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**COMMISSION STAFF WORKING DOCUMENT**

**ANNUAL REPORT 2005 ON THE ACTIVITIES OF THE EUROPEAN FORUM FOR  
THE PREVENTION OF ORGANISED CRIME**

## INTRODUCTION

Crime prevention was one of the key strategic objectives identified in The Hague programme, adopted in November 2004 as a political 5-year framework for actions to develop the European area of Justice, Freedom and Security. It recommended that the efforts of all the Member States, supported by European and international structures, should be pursued and reinforced to undertake the challenges posed by general and organised, trans-border crime in all their forms. Since the entry into force of the Amsterdam Treaty, many legal or operational instruments have been adopted by the EU with a sectorial or general approach establishing a useful framework for actions. The cost of crime – human suffering, impact on social coherence and on economic development – merits sustained, cooperative effort on both law enforcement and prevention aspects.

The Communication on the prevention of crime in the EU adopted in 2000<sup>1</sup> developed the concept and the framework for relevant measures aimed at reducing opportunities for crime, avoiding victimisation<sup>2</sup>, promoting good governance and preventing criminal infiltration of the economy and society.

To achieve these objectives three essential methods were identified:

- developing the necessary knowledge to improve understanding of the phenomenon of crime and identification of new trends, analysis of the impact of preventive action and the evaluation and sharing of national experience and practices;
- establishing a partnership to develop cooperation and network those involved in prevention at all levels - European, national and local - with a particular emphasis on exchange of information as well as launching new projects, follow up and dissemination of results;
- taking a multi-disciplinary approach in order to promote the complementarity of instruments with preventive and repressive dimensions (police and judicial fields, social, educational and research policies, etc.)

The Commission is active in the implementation of this approach of crime prevention, both at EU-wide and international level. Following the Council Decision establishing the European Crime Prevention Network (EUCPN)<sup>3</sup> which focuses on juvenile, urban and drug-related crimes, the Commission provides the Secretariat for the Network. Moreover, according to the above mentioned Communication, the Commission set up the Forum for the Prevention of Organised Crime (hereafter the "Forum").

The Forum brought together people who work on the many aspects of preventing organised crime. These consultations have raised awareness of areas with a potential vulnerability to crime. The Forum has also made a positive contribution to building up knowledge, identifying trends in organised crime and thereby leading to the development of new legal instruments. Moreover, the opportunity to exchange views prompted the development of pilot initiatives and projects with a European dimension.

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<sup>1</sup> COM (2000) 786 final

<sup>2</sup> Factors which, by placing a person in a situation of vulnerability, predispose him to being a victim of crime

<sup>3</sup> OJ L 153, 8.6.2001, p. 1.

The Forum has been successful in mobilising significant interest from the private sector and non-governmental organisations, law enforcement practitioners, members of the research and academic community and international fora.

The first meeting was held on 17 and 18 May 2001 and was followed in the next months by a number of workshops in the following areas: credit card fraud, trafficking in human beings, role of the private sector and trafficking in cultural goods.

Workshops in 2002 focused on crime and terrorism proofing, trafficking in human beings and in cultural goods, money laundering.

The following year, workshops addressed areas such as counterfeiting and product piracy, structural funds and crime related measures, corruption, trafficking in human beings, crime statistics, money laundering, trafficking in firearms, product proofing, counterfeiting and data protection.

In 2004, the experts and stakeholders discussed crime statistics, data protection and data retention, identity theft, trafficking in human beings and in cultural goods, role of the non-profit sector in the fight against terrorism, counterfeiting and piracy.

The workshops held in 2005, the year under review, were devoted to the following subjects:

- 2 February 2005 – Identifying priorities on the prevention of and fight against crime within the new Financial Perspectives 2007-2013
- 18 March 2005 – Fraud and counterfeiting of non-cash means of payment
- 12 April 2005 – Prevention of terrorist financing via the non-profit sector
- 30 May 2005 and 8 July 2005 – Developing a European Policy for PNR – Passenger Name Records
- 15 July 2005 – Prevention of terrorist financing via the non-profit sector
- 13 September 2005 – Fraud and counterfeiting of non-cash means of payment
- 26 September 2005 – Public Private Partnerships to combat crime and terrorism
- 14 October 2005 – Electronic evidence
- 19-20 October 2005 – Tackling human trafficking
- 10 November 2005 – Public Private Partnerships to combat crime and terrorism
- 14 November 2005 – Investigative tools

The thematic section of this Report provides further detail on these topics while the annex sets out the schedule of meetings held or foreseen in 2006.

