



**COUNCIL OF
THE EUROPEAN UNION**

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LIMITE

**CRIMORG 111
ENFOPOL 54**

NOTE

from : Previous Portuguese Presidency

to : Multidisciplinary Group on Organised Crime (MDG)

No. prev. doc. : 11689/99 CRIMORG 145 ENFOPOL 66

Subject : Revision of doc. 6204/2/97 ENFOPOL 35 REV 2, based on doc. 8469/1/99
CRIMORG 55 REV 1

1. At its meeting of 29/30 November 1993, the Council agreed on setting up a common mechanism for the collection and systematic analysis of information on international organised crime (Cf. doc. 9908/2/93 CRIMORG 1 REV 2). This mechanism was described in doc. 12247/1/94 ENFOPOL 161 REV 1. It was understood that the mechanism should be used for a period of at least two years. On the basis of the experiences acquired, the mechanism could be revised after that period.

The mechanism was used for EU situation reports on 1994 and 1995. On 13th and 14th of February 1997 a meeting on expert level was held to evaluate the mechanism and to draft recommendations for elaboration and improvement of the mechanism. The results of the discussions are presented in 5717/1/97 ENFOPOL 22 REV 1. They led to a revision of the mechanism as described in 12247/1/94 ENFOPOL 161 REV 1. The revised mechanism is described in the annexes of this document. In this document a distinction is made between the purpose and the organisation of the mechanism (annex I) and the methodology (annex III).

2. At its meeting of 5 March 1997, the group Drugs and Organised Crime agreed, subject to linguistic verifications, on the texts in the annexes. The group emphasised that the quality of reports depends to a great extent on the quality of data assembled within the Member States and the quality of national reports. This is likely to remain the major weakness of the system in spite of the improved mechanism.

3. The K.4 Committee at its meeting of 25/26 March 1997 confirmed this agreement and agreed to forward this document as an "A" Point to COREPER/Council.

4. The harmonisation and the desired homogeneity of the EU situation report is a central issue of 8469/1/99 CRIMORG 55 REV 1 and 6204/2/97 ENFOPOL 35 REV 2.

In order to further develop the future mechanism for Member States reporting on organised crime, the Presidency and Europol have produced 11689/99 CRIMORG 145 ENFOPOL 66.

The Contact and Support Network has held three meetings during the Finnish and Portuguese presidencies (9th Nov. 1999, 16th May and 26th June 2000) where the working group has been discussing the adjustment of existing mechanisms. Europol has as well discussed the topic within the framework of the Voluntary Reflection Group on 22nd July 1999. The present document is based on the contents of 6204/2/97 ENFOPOL 35 REV 2, 8469/1/99 CRIMORG 55 REV 1 and 12669/99 CRIMORG 166. Furthermore it also reflects the results of the debates of the Contact and Support Network meetings, especially with regard to the four compulsory criteria (No. 1, 3, 5 and 11) that are laid down in Annex IV to this document.

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PURPOSE AND ORGANISATION

The main goal is to produce an annual report to the Council on the scale of and trends in organised crime especially with regard to its international ramifications.

- I. The first step on the way to reach this goal is the drawing up of situation reports by NCIS' of all of the Member States by using the guidelines as described in annex II. Each of these reports should contain a description of the national situation on organised crime. This description could be based on information from different sources. Member States transmit the national reports to the Presidency, including a description of the methodology used. Each Member State sends by May its report on the preceding year.

- II. The Presidency, together with Europol, have the responsibility of preparing the European Union Situation Report summarising the National Reports. For this purpose the Presidency can proceed to the necessary consultations, using a Contact and Support Network. This network consists of contact persons appointed by each of the Member States. The objective of the network is to actively assist a Presidency in refining and elaborating the method used in the drawing up of the situation report on organised crime in the EU. Members of the network can be convoked by the Presidency, when needed, on an ad hoc basis using existing structures.

Europol is actively supporting the work so that earlier experiences can be used in an efficient manner and progress and continuity are better safeguarded.

The report that will be discussed by the Multidisciplinary Group, and once it has been approved, will be forwarded to the Article 36 Committee and COREPER in view of its submission to the Council for adoption and eventual transmission to the European Parliament;

The detailed draft report containing confidential information will, after discussion in and approval by the Multidisciplinary Group, be made directly available through members of delegations to their ministers and competent national authorities as a confidential document.

Draft annual reports are being presented by the Presidency in September.

III. Based upon the results of a comparative analysis of the National Reports, the characteristics and the other aspects of the data collection procedures used by the Member States, the mechanism for measuring organised crime may be further improved every year.

Therefore Europol together with Member States will develop a manual on methodology being a living document, including a checklist in order to support those producing the initial report in their preparation activities.

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GUIDELINES FOR COLLECTION, PROCESSING AND ANALYSIS OF INFORMATION

I. General

The annual national situation reports should address all of the topics mentioned in the following paragraph. The list of topics and accompanying recommendations should be viewed as guidelines for further improvement of the national situation reports' quality in the near future, recognising the fact that Member States will - insofar as possible - gradually implement changes.

