



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 7 February 2011

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NOTE

from:	Former Belgian Presidency
to:	Delegations
Subject:	Report on the Consultative Forum of Prosecutors General and Directors of Public Prosecutions; meeting in The Hague on 16 December 2010

Introduction

A meeting of the Consultative Forum of Prosecutors General and Directors of Public Prosecutions of EU Member States took place at Eurojust's premises in The Hague on 16 December 2010.

The Belgian Presidency convened the meeting, which was jointly organised by the Board of Prosecutors General of Belgium and Eurojust. Eurojustice conferences in Portoroz (2007), Ljubljana and Edinburgh (2008) and Tallinn (2009) considered the establishment of a Consultative Forum. A seminar, organised by Directors of Public Prosecutions, was held in 2008 during the French Presidency. In May 2010, the Spanish Presidency held a meeting of the Prosecutors General and Directors of Public Prosecutions in Madrid, where the establishment of the Consultative Forum was agreed in principle. The Board of Prosecutors General of Belgium prepared a document, "Purpose and Mission of the Consultative Forum", as the basis for discussion for the meeting at Eurojust.

The aim of the meeting was to discuss and establish a mandate for the Consultative Forum, with particular reference to reinforcing the judicial dimension of the EU Internal Security Strategy and taking into account the provisions in the Council document on the Architecture of Internal Security of 2006, the Lisbon Treaty¹ and the Stockholm Programme². The Informal Justice and Home Affairs meeting of July 2010 also considered that a more substantial contribution from the judiciary to the Council, with the assistance of Eurojust, should be an objective of the Consultative Forum.

The first session of the meeting discussed objectives and principles for the Consultative Forum. The proposals were: to set up an informal forum for better co-ordination and integration of judicial contributions to the EU policy cycle on fighting organised and serious international crime; to reflect particularly on certain areas of serious crime, such as trafficking in human beings and drug trafficking; and to assess the extent to which the fight against these types of criminal activity is co-ordinated between Member States. Other suggested possible contributions to be made by the Consultative Forum are discussions about new JHA initiatives under the Treaty of Lisbon, including the COSI, and the position of Eurojust.

The meeting stressed the importance of Eurojust's involvement. In relation to the Internal Security Strategy, Eurojust could contribute relevant points on operational co-operation from a judicial perspective to the COSI.

¹ Article 67(3) TFEU provides that “The Union shall endeavour to ensure a high level of security [...] through measures for coordination and cooperation between police and judicial Authorities and other competent Authorities [...]”.

² Point 3.2.2. of the Stockholm Programme confirms that it is desirable that networks of prosecutors, *inter alia*, “should also be informed of the work of the Internal Security Committee, or be able to take part in the development of the Organised Crime Threat Assessment and other strategic tools of the Union. Such networks should meet principally using existing structures such as Europol, Eurojust and Frontex or at the invitation of the Presidency as host country [...]”.

The second session focussed on national methodologies for determining criminal policy priorities in some of the EU Member States, in particular Belgium, France, Germany and the Netherlands (“continental law”), the UK (“common law”), and Slovenia. After these presentations, a proposal was made to collect information from all Member States on the relationship between prosecuting authorities and governments on criminal policy matters. The Hungarian Presidency agreed that this proposal should be followed up.

The last session was devoted to the European dimension of criminal policy and the contribution of the judicial authorities, with presentations from Eurojust, the General Secretariat of the Council and the Commission. A debate on the relationship between practitioner input and political priorities in criminal justice matters concluded the meeting.

Main outcome

The participants agreed to create the Consultative Forum as “an informal dialogue structure” which would:

- bring together representatives from all Member States holding the highest-level positions within public prosecution systems;
- meet at least once a year, at the invitation of the Member State holding the EU Presidency; and
- request Eurojust to host meetings of the Consultative Forum at its premises.