## OVERVIEW OF DEBATES IN SPECIFIC FIELDS

### FRAUD AND COUNTERFEITING OF NON-CASH MEANS OF PAYMENTS

The experts' meeting held on 18 March 2005 was the first one of the new subgroup Law Enforcement, set up in the framework of the Fraud Prevention Experts' Group (FPEG). This structure was foreseen by the Action Plan on fraud and counterfeiting of non-cash means of payment adopted in 2004.

The subgroup's objectives are to develop co-operation between law enforcement and other relevant parties, not only from the banking industry but from all payment and financial services providers. The subgroup will also raise awareness and encourage training and education on issues related to non-cash payment fraud and identity theft. Furthermore, the discussions among stakeholders will identify gaps to be filled either by modifying existing legislation or enacting new initiatives, both legislative and non-legislative. The participants also began discussing the potential harmonisation of Member States' practices on recording crime and developing law enforcement performance indicators..

The Subgroup approved a **revised draft mandate and its objectives for 2005/2006**.

As the first priority, it was agreed that the sub-group would focus on analysing the advantages and possible obstacles to the creation of centralised law enforcement units with operational responsibilities.

As a first step, the Sub-group decided to draft a questionnaire to the Member States about the units dedicated to fight fraud on non-cash payments – their legal basis, composition, competence, human resources, relations with the private sector and targets. The results were presented to the second meeting of the subgroup, held on 13 September 2005, Six Member States had indicated that combating non-cash payment fraud was not a priority for them. The replies showed that there were major differences between the Member States with regard to the structure and organisation of law enforcement services in this field. Some Member States have a national unit which fulfils a coordinating role, in some cases with investigative competences. Only in the United Kingdom is there a dedicated unit to prevent and combat non-cash payment fraud which has been created on the basis of an agreement between the law enforcement and the private sector.

The majority of the countries reported that the investigation of non-cash payment fraud committed in an on-line environment might be handled by or with assistance of the computer crime or high tech crime unit.

Finally, most Member States considered it useful to explore the possibility of creating a national central office for non-cash payment fraud.

The second issue concerned **Law Enforcement training courses** which could be a tool for establishing common minimum standards across Member States. Their feasibility could be considered under the new Financial Perspectives 2007-2013. The aim would be not only to encourage best practices but also to facilitate more effective law enforcement co-operation by setting up common training packages for criminal investigators.

### PREVENTION OF TERRORIST FINANCING VIA THE NON-PROFIT SECTOR

The meeting held on 12 April 2005 aimed at giving further consideration to the EU implementation of FATF Special Recommendation VIII regarding non-profit organisations, with special regard to **mechanisms addressing the vulnerability of non-profit organisations to terrorist financing**, transparency and accountability measures, oversight

and investigation mechanisms and private sector outreach. The following documents were discussed:

- Amended proposal for a Council Regulation on the Statute for a European Association and Proposal for a Regulation on a European Statute for Foundations
- Draft Action Plan “Terrorist Financing and the Non-profit/Charitable Sector – An EU Design for Implementation of Special Recommendation VIII”
- FATF Draft Interpretative Note to Special Recommendation VIII

The first point concerned the potential inclusion of **transparency and accountability measures** in the mentioned proposals on associations and foundations. The Statutes would serve as a badge of respectability, quality and high standards and would represent a “European label”, which would make the organisations trustworthy in the eyes of the public, including donors.

One of the problems raised by participants concerned the development of a binding tool. They emphasised the need to develop a clear understanding of what incentives (especially fiscal) could be integrated into the Statutes that would attract non-profit organisations to choose this legal form for their activities.