Some reference to trends (qualitative, quantitative or estimated) should be included in the treatment of all topics which are addressed by the situation reports. Member States indicate trends per subject and present an evaluation and expectations for the future.

II. List of topics

A. Introduction

B. Organized Crime Situation

1. Suspects involved in Organised Crime

- * Nationality
- * Geographical or other elements of origin
- * Form of cooperation with other suspects
 - structure
 - composition
 - relationship
 - nationally
 - internationally

Where a large network could be described as a single entity as well as a collection of separate groups, the description should reflect both realities.

With regard to the groups/investigations selected, both hard and soft data may be used. The nature of organised crime makes it difficult to obtain hard data about this phenomenon. Although the necessary caution must be applied in interpreting soft data, they offer a welcome supplement to the hard information.

If possible Member States should describe criminal groups on the basis of ongoing criminal investigations. If not possible, descriptions can be based on other methods, especially intelligence.

In an effort to estimate trends, comparable statistics for the previous year (where available) should be provided in parentheses after those relating to the year under review.

When quantitative data on the various nationals involved in organized crime are not available, situation reports should rank the principal nationalities in order of their presence among organised criminal suspects.

In cases where there are no hard, quantitative data, as many qualitative or indicative data as possible should be provided about the nature and development of a certain phenomenon.

2. Criminal activities of the suspects mentioned under number 1

* Main criminal activities:

- Narcotic drugs
- Fraud / swindling
- Counterfeiting/forgery/product piracy
- Armed robberies
- Murder/grievous bodily injury
- Illicit trade in human organs and tissue
- Kidnapping
- Illegal restraint and hostage taking
- Extortion/racketeering
- Racism and xenophobia
- Vehicle theft (including receiving)
- 'Hit-and-run' burglaries
- Theft of artefacts and antiques/jewellery
- Other forms of theft/receiving
- Illegal firearms trading
- Traffic in human beings
- Prostitution
- Child pornography
- Environmental crime
- Illicit trafficking in endangered animal species
- Illicit trafficking in endangered plant species and varieties
- Illicit trafficking in hormonal substances and other growth promoters

- Illegal gambling schemes
- Other types of crime, namely :
 - Money Laundering
 - Cyber crime
 - Corruption
 - Any other crimes that are being considered important by individual Member States (*in this case Member States are asked to explain why the particular crime concerned is of importance to them*)
- * Criminal activities in more than one field of crime

Where hard data is not available, situation reports could rank the principal criminal activities in order of their estimated magnitude: an intelligence-based general assessment, is preferable to no indication of the relative magnitude of the organised criminal activities.

3. Places and regions of activity

- * within the Member State
- * in other countries of the European Union
- * in countries outside of the European Union

As far as possible, indications should be given of the role of certain countries in criminal activities, for example, as a country of production, transit or consumption of drugs, or as an intermediate station in an international money laundering action.

4. Resources

- * Use of legal enterprises
- * Estimated profits of criminal activities (an estimation based on objective information)

5. Use of violence

- * Within the groups/cases
 - Modus operandi (e.g. intimidation, bodily harm)
- * Violence against other groups or individuals within the criminal world
 - Modus operandi
- * Violence against individuals outside the criminal world such as :
 - Modus operandi (e.g. use of firearms, bombings, extortion)
- * Number of people killed/attempted to kill/hurt
 - within the groups
 - outside the group, but within the criminal world
 - outside the criminal world

6. Use of influence

- * Public administration
- * Judicial authorities
- * Politics
- * Law enforcement authorities
- * Business sector
 - National companies
 - Foreign companies
- * Media

7. Money laundering

- * The number of reports on suspicious transactions which were made during the year under review, with a brief explanation of the procedure that resulted in a notification.
- * A brief description of the criminal activities to which the notifications relate. How does money laundering take place? Which international aspects play a role?
- * The number of seizures and of confiscations.
- * The value of seized and of confiscated goods and other assets.
- * Use of financial routes abroad
- * Countries involved

C. Conclusions

- * Assessment of the threat
- * Trends
- * Prognosis

D. Measures against organised crime

A short description should be included in the situation reports of the manner in which the fight against organised crime has been given form in the year under review, the effects of this, and the most important initiatives which have been taken in this connection. The report should refer to Action Plans/Multi-annual work programmes. Where possible, statistics concerning actions aimed at combatting organised crime in the year under review should be provided, e.g. on the number of groups which were dismantled, the number of prosecutions instituted, the number of persons arrested and the number of persons convicted.

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METHODOLOGY

The importance of a thorough description of the methodology used cannot be overemphasised. In the introduction to their national report, Member States should indicate where to find information regarding the methodology used in gathering and analysing information on the specific subjects in the report. In the description the following questions should be answered.

