



CENTRE FOR
EUROPEAN
POLICY
STUDIES

**THE TRADE-OFF BETWEEN TRUST & FLEXIBILITY
IN THE APPLICATION OF THE JUSTICE AND HOME
AFFAIRS ACQUIS IN THE CANDIDATE STATES**

PROCEEDINGS OF A CEPS-SITRA NETWORK MEETING

BY

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THE TRADE-OFF BETWEEN TRUST AND FLEXIBILITY IN THE APPLICATION OF THE JUSTICE AND HOME AFFAIRS ACQUIS IN CANDIDATE STATES

PROCEEDINGS OF A CEPS-SITRA NETWORK MEETING

1. Reshaping the network

Although there are core members in the network, the network will evolve to establish a better balance between geographical, national and in response to institutional coverage and the need to recruit new persons as the subjects change.

2. Agenda for the next 5 years

(Conclusions of the brainstorming meeting of 21st September 2001)- Malcolm Anderson's paper.

The specificities of JHA compared to other EU policies

- 1) Unlike the single market, JHA involves continuing and increasingly intensive cooperation between government agencies in the member states.
- 2) Creating a European judicial area involves policy convergence and approximation of laws. It also involves ideological concepts – e.g. ‘a high level of security’ as well as arguments on basic values. All these may be conceived differently in different national settings.
- 3) It is a particularly difficult form of cooperation because of sensitivities about sovereignty and the diversity in the legal and police system of the member states (and of candidate countries).
- 4) Problems of managing a more integrated EU system are different from those within national systems and potentially more intractable. The concepts of trust, flexibility, coordination and efficiency must be revisited at the European level.

→ These specificities require a holistic approach to JHA.

Sources of strain and tension in JHA

- 1) A number of frictions potentially arise from the political decision-making processes –non-ratification of third pillar conventions; decisions by the European Council not followed up by practical measures; legislative fatigue/blockages, etc.
- 2) Operation of national legal systems can cause tensions in certain areas: pre-trial detention; varying standards of due process and fair trial; excessive delays in bringing cases to trial; lack of common definitions;...
- 3) Police practices and malpractice provoke hostile reactions and incomprehension between partner states. Amongst these are the use of firearms, excessive violence,...
- 4) The incidence of corruption is uneven across member states and candidate countries. This encourages the perception that closer European integration brings the risk that corrupt practices from some other member states will become even more widespread. More comparative analysis is needed to assess the levels of corruption between current and future Member States.

- 5) The difficulties of arriving at European policies on immigration and asylum are likely to create turbulence in areas such as hostile reactions to a 'half-open' immigration policy, given the high structural unemployment in some member states.

Future scenarios for institutional change in JHA

- 1) Further Europeanisation of border controls: the idea of a European border guard?
Possible scenarios for future development, in ascending order of difficulty, are common training of border guards, regular external inspections, a border guard intervention force, harmonised legal powers for border guards, harmonised command structures, and a European supervisory board for all border guards.
- 2) A European public prosecutor?
There are in general three approaches: the *communautaire* approach by Prof. Delmas Marty (the development of a body of penal law, the *corpus juris*, to protect the financial interests of the Community). The second is to protect EU citizens against serious forms of transborder criminality. The third approach is the creation of a genuine judicial area on the basis of the principle of justice. This would be achieved by general convergence of national penal policies. This is a long-term, and by its nature a piecemeal, process.
- 3) A federal element in policing?
The speedier progress of police cooperation than judicial cooperation has been widely noted. There are two ways in which further progress can be achieved. The first is through customs and practice, which have always played a key role in the development of police systems. The second is by granting Europol executive police powers first by requiring national police forces to engage in investigations and communicate the results and, second, through powers of search, seizure and arrest, which it would exercise in conjunction with national police forces.

Management requirements

EU institutions and cooperative arrangements should both have a clear mandate and be well run. In the main institutions already established or agreed in JHA, as well as in the future developments, the main managerial objectives should be to achieve high levels of:

Trust basic requirement for effective cooperation,

- a) Flexibility the first form of flexibility is the use of forms of regulatory measures that take account of variations in national and local conditions. The second form of flexibility, that has been little explored yet, is reinforced cooperation between a number of member states,
- b) Coordination: coordination at national level is achieved through inter-ministerial committees, financial control, administrative law and administrative supervisory bodies, and inspections. None of these is available at the European level when the coordination of action by national agencies is required to implement policies.
- c) Efficiency in the national context, penal policies have more and more become subject to evaluation in terms of cost-benefit. This approach has not yet been introduced at European level.

The external dimension of JHA:

The external dimension of JHA has become increasingly important as a:

- enlargement;
- globalisation; and
- treaty changes.

3. Other subjects that merit attention:

The issue of the lack of consistency as Presidencies rotate

The priorities are changed by each Presidency, and there is a risk each time of substantial policy shifts. Some countries holding the presidency still promote their own particular interests. Shouldn't this question that be addressed?

This issue has been discussed in the Council, however, and is the reason why there are now scoreboards and action plans. The problem should therefore belong to the past. Even though some countries promote some national interests (i.e. Belgium with Euro Childfocus), the agenda is now mostly modified by major international events (Kosovo, terrorism,...).