The second session of the meeting was devoted to the above mentioned draft Action Plan. The Commission representative emphasised that its principal aim was to strengthen donor confidence and improve information exchange between charity regulators, tax authorities, law enforcement services, Financial Intelligence Units and EU/International law enforcement services. The draft Action Plan refers to outreach to the private sector and addresses the role of private monitoring and accreditation bodies.

A meeting held on 15 July 2005 with representatives of some non-profit umbrella organisations was devoted to the draft Recommendations on a Code of Conduct addressing vulnerabilities of the Non-profit Sector to Terrorist Financing. The discussion dealt with different issues related to the document: the relationship between the European label and the certification mechanism, the Code of Conduct and the Risk Indicators.

It was considered that the feasibility of a **European label** would be subject to further discussions due to its normative aspect, and that the existing certification systems should also be evaluated. In addition, participants made the point that the document should clearly distinguish between fund raising organisations and non-profit organisations - as related risks for misuse are very different. The concept of the European label should take this aspect also into consideration.

Discussing the requirements set out in the Code of Conduct, participants emphasised that no requirements should be set out which are more burdensome than the ones imposed on SMEs.

#### **EUROPEAN POLICY ON THE USE OF PASSENGER NAME RECORDS**

At the start of the roundtable meeting, held on 30 May 2005, the representative of the Commission indicated that the Commission was seeking a legally binding solution on the PNR and that the main purpose of the meeting was to exchange general views in a rather informal way.

Many Member States indicated that there was **an urgent need for common rules** in the area. The main acceptable purposes should be, for most Member States, the fight against terrorism

and organised crime, plus border controls. The definitions of organised crime/serious crime should be based on those provided in such documents as the Palermo Convention.

Points of discussions regarded **definitions of API and PNR data**, transfer of data (push or pull mechanism), feasibility of the European PNR (the huge amount of carriers and information may make it very difficult to get such a system workable), elements of PNR to be included and legal basis.

The meeting was very useful providing a good overview of the state of play in some of the Member states and giving a general idea on possible directions in which this dossier might evolve.

The second meeting organised on 8 July 2005, focused on the replies to the questionnaire on the policy and operational aspects related to PNR. Among the conclusions drawn was the fact that there are two main uses of PNR: firstly to enhance border controls and combat criminal activities, and secondly to enhance the flow of passengers by reducing the level of control.

As regards the **objectives of a draft legislative initiative** in this area, the data should be used for the purpose of prevention, investigation, detection and prosecution of crime or criminal offences, including terrorism.

The participants agreed that there is no need for a central point at EU-level but the creation of a network at EU-level of specialist teams dealing with PNR data could be considered. This approach would be the best way to enhance co-operation in this area whilst gathering the necessary expertise and providing for the exchange of best practices at an operational level.

#### **ELECTRONIC EVIDENCE**

The meeting held on 13 October 2005 assessed the need for EU action in this field. At the beginning of the discussions, a Commission representative provided information on the adoption of two Green Papers on evidence-based safeguards in criminal proceedings related to the presumption of innocence and to the gathering and handling evidence in the criminal procedures respectively.

With respect to electronic evidence, the exchange of views concerned the **legal framework for capturing and exchanging data** which could be used as electronic evidence, the role of the judicial authorities during the collection of the data and assessment of electronic evidence at a trial. A further issue related to the safeguards which should be adopted to protect the accused person's rights and personal data.

According to the Belgian representative of the Federal Computer Crime Unit, there is a clear need for standardised procedures at European level regarding the main principles of electronic evidence. However, the EU should not impose too many technical requirements which could not be met in all Member States.

Further presentations addressed the objectives of an **AGIS project** concerning

- the analysis of the legislative and social situation of the admissibility of electronic evidence in Courts of Law,
- the identification of gaps in legislation,
- exchange of best practices,
- creation of a supportive instrument tool for judges, lawyers and notaries,
- development of electronic evidence as a tool and
- support for high tech crime victims.

Other projects were also discussed such as CTOSE (cyber tools on line search for evidence) which has been underway for a number of years with the aim of establishing an agreed methodology for collecting, analysing, storing and presenting electronic communication.

