

## JOINT ACTION

of 17 December 1996

adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning the approximation of the laws and practices of the Member States of the European Union to combat drug addiction and to prevent and combat illegal drug trafficking

(96/750/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles K.1 (4) and K.3 (2) (b) thereof,

Having regard to the French initiative,

Recalling that the Cannes European Council, of 26 and 27 June 1995, approved the work relating to the European action plan to combat drugs (1996 to 1999) and recognized the need for an integrated approach in this area;

Recalling that the Madrid European Council, of 15 and 16 December 1995, approved the report from the group of experts on 'Drugs' and that some of its 66 proposals have already been converted into precise, coordinated operational activities within the European Union, in accordance with the European Council's instructions;

Recalling that the European Council also invited the Italian and Irish Presidencies to prepare, after consultation of the Member States, the Commission, the Europol Drugs Unit and the European Monitoring Centre for Drugs and Drug Addiction, a programme of activities which took account of that report, progress with which would be examined at the Dublin European Council on 13 and 14 December 1996;

Considering that the Florence European Council on 21 and 22 June 1996 stressed the vital importance of reinforced cooperation between Member States to fight against drugs;

Considering that the same European Council restated the importance of speedily completing the study on harmonization of Member States' laws and its impact on reducing consumption of and illicit trafficking in drugs;

Taking note of the report on harmonization of national legislation on drugs as requested by the Madrid and Florence European Councils;

Recalling the priority attached by the Irish Presidency to the fight against drugs, and the initiatives taken further to the instructions of the Madrid and Florence European Councils to give it a specific content, and in particular the Council resolution on sentencing for serious drug trafficking;

Considering that Member States fulfil their obligations under the United Nations Conventions of 1961, 1971 and 1988 and that they will examine ways of making strict compliance with those Conventions more effective, in particular by helping third countries to fulfil their obligations;

Considering that Member States reaffirm their common determination to put an end to illegal drug trafficking in order to protect society from its devastating effects and from the other deep-seated causes of the problem of drug abuse, in particular the illegal demand for drugs and the enormous profits from the illegal trade, and that an approximation of laws and practices designed to render cooperation more effective would be a positive contribution to that objective;

Noting the memorandum 'On a European social model' submitted by France at the Turin European Council on 29 March 1996, advocating harmonization of national legislation on combating drugs;

Considering the dangers inherent in the development of synthetic drugs;

Considering that the report on harmonization drawn up by the Council and the Commission in response to the aforementioned instructions recognizes that synthetic drugs might constitute a priority area for putting the report into practice;

Considering that, in the absence of harmonized legislation, mutually compatible practices would reinforce European cooperation in fighting drug addiction and in preventing and combating illegal drug trafficking;

Considering that a high level of European and international cooperation between police, customs services and judicial authorities would help to increase the efficiency of the fight against drug trafficking;

Considering that the fight against drug trafficking must be combined with an active policy of prevention, care and rehabilitation of drug addicts;

Noting the Community action programme on the prevention of drug dependence and in particular the fifteen priority actions which it contains;

Considering that the provisions of this joint action are without prejudice to the general principle that a Member State may maintain or step up its national policy in the fight against drugs in its territory;

Without prejudice to the powers of the Community,

HAS ADOPTED THIS JOINT ACTION:

#### *Article 1*

Member States shall undertake to cooperate fully in the fight against drug addiction and shall endeavour to approximate their laws to make them mutually compatible to the extent necessary to prevent and combat illegal drug trafficking in the Union.

#### *Article 2*

Member States shall endeavour to make the practices of their police, customs services and judicial authorities more compatible with each other, thus making for closer European cooperation to prevent and combat illegal drug trafficking in the Union.

#### *Article 3*

Member States shall undertake to combat illicit movements of narcotic drugs and psychotropic substances within the Community, including 'drug tourism'.

#### *Article 4*

Member States shall ensure that under their legal systems the penalties imposed for serious drug trafficking are among the most severe penalties available for crimes of comparable gravity.

#### *Article 5*

Member States shall endeavour to draft convergent legislation to the extent necessary to make up legal ground or fill legal vacuums as regards synthetic drugs. In particular they shall promote the establishment of a rapid information system to enable such drugs to be identified as substances liable to be prohibited as soon as they appear anywhere in a Member State.

#### *Article 6*

Without prejudice to the powers of the Community, Member States shall undertake to adopt the necessary measures to effect a tangible increase in operational cooperation between police, customs services and judicial authorities in combating drug addiction and preventing and combating illegal drug trafficking.

#### *Article 7*

Member States shall ensure that their obligations under the United Nations Conventions on narcotic drugs and psychotropic substances of 1961, 1971, and 1988 are applied strictly and effectively.

#### *Article 8*

Member States undertake to take the most appropriate steps to combat the illicit cultivation of plants containing active ingredients with narcotic properties.

#### *Article 9*

Member States undertake, subject to their constitutional principles and the basic concepts of their legal systems, to make it an offence publicly and intentionally to incite or induce others, by any means, to commit offences of illicit use or production of narcotic drugs. They shall be especially vigilant as regards the use made of on-line data services and in particular the Internet.

#### *Article 10*

Nothing in this joint action shall prevent a Member State, with due regard for its international commitments, from maintaining or introducing in its territory any additional measure it deems appropriate to fight drug addiction and to prevent and combat illicit drug trafficking.

*Article 11*

The Governments of the Member States shall undertake to take all appropriate steps to implement this joint action as soon as it is adopted.

The Presidency shall report to the Council each year on the implementation of this joint action.

*Article 12*

This joint action shall come into force on the day of its adoption.

*Article 13*

This joint action shall be published in the Official Journal.

Done at Brussels, 17 December 1996.

*For the Council*

*The President*

I. YATES

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