cooperation in Criminal Matters, on the other hand, deals with everything relating to the important area of judicial cooperation in the broadest sense specifically identified in the Amsterdam Treaty, i.e. in particular questions of extradition, mutual assistance in criminal matters, assistance with enforcement and prevention of conflicts of jurisdiction, including any aspects relating to criminal process.

4. High-level Expert Groups

– Collective Evaluation Working Party

This Working Party will implement the Joint Action, adopted by the Council, on 29 June 1998, establishing a mechanism for collective evaluation of the acquis of the EU in the Justice and Home Affairs by the applicant countries.

– Without prejudice to the powers of the European Community, a new Working Party will carry out the tasks of the Standing Committee of the Schengen Implementation Agreement.

– Multidisciplinary Group on Organised Crime (including PAPEG)

This is required to implement, or ensure implementation of, the Action Plan against organised crime and evaluate the efficiency of measures taken, in particular in the context of the Joint Action adopted by the Council on 5 December 1997. It ensures a multidisciplinary approach to cooperation between police, customs and judicial authorities and defines strategic orientations in preparation for discussions of the Article 36 Committee. The European Judicial Network meets within the framework of this group in accordance with the provisions of the Joint Action, adopted by the Council on 29 June 1998. The terms of reference of the MDG will have to be reassessed at an appropriate moment in the light of the conclusions of the European Council in Vienna.

– Horizontal Working Party on Drugs

This Working Party has responsibilities under the first, second and third pillars

– High Level Working Group on Asylum and Migration

The terms of reference of this Group are clearly defined, issued for a set period and cover all three pillars.

5. JHA Counsellors

This is an informal group. In addition to its usual functions, it may be requested, from time to time, to discuss questions relating to external relations.

6. Issue to be further discussed:

– Organisational backup for the Joint Supervisory Body as provided for in Article 115 of the Schengen Agreement

¹ Ministers may also be convened to meet within the framework of Article 18 of the Dublin

² Given the range and complexity of the issues to be discussed by the two Working Parties, care should be taken, when setting agendas for meetings and sending out invitations, to ensure that these Working Parties are made up of the relevant experts.