The meeting concluded that while there is a distinction to be made between the technical and legal side of discussions on electronic evidence, yet these aspects are also closely linked since the purpose of the technical side is to find a sustainable legal solution. Those in attendance agreed that the technical side of the problem is already sufficiently treated by Interpol, which has produced a classified handbook. The Commission does not intend to make proposals which do not provide added value. There did not seem to be an initial need for a new technical handbook or manual. The legal questions, especially **the admissibility issue**, were expected to be dealt with at a further' meeting, which would consider the admissibility of evidence in general. Moreover, some participants highlighted that there is a need for training initiatives and a higher degree of coordination or harmonisation.

### **INVESTIGATIVE TOOLS**

The aim of the meeting, organised on 14 November 2005, was to discuss the results of a survey on investigative tools, and the evaluation of its conclusions, prepared by the Commission to provide an appropriate follow-up.

The aim of the survey, launched in 2004, was to **promote the effective use of investigative techniques in relation to the detection of criminal offences**, without prejudice to the rules protecting individual freedoms.

From the Member States' replies, the Commission proposed that:

- There should be a focus on the need for implementation of international conventions and for common definitions;
- Consideration should be given to standardised formats and procedures for the production and collection of electronic evidence in order to ensure its admissibility in Court across EU Member States; and
- Member States should set up dedicated training programmes on the management of undercover agents and on handling informants as well on special investigative techniques.

The Commission put forward the possibility of setting up a central platform in order to address Member States' needs, share problems and technical solutions and to participate in development projects. This structure would have a new horizontal and political approach, different from the existing structures.

### **TACKLING HUMAN TRAFFICKING**

The conference organised under the auspices of the UK presidency on 19 – 20 October 2005 brought together 180 delegates from the law enforcement community, civil society, and political organisations. Its purpose was to consider the priority areas for EU level actions as well as the exchange of best practices. The conclusions drawn contributed to the drafting of the EU Action Plan on Trafficking which was adopted by the EU Council (Justice and Home Affairs) on the 1 – 2 December 2005.

The conference was opened by Vice-President of the Commission, Franco Frattini, who underlined the importance of an integrated human rights based approach to trafficking and an approach that was interdisciplinary. He noted the achievements of the Commission's Expert Group on Trafficking in Human Beings and their work to ensure further action against human trafficking on the basis of the Brussels Declaration.

Afterwards, the delegates worked in smaller breakout sessions led by designated keynote speakers and chairs, to give in-depth consideration to the following five issues: **preventing trafficking in countries of origin, reducing demand, investigating and prosecuting human trafficking, supporting victims / safe return and reintegration, enhancing co-operation: international, EU and regional best practices.**

Key themes to emerge included the importance of addressing root causes of trafficking and further developing collaboration between government and civil society. Delegates who contributed to the panel discussions underlined, among others, the fact that networks within churches and other faith-based organisations were an under-utilised resource and that assistance provided to victims of trafficking should be the key element in anti-trafficking policies.

Demand reduction was recognised as an important element of combating trafficking. At the same time, it was emphasised that demand reduction should not only be addressed through prosecution based strategies but also through policies aimed at the prevention of trafficking.

The need for reliable data with comparable analysis and statistics was also underlined by several delegates. However, it was noted that existing data sources were not being fully exploited, for example, data held at UNICEF. It was also stressed that there is enough data to know that trafficking is a serious problem. As some delegates pointed out, "the lack of data is not an excuse for not going into action".

#### **PUBLIC PRIVATE PARTNERSHIP**

The main objective of the meeting held on 26 September 2005 was to launch a reflection on possible future EU actions in the field of Public Private Partnerships (PPP) against crime and terrorism, including the identification and establishment of a steady, regular framework of exchanges.

There was broad agreement that Public Private Partnerships can strengthen cooperation between regulators, providers and users of services in order to enhance security while respecting freedom and individual rights to the benefit of all. In this triangle, the role of each partner is not fixed and there is a need for confidence and interaction.