The participants agreed that the objective of the Consultative Forum is to promote the strengthening of the judicial dimension of the EU’s internal security. This would involve:

- Discussing the trends of criminal activity affecting the EU, based on practical judicial experience, which could result in input provided to Eurojust.
- Discussing prosecution strategies and best practices, with a view to improving international judicial and police co-operation, contributing to an EU vision, and sharing experiences:
 - In the main areas of serious and organised crime (such as trafficking in human beings, drug trafficking, terrorism, fraud, and other offences affecting the financial interests of the EU),

- In the use of procedures, particularly investigative techniques and rules of evidence, and
 - In the use of practical co-operation measures, particularly the European Arrest Warrant and international letters rogatory.
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- Contributing to the evaluation of lessons learned, in view of their integration into the next policy cycle.
 - Based on their practical judicial experience, when appropriate, contributing to legislative initiatives taken at EU level.

The incoming Hungarian and Polish Presidencies have announced their intention to convene meetings of the Consultative Forum on 23 June and 15 December 2011.

Annex 1: Document “Purpose and Mission of the Consultative Forum”

Annex 2: Agenda of the Meeting of the Consultative Forum of 16 December 2010

**PURPOSE AND MISSION OF THE CONSULTATIVE FORUM
OF THE PROSECUTORS GENERAL
AND DIRECTORS OF PUBLIC PROSECUTIONS
OF THE MEMBER STATES OF THE EUROPEAN UNION**

1. Background:

1.1. The document submitted to the Justice and Home Affairs Council in Luxembourg on 1 and 2 June 2006 pertaining to the Architecture of internal security¹ sets out a process for the establishment of a reference framework for the internal security of the EU consisting of four steps:

1. Evaluation of the threats to the security of the EU, based on the report from the Organised Crime Threat Assessment (OCTA) and on similar reports,
2. Definition of the policy priorities of the EU by the Council, with regard to the internal security of the European Union,
3. Implementation of the priorities by the Member States of the EU and all other parties involved, on the basis of their report,
4. Evaluation of implementation by the Council and the Commission.

This document advocates the need to involve those responsible for determining national criminal policy within the Member States in the debate concerning the determination of priorities and involving Eurojust in meetings with the judicial authorities.

1 Document 9596/1/06 JAI 271 CATS 104 REV 1.

Throughout the process of reflecting on the internal security of the EU, the focus has been on the active participation of the police and judicial authorities of the EU Member States, with the support of Eurojust and Europol and in collaboration with the internal bodies of the Council.

- 1.2. The new legal framework, including the Treaty on the Functioning of the European Union (TFEU), which entered into force on 1 December 2009, aims at strengthening the European Union as an "area of freedom, security and justice". The TFEU stipulates that "The Union shall endeavour to ensure a high level of security [...] through measures for coordination and cooperation between police and judicial authorities and other competent authorities [...]"¹.
- 1.3. The Stockholm Programme for the period 2010 – 2014, adopted by the European Council on 19 December 2009, particularly point 3.2.2 thereof, also underlines the necessity of moving forward in this direction, as it confirms that it is desirable that networks of prosecutors, among other things, "should also be informed of the work of the Internal Security Committee, or be able to take part in the development of the Organised Crime Threat Assessment and other strategic tools of the Union. Such networks should meet principally using existing structures such as Europol, Eurojust and Frontex or at the invitation of the Presidency as host country".
- 1.4. By decision of 25 February 2010, the Standing Committee on Operational Cooperation on Internal Security (COSI) was created, whose mission is to coordinate and evaluate security policies within the EU, including judicial cooperation in criminal matters insofar as operational cooperation is concerned.
- 1.5. Two meetings of Prosecutors General and Directors of Public Prosecutions were organised in the second half of 2008 by the French Presidency of the Council of the EU and in the first half of 2010 by the Spanish Presidency, respectively, with the aim of strengthening the judicial dimension of the EU's internal security.

¹ Article 67(3) TFEU.

