



**COUNCIL OF  
THE EUROPEAN UNION**

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**NOTE**

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From : Presidency

To : Delegations

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14125/1/04 REV 1 CRIMORG 123

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Subject : Draft Council conclusions regarding an administrative approach to combat organised crime

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At the meeting of the Multidisciplinary Group on organised crime on 21 and 22 October 2004, the draft Council conclusions regarding an alternative approach to combat organised crime were discussed. Remarks made during the meeting were in relation to the measures concerning the contact persons and the website.

At the meeting of the Article 36 Committee on 12 November 2004, further remarks were made and delegations agreed on the text as set out in the annex to this note.

Concerning the remarks made during the meetings the Presidency wishes to clarify the following

**Contact persons:**

It is not the intention of the Presidency to aim at the institution of a completely new network for the administrative approach to combat organised crime.

However, to give this relatively new issue a fair chance to develop within the Member States and the European Union, Member States' experts having a similar approach should be able to address themselves to a contact person in other Member States. The contact persons could play a key role in the development and the improvement of the awareness of this issue in the Member States and the European Union.

The possibility should be examined if the topic an administrative approach to combat organised crime and the group of contact persons, in the future, could be assigned to an existing EU structure, for instance the European Crime Prevention Network. For the time being, the Presidency considers that, as a first step, Member States could designate persons who could be of interest as contact points to develop this new topic.

### **Website:**

The discussion in the meeting of the MDG concerned the costs, the management and the security of the website. To restrict the costs and to simplify the management of a website it is preferable to make use of an existing EU website structure. It should be examined which EU website would be appropriate to host the information of the administrative approach to combat organised crime, for instance the website of the European Crime Prevention Network.

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## **Background to the draft conclusions**

On 5 and 6 July 2004 the Ministry of the Interior and Kingdom Relations of the Netherlands organised the seminar “an alternative approach to combat organised crime” (see doc. 12557/04 CRIMORG 79) The aim of the seminar was to increase the awareness and attention within the Member States and the European Union of the importance and possibilities of an administrative approach in the fight against organised crime, complementary to the law enforcement approach.

In practice, some criminal organisations aim at the illegal control over legal markets or try to use society’s legal infrastructure.

As a matter of fact, many criminal organisations need the legal infrastructure for their shady activities to be successful.

This means that if the underworld is to penetrate legal markets, it often has to do so ‘via’ the (local) public administration, for example through licences and subsidies as well as through public procurement.

At the same time, this very aspect makes criminal organisations vulnerable to an administrative approach to organised crime, and it offers public administrations possibilities to combat this type of crime. For instance by an appropriate screening of persons and companies who apply for a licence, subsidy or public procurement. By attacking the underlying structures of organised crime, the administrative approach can play a complementary role, curtailing the development of criminal activities.

The initiative of the Dutch presidency to organise this seminar and to draft Council Conclusions, that reflect the outcome of this seminar, are meant to make a step forward in the awareness and the development of the possibilities of an administrative approach as a complementary instrument in the fight against organised crime.

Considering that the administrative approach to combat organised crime is a relatively new area in the fight against organised crime and is not yet institutionalized within the EU, the Presidency suggests the attached draft Council Conclusions for discussion at the next meeting of the Multi Disciplinary working group on organised crime. In that context, the following should be taken into account:

- A core aim of the EU is the preservation of an area of freedom, security and justice for all its citizens;
- It is a threat for this free area that criminals and criminal organisations more and more penetrate the legal markets.
- Public administrations can play an important role in the fight against crime by developing preventive and repressive administrative measures.
- Political guidelines 13 and 14 and recommendations 7 and 8 of the action plan on organised crime (1997).
- Chapter 2.2 of the millennium strategy concerning preventing penetration of organised crime in the public and the legitimate private sector.
- Recommendations 2 and 3 of the draft report on the measures and steps taken with regard to the millennium strategy nr. 8673/2/03 CRIMORG 36.
- The Dublin declaration nr. 16302/03 CRIMORG 96.
- The final report of the seminar an alternative approach to combat organised crime nr. 12557/04 CRIMORG 79 .
- Developing a strategic concept for the fight against organised crime nr. 11535/04 CRIMORG 65.
- The Commission Communication to the Council, European Parliament and European Economic and Social Committee on a comprehensive EU policy against corruption n° 10332/03 JAI 168

**Draft conclusions of the Council concerning an administrative approach to combat organised crime.**

THE COUNCIL OF THE EUROPEAN UNION

**Takes note** of the findings and recommendations of the seminar “an alternative approach to combat organised crime” held in The Hague on 5 and 6 July 2004.

**Acknowledges** that public administrations can unwillingly facilitate and sometimes even unlawfully collaborate with the activities of criminal organisations by granting licences and subsidies as well as through public procurement. Organised crime often abuses the systems and infrastructure that has been established by public administration.

**Acknowledges** that an administrative approach to combat organised crime can complement and reinforce the penal approach.

**Acknowledges** that an effective development of an administrative approach to combat organised crime requires more knowledge and understanding of the scale and the nature of the problem of unwillingly facilitating the activities of criminals by the public administration.

**Endorses** that the fight against criminal organisations and their use of corruption and fraud can be made more effectively with a preventive exclusion of shady businesses or individuals from public procurement.

**Endorses** that it is essential for an effective administrative approach to combat organised crime, that Member States should, if appropriate, exchange information to make an adequate screening of persons and companies possible.

**Calls on** the Member States to take measures to prevent that criminal organisations can establish in the legal markets.

**Endorses** the proposals in the **annex** as a next step in the development of an administrative approach in the fight against organised crime and requests to receive yearly a report on the progress of this development.

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**1. Member States should appoint a contact person on this theme.**

The contact persons shall facilitate cooperation, contacts and exchanges of information and experiences between Member States and between national organisations and bodies, as well as between Member States and the Commission, working groups of the Council and other groups of experts and relevant networks. The Member States shall designate the contact persons to the General Secretariat of the Council which shall make the name known to other Member States and the European commission.

The European Crime Prevention Network (EUCPN) is invited to reflect on the best way to make use of the expertise in this field in the framework of this network.

**2. Conduct research**

To promote the awareness and the development of an administrative approach against crime in the European Union, it is necessary to conduct more research:

By the Member States

- To what extent and in which areas criminal organisations (can) make abuse of administrative facilities as licences, subsidies and public procurement.

By the European Union (for instance within the context of the Forum on the prevention of organised crime or via the European Crime Prevention Network)

- How can now and in the future the European Union have a coordinating or executive role in the development of the administrative approach in the fight against organised crime and the exchange of information for this purpose?
- Which legal impediments obstruct the development of an administrative approach on the level of in the European Union?

### 3. Setting up a website

This website should be an easy to consult point of reference for interested parties (public bodies) and supply in all relevant information about administrative approaches. Preferably there will be made use of an existing EU website structure.

It should be examined which EU website would be appropriate to host the information of the administrative approach to combat organised crime, for instance the website of the European Crime Prevention Network.

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