During the discussions, the **indicated examples of cooperation** concerned different economic areas of commercial and industrial sectors such as critical infrastructure protection (Security Dialogue in the fight against terrorism), assurance, transport, video surveillance, the food sector as well as in the fight against payment frauds (bank federations and payment systems), counterfeiting and intellectual property, electronic crime etc. Possible obstacles to cooperation concern the exchange of information, where the private sector is reluctant to make sensitive information public, national data protection rules and lack of incentive for the private sector to get involved in the work. Future actions must thus be guided by the principles of truly common goals and mutual trust.

Finally, in order to assist the Commission in the development of PPP and to implement the final recommendations of the Dublin Declaration of 2003, a **Steering group** composed of representatives of Sweden, Finland, Netherlands, Italy, Austria, Unice, Europol, Eurojust and East West Institute, AKJ Associates and ESP 21 was created.

Its first meeting was held on 10 November 2005 in order to discuss the following questions: content of an upcoming Communication on PPP, creation of a webpage, mutual use of private and public expertise in different areas, identification of research areas and networking.

The Steering Group discussed the possibility of setting up an informal structure for the organisation of regular high-level PPP meetings at the European level (high level European



platform for PPP). Such high-level meetings could be held once a year to discuss horizontal PPP questions, give strategic guidelines and identify needs in specific sectors and direct future actions in these sectors. A permanent secretariat with the task of preparing and coordinating the meetings of an EU platform could be envisaged and ad hoc subgroups could be created under the platform to administer specific projects.

Another important aspect concerned the **confidentiality policy** and the question of how existing information could be made more accessible for both the private and the public sector. Mutual trust between private and public bodies should be the basis to encourage the sharing of information and intelligence data. Europol urged the necessity of formalising this aspect and of maintaining the non-personal/personal data distinction which is necessary for its annual report on organised crime.

The Steering Group agreed on the list of specific sectors or themes of interest envisaged as pilot projects in the discussion paper: security research, protection of intellectual property, money laundering, cyber crime and explosives industry.

#### **NEW FINANCIAL PROGRAMME "PREVENTION OF AND FIGHT AGAINST CRIME" (2007-2013)**

The purpose of the meeting was to explain the current thinking on the new Financial Perspectives 2007-2013 and in particular on key elements of the "Prevention of and fight against crime" programme. The expressed views were considered as part of the ex ante evaluation for this new financial instrument.

The **objectives of the programme, types of envisaged actions, target groups, funding methods of funding and award criteria** were presented at the start of the meeting. Afterwards, some specific issues were addressed such as the Intelligence-led Law Enforcement (ILLE) policy, a model for rational decision-making by law enforcement bodies which touches on many issues, such as statistics, interoperability of databases and the development of compatible national intelligence systems.

During the meeting, Italian delegates made a presentation of the PON security programme - also known as the Mezzogiorno project. They emphasised the close link between crime levels and economic development which creates a vicious circle: if the legal markets are penetrated by criminals, as this stunts economic development, which in turn, encourages crime.

The presentation on **crime-proofing** brought together two key objectives: identification of potential opportunities for crime and of appropriate remedies to reduce or remove such opportunities. The new financial programme can cofund innovative projects in this area. In the future, it is hoped that an industry-wide approach to crime proofing products could be established and a label indicating that a product has been crime-proofed could be developed and brought into use.

Other possibilities for funding were mentioned in the field of **general crime**. Some discussions were held on the current model of general crime prevention, which focuses on the areas of urban, juvenile and drug crime. Moreover, the participants dealt also with the appropriateness of the proposed types of action (Commission/bi-and multi-lateral, national).

ANNEX

**Meetings held or foreseen in 2006**

<b><u>Topic</u></b>	<b><u>Date</u></b>
Fraud and counterfeiting of non-cash means of payment	30 January 2006
Fighting Corruption in Public Administration and Administrative Measures to Combat Organised Crime	2 February 2006
How to measure organised crime	7 February 2006
Protection of witnesses and collaborators of justice	21 February 2006
Public Private Partnership (PPP) to combat organised crime and terrorism	27 February 2006
Promoting Financial Investigation in the European Union	23 March 2006
Public Private Partnership (PPP) to combat organised crime and terrorism	27 March 2006
Transparent NPO governance	30 March 2006
Identity theft and fraud of non cash means of payments	22, 23 November 2006
Financing of terrorism	14 December 2006