- 1.6. Discussions took place between the Justice Ministers of the EU Member States during the informal meeting of the JHA Council in Brussels on 15 and 16 July 2010 concerning the relationship between Eurojust and the Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European Union.
- 1.7. The Council Conclusions on the creation and implementation of an EU policy cycle for organised and serious international crime adopted by the JHA Council on 8-9 November 2010 propose the establishment of a multi-annual policy cycle, with regard to serious international and organised crime, consisting of four steps:
- i. A complete and thorough picture of criminal threats impacting the European Union, on the basis of a European Union Serious and Organised Crime Threat Assessment (EU SOCTA);
 - ii. The identification by the Council of a limited number of priorities, both regional and pan-European, and further development of Multi-Annual Strategic Plans (MASPs) for each of the priorities, in order to achieve a multidisciplinary, integrated and integral approach to effectively address the prioritised threats;
 - iii. The implementation and monitoring of annual Operational Action Plans (OAPs), prepared and aligned to the strategic goals determined in the MASP; and
 - iv. A thorough evaluation of the difficulties and results, which will serve as an input for the next policy cycle.

On the basis of the Organised Crime Threat Assessment of 2011, and following the principles as set out in Annexes 1 and 2 of the above-mentioned document submitted to COSI, an initial and reduced 2 year policy cycle 2011-2013 will be agreed and implemented.

Taking into account the results of the evaluation of the initial policy cycle, and on the basis of the EU SOCTA 2013, a 4 year policy cycle will be agreed and implemented for the period 2013-2017.

- 1.8. The Communication from the Commission on the EU Internal Security Strategy in Action: Five Steps towards a more secure Europe adopted on 22 November 2010.

2. The creation of an informal structure:

The Prosecutors General and Directors of Public Prosecutions of the Member States of the European Union agree to create an informal dialogue structure entitled “Consultative Forum of Prosecutors General and Directors of Public Prosecutions of the Member States of the European Union”, based on the following principles:

- 2.1. The Consultative Forum shall bring together representatives from all the Member States of the European Union holding at the highest level positions within Public Prosecution Systems.

The representative shall be the sole point of contact with the Forum. Eurojust shall delegate an *ex officio* representative to the Forum.

The Consultative Forum may invite any person or European institutions to assist or to participate in its work, who, as a result of his or her experience or knowledge, may provide information to the Forum.

- 2.2. The Consultative Forum shall meet at least once a year, at the invitation of the representative of the Member State holding the Presidency of the EU.
- 2.3. A board composed of representatives from the three Member States holding the Trio Presidency shall be established within the Forum. The board shall hold a preparatory meeting prior to each meeting of the Forum.

2.4. Eurojust shall be requested, at a minimum:

- to take responsibility for hosting the meetings of the Forum at its premises in The Hague;
- to take responsibility for the interpretation costs of the Forum meetings;
- to consider the provision of administrative and secretarial support; and
- to consider any possible involvement in the preparation of the meetings of the Forum and its Board.

3. Definition of the Forum's objectives:

The Prosecutors General and the Directors of Public Prosecutions of the Member States of the EU wish to promote the strengthening of the judicial aspect of the EU's internal security by:

- 3.1. Based on their practical judicial experience, discussing the trends of criminality impacting the EU, which could result in an input provided to Eurojust.
- 3.2. Discussing, with a view to improving international judicial and police cooperation and contributing to a EU vision and sharing experiences of prosecution strategies and best practices:
 - 3.2.1. in the main areas of serious and organised crime (such as trafficking in human beings, drug trafficking, terrorism, fraud and other offences affecting the financial interests of the EU, etc.);
 - 3.2.2. in the use of procedures and, in particular, of investigation techniques and the rules of evidence; and
 - 3.2.3. in the use of practical cooperation measures (particularly the European arrest warrant and international letters rogatory).

