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(Information)

COUNCIL

COUNCIL RECOMMENDATION

of 25 April 2002

on improving investigation methods in the fight against organised crime linked to organised drug trafficking: simultaneous investigations into drug trafficking by criminal organisations and their finances/assets

(2002/C 114/01)

THE COUNCIL OF THE EUROPEAN UNION,

TAKING INTO ACCOUNT the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted in Vienna on 20 December 1988,

TAKING INTO ACCOUNT the United Nations Convention against transnational organised crime adopted in Palermo in 2000,

TAKING INTO ACCOUNT the Presidency Conclusions of the special meeting of the European Council held in Tampere on 15 and 16 October 1999,

TAKING INTO ACCOUNT the European Union Action Plan to Combat Drugs, approved by the Feira European Council in June 2000,

TAKING INTO ACCOUNT the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime,

TAKING INTO ACCOUNT the Council Framework Decision on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime, of 26 June 2001 (¹),

Whereas:

- (1) The actions envisaged by the European Union Action Plan to Combat Drugs include stepping up the fight against organised crime, illicit drug trafficking and organised crime linked to it, and other forms of drug-related crime by means of various actions, including the promotion of new investigation techniques.
- (2) The European Union has also shown its firm determination to fight all types of crime, including those linked to organised drug trafficking, by adopting the

necessary legislation, and trying to counteract the concern caused by the growing incidence of illicit drug trafficking in different social groups.

- (3) Illicit drug trafficking generates vast fortunes which allow drug-related crime to adversely affect society in general; for that reason, depriving such organisations of the enormous profits obtained from their illicit activities, as well as seizing the drugs, causes them serious damage, thus thwarting and preventing their resurgence.
- (4) Investigation techniques should be promoted, made more rigorous and also improved, in order to make them more effective in the fight against crime linked to organised drug trafficking.
- (5) It is convinced by the results obtained in some Member States, and should like to try to implement, where necessary, the investigation technique whereby action is taken on all fronts from the outset of the investigation on crime linked to drug-trafficking, which makes it possible to uncover illicit drug-trafficking activities, the assets (of whatever kind) held by the organisation and those acquired as the investigation proceeds, and to identify their holders.
- (6) It is also convinced that the technique of simultaneous investigation will be more effective, since the competent authorities will be able to decide to seize property of any kind resulting from criminal activity and prevent its disposal, in all cases in accordance with the national laws of each State.
- (7) Such an investigation technique can also lead to further evidence corroborating the link with those involved with the crime, or revealing the involvement of other people in the drug-trafficking offence.

⁽¹⁾ OJ L 182, 5.7.2001, p. 1.

- (8) Sources constitute an essential basis for investigating assets, either internal such as the databases of law enforcement bodies, or external whether public (with public access where relevant) or private (consultation by means of a court order).
- (9) There is a need for greater cooperation in expediting requests submitted by the competent law enforcement, court and tax authorities to the persons responsible for the various registers containing data on the ownership of assets of any nature held by the persons presumed to be involved in drug trafficking offences. (The persons responsible would be in charge of, for example, public registers, such as the Property Register, or private registers such as those of credit institutions), in each case observing the applicable national laws.
- (10) The final objectives of such an investigation technique are to ensure that the perpetrators are held accountable, to make good any damage caused and to compensate any victims where appropriate.
- (11) The investigation technique of 'uncovering' the assets of any nature belonging to criminals involved in organised drug trafficking will be known as asset investigation, for the period required to establish the assets resulting from the investigation, which may or may not coincide with the conclusion of the drug-trafficking investigation.
- (12) Assets are defined as the collective property and financial rights owned by a natural or legal person, and asset investigation is defined as the investigation technique enabling information in a series of files and databases (public or private) or other sources to be systematically analysed to identify such individual assets and financial rights and to attribute their ownership to specific natural or legal persons.
- (13) Instrumentalities, property, proceeds and confiscation are as defined in the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.
- (14) In the context of the European Union, a number of initiatives are close to completion with the aim of implementing new measures against crime, including drug-related crime, on joint investigation teams and on court orders for the preventive freezing of assets and obtaining evidence,

HEREBY RECOMMENDS MEMBER STATES:

- A. To apply, whenever they consider it necessary, the investigation method in the fight against crime, including crime linked to organised drug trafficking, consisting of investigating on all fronts, right from the beginning, any activities connected with illicit drug trafficking and identifying the organisation's finances and assets.
- B. To encourage the setting up of permanent or temporary groups specialised in asset investigation, in order to promote greater efficiency in the investigation method described.
- C. To reinforce or facilitate cooperation between the competent law enforcement, court and tax authorities and persons responsible for the various public or private registers of ownership holding information on assets of any nature, by speeding up the processing of requests for information made by those authorities. (The persons responsible would be in charge of, for example, public registers, such as the Property Register, or private registers such as those of credit institutions), in each case observing the applicable national laws.
- D. To promote the creation of joint investigative teams between Member States pursuant to the legal instruments of the European Union by applying such methods in cases where the investigation into the criminal organisation involved in drug trafficking affects more than one Member State.
- E. To invite Europol, in accordance with the Council Recommendation of 30 November 2000 to the Member States in respect of Europol's assistance to joint investigative teams set up by the Member States⁽¹⁾, to support those teams when requested to do so.
- F. To use the possibilities offered by CEPOL (the European Police College) in devising specific training modules on use of this special investigation technique.

Done at Luxemburg, 25 April 2002.

For the Council

The President

M. RAJOY BREY

⁽¹⁾ OJ C 357, 13.12.2000, p. 7.