- * Which sources were used for each of the topics in the national situation report? For example: hard police data, soft police data (intelligence), data provided by other law enforcement agencies, public media and other open sources.
- * Which selection standards, definitions and instructions were used in collecting the data for each of the topics,? The questionnaire used with pertaining explanatory notes may be made available.
- * Which criteria were used in the processing and analysing of the data?
- * To what extent does the method of working now being followed differ from the one used last time?
- * Which methodological problems arose during the collection of the data and the analysis? Which measures were taken in this connection or will be taken next time?

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CHARACTERISTICS OF ORGANISED CRIME

The following list of characteristics of organised crime may assist Member States prepare their National Situation Reports. At least six of the following characteristics have to apply, four of which must be those numbered 1, 3, 5 and 11, for any crime or criminal group to be classified as organised crime.

1. Collaboration of more than two people;
2. Each with own appointed tasks;
3. For a prolonged or indefinite period of time (this criterion refers to the stability and (potential) durability of the group.);
{As it might be difficult to define the term 'prolonged or indefinite period of time' the criteria laid down in CRIMORG 12669/99, p.4, might be applied}
4. Using some form of discipline and control;
5. Suspected of the commission of serious criminal offences;
{As to the definition of 'serious criminal offences', the catalogue of offences in the Annex to the Europol Convention as well as in Annex 2 of Council document 6204/2/97 ENFOPOL 35 REV 2 should be taken into account while each MS should explain why it does consider a specific crime as serious.}
6. Operating on an international level;
7. Using violence or other means suitable for intimidation;
8. Using commercial or businesslike structures;
9. Engaged in money laundering;

10. Exerting influence on politics, the media, public administration, judicial authorities or the economy;

11. Determined by the pursuit of profit and/or power.

{Politically motivated crime (e.g. terrorism) do not fall into this category. Neither do those of other groups that are hard to categorize, such as ecological activists that violate the law as laid down in CRIMORG 166, p.8.}

BASIC INDICATIONS

I. Collection of initial statistical material

Further harmonisation and concrete standardisation of the respective Member State (MS) contributions should be laid down in a binding manner for all subsequent EU OC situation reports. This objective, to be pursued by all MS, is to be achieved through a generally recognised data collection mechanism and through a uniform collection of certain basic data in all MS.

In the medium term

- the number of identified OC groups,
- the number of OC suspects,
- the nationalities of OC suspects and
- their criminal activities

should be recorded with the aid of a uniformly formatted table calculation programme (for example Microsoft Excel[®]).

Since items of hard data are compared with each other, it is possible to quantify and determine the dimensions of certain ethnic phenomena or certain fields of crime on the basis of uniform data collection conditions within Europe.

For an initial determination of the dimensions of the OC phenomenon, it is necessary to agree on two basic prerequisites. Firstly, the binding specification of a certain number of categories of the simplest basic data, as proposed above. Secondly, the consistent implementation of the current collection mechanism as specified in this document.

In cases of national OC matters reported by the MS, the preconditions of the characteristics of OC (as described in Annex IV) must be fulfilled, i.e. "collaboration of more than 2 people", "for a prolonged or indefinite period or time", "suspected of the commission of serious criminal offences" and the "determination by the pursuit of profit and/or power". These preconditions can be compared to a group or suspect structure. The main aspects of the criminal activities of the OC groups are also to be reported in accordance with the fields of crime laid down by Enfopol 35 rev 2."

These two basic prerequisites should be fulfilled step by step for European situation reports to be compiled in the future. If some Member States are faced with obstacles in collecting data in accordance with the basic criteria, an optional supply would be conceivable for the time being. In the medium term, however, it is necessary to aim at the collection of data through a questionnaire/template and for the compulsory supply of the four basic data types. An extension of the binding and defined data collection criteria would be desirable in the future.

II. Structural analysis

Statistically collected (hard) data only represent the basis of the OC situation. The second step towards expanding the picture involves the increased incorporation of qualitative data, the certainty of which, however, would have to be evaluated.

The potential of group structures can be determined/evaluated with the aid of prescribed indicators reflecting the degree of organisation and professionalism of the criminal groups.

To facilitate an **element of weighting** of the relative threat from organised crime throughout the European Union, member states should, as a first step, specify how many groups reported fulfill which of the eleven criteria of OC defined in Annex IV of this document.

Information from all sources available, including investigation data and intelligence, should be used and **cross-checked** when identifying organised crime groups, in order to minimise over- or underreporting

III. Threat assessment

It will be necessary to identify appropriate parameters in this connection and to use them on a continuous basis. Socio-political and economic data should form an integral part of the analysis. All sources available to the police should be exploited by means of targeted and active information procurement. Agreement on generally accepted parameters would be a prerequisite. Here too, the parameters would have to be continually revised and expanded. With the aid of the parameters, a range of various possibilities for development could be illustrated. Depending on the assumed development of the individual parameters, models of the future can be drawn. These prognosis models also represent a useful instrument for the police and can provide a structure for their information base with a view to identifying future problems. Since the implementation of such intentions (threat assessments, prognoses) is still at the development stage at the moment, this part could be accompanied by scientific-methodical advice. The aim here is also to incorporate the identified influencing factors into a future common template.

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