- 3.3. Contributing to the evaluation of lessons learned, in view of their integration into the next policy cycle.
 - 3.4. Based on their practical judicial experience, when appropriate, contributing to legislative initiatives taken at EU level.
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**MEETING OF THE CONSULTATIVE FORUM
OF PROSECUTORS GENERAL AND DIRECTORS OF PUBLIC PROSECUTIONS
OF THE MEMBER STATES OF THE EUROPEAN UNION**

THE HAGUE, 16 DECEMBER 2010

CHAIR: MR FRANK SCHINS, PRESIDENT OF THE BOARD OF PROSECUTORS GENERAL OF BELGIUM

09:00 - 09:30	ARRIVAL OF THE DELEGATIONS (11TH FLOOR MEETING ROOM)
09:30 - 09:50	WELCOMING SPEECHES
	<ul style="list-style-type: none">– <i>Mr Aled Williams, President of Eurojust and National Member for the United Kingdom</i>– <i>His Excellency Mr Stefaan De Clerck, Minister of Justice of Belgium</i>
09:50 - 10:40	SESSION I OBJECTIVES AND PRINCIPLES OF FUNCTIONING OF THE FORUM (I)
	<p>Introduction and presentation of the draft document related to the objectives and principles of functioning of the Forum:</p> <ul style="list-style-type: none">– <i>Mr Cédric Visart de Bocarmé, Prosecutor General of Liège, Belgium (30 minutes)</i> <p>Response by the representatives of Spain and Hungary (20 minutes).</p>

10:40 - 12:00	OBJECTIVES AND PRINCIPLES OF FUNCTIONING OF THE FORUM (II)
	Tour de table.
12:00 - 12:10	FAMILY PHOTO (10TH FLOOR MEETING ROOM)
12:10 - 13:30	LUNCH (10TH FLOOR RESTAURANT)
13:30 - 14:40	SESSION II NATIONAL METHODOLOGIES FOR DETERMINING PRIORITIES ON CRIMINAL POLICY
	<p>Introduction:</p> <ul style="list-style-type: none"> – <i>Mr Frank Schuermans, Deputy Prosecutor General of Ghent, Belgium (15 minutes)</i> <p>Methodology of “common law” countries. The particular situation of the United Kingdom:</p> <ul style="list-style-type: none"> – <i>Mr Michael Kennedy, Chief Operating Officer, Crown Prosecution Service, United Kingdom (10 minutes)</i> <p>Methodology of the “continental law” countries, with particular reference to Belgium, France, Germany and The Netherlands:</p> <ul style="list-style-type: none"> – <i>Mr Patrick Vandenbruwaene, Deputy Prosecutor General of Antwerp, Belgium (20 minutes)</i> <p>The situation in Slovenia:</p> <ul style="list-style-type: none"> – <i>Ms Barbara Brezigar, Prosecutor General of Slovenia (10 minutes)</i> <p>Debate (15 minutes).</p>

14:40 - 16:25	SESSION III THE EUROPEAN DIMENSION OF CRIMINAL POLICY – CONTRIBUTION OF THE JUDICIAL AUTHORITIES
	<p>Presentations related to the European dimension of criminal policy, and the contribution of the judicial authorities:</p> <ul style="list-style-type: none"> – <i>Ms Michèle Coninsx, Vice-President of Eurojust and National Member for Belgium (15 minutes)</i> – <i>Mr Hans Nilsson, Head of Unit, General Secretariat of the Council (15 minutes)</i> – <i>Mr Reinhard Priebe, Director of Internal Security in Directorate General Home Affairs, European Commission (15 minutes)</i> <p>Debate (1 hour).</p>
16:25 - 17:00	CLOSING REMARKS
	<ul style="list-style-type: none"> – <i>Mr Cédric Visart de Bocarmé, Prosecutor General of Liège, Belgium</i> – <i>Ms Eszter Köpf, incoming Hungarian Presidency, Hungary</i>