The issue of the lack of transparency of the accession reports

Facing the limits of the Annual Accession Reports of the Commission in the domain of JHA, some researchers have been interested in the parallel secret reports of the Collective Evaluation Group of the Council. These reports are not published, as they are not diplomatically acceptable. This secrecy poses problems of transparency and of the right to have access to documents, as valuable information is kept not only from the public but also from the candidate countries' governments and the other European institutions as well!

The European arrest warrant

Italy initially blocked the agreement at the EU Justice and Home Affairs Council on 6-7 December, disagreeing with the list of 32 serious cross-border crimes. Rome insists that the European arrest warrant should only apply to a smaller list of six crimes, excluding financial crime and fraud.

The Belgian Presidency had invested a lot in this issue and all the delegations could not understand the reasons initially given by the Italian government to refuse the extension of the list to financial crime. The Italian government, however, withdrew its objections before the Laeken Council (14-15 December 2001).

The text has a much higher degree of obligations than the current extradition convention. Big problems related to the concept of trust in human rights standards in other European countries (especially in accession countries!) are likely to rise (the whole idea being based on the assumption that same human rights guarantees are available in every member state) as well as with regards to the relation between EU law and the ECHR.

4. Reactions to Malcolm Anderson's presentation

As regards flexibility

If the Nice Treaty is ratified, it will remove the possibility that one member states refusal to participate in a reinforced cooperation, can prevent on grounds of national

interests (the so-called emergency break) the reinforced cooperation of the other member states. In the case of the arrest warrant, Italy may not be able to claim that this is a matter of national interest.

After enlargement, reinforced cooperation is likely to be frequently used. The purpose is not to exclude some countries, but to give them the necessary time to prepare themselves. Since the mechanism of joining afterwards is easy, flexibility in this context should not be seen as a threat.

However, there might be a tension between the notion of establishing an *area* of Security, Freedom and Justice and flexibility, as the notion 'area' implies moving ahead together. There is a fear that the 'laggards', especially from among the candidate countries, will never be able to catch up and that the *acquis* will be broken into two parts.

A question has also been raised about cooperation with neighbouring non-accession countries, which should occur on a regular basis (and not only through *ad hoc* agreements), e.g. common training programmes for civil servants, police forces, etc.

For further research on flexibility, please refer to Alexander Stubb, "Dealing with Flexibility in the IGC" in Edward Best, Marc Gray and Alexander Stubb (eds.), *Rethinking the EU: IGC 2000 and Beyond*, European Institute of Public administration, 2000.

As regards the European Prosecutor

The question was raised whether the creation of a European Public Prosecutor was based more on political willingness than on a practical need.

A public prosecutor can do little by himself: he has to be supported by an administration. For practical reasons, it is more likely to have a collective coordination body (some sort of Eurojust at prosecution level) rather than a European Service.

The proposal for a European Prosecutor is based on the *corpus juris*, i.e. on the financial interests of the Community, which do not interest the European citizens. The financial interests should be a domain among many others (terrorism, corruption,...). An interesting idea would be to create a category of real "Eurocrimes": not only common definitions and standards, but crimes that would involve the same police (Europol), the same investigator (Eurjust),... This would represent a real common judiciary area.

As regards the lack of trust

In accession states, there is no tradition of transparency. There is a general lack of databases and centres that provide information, which is the basis of trust.

5. Summary of Monica Den Boer's presentation

JHA is "under construction"

JHA is centred around symbolic politics, which explains the reluctance of member states to further harmonise and therefore the amount of soft law, the vetoes, the opt-outs and in general the discordant nature of the whole area. It has had an incredibly rapid

evolution, but on the other hand, the programmes and the institutions take longer to be realised or implemented.

Factors explaining the ambivalence in JHA

- a) The hybrid system between an intergovernmental and a supranationalistic approach
- b) The tension between transgovernmental interdependence and sovereignty
- c) The simultaneous need for deepening (legal harmonisation, institutionalisation) and widening (enlargement).
- d) The increasing number of actors (candidate countries but also private actors and NGOs), which causes more uncertainty and rivalries (i.e. between Europol and Eurojust).

→ Is this a Tower of Babel or Jérôme Bosch's Garden of Earthly Delights?

The "mirror-mirror on the wall" metaphor

Accession countries are requested to put in place Schengen, Title IV, Title VI and the evolution until accession. Meanwhile, however, the *acquis* is not yet implemented. The real problem will be on the implementation side. For Schengen, for instance, the *acquis* has to be implemented from accession onwards. This is perceived as being unfair as some current member states have had opt-outs and their record for implementation is not splendid. The applicant countries potentially face numerous problems in satisfying the requirements in the policy area of Justice and Home Affairs cooperation. The demands can be considered as much wider than those that applied at the time of previous accessions to the European Union. Not only was the JHA policy only formally initiated with the adoption of the Maastricht Treaty, but never before did a candidate member have to adopt the Schengen *acquis* at the same time as it acceded to the EU. Applicant countries are also asked to accept, in relation to the legal instruments still under negotiation, the points that have been agreed on by the Fifteen or the Council at the date of accession to the Union.

Scenarios for a multi-speed integration

There are currently three scenarios under discussion that would allow for a multi-speed integration of candidate countries into the Area of Freedom, Security and Justice.

The first scenario is a "two-step process" in which a distinction is made between the obligations that are required for the candidate countries upon accession, and the lifting of internal border controls. A decision about the adoption of such a procedure is currently pending with the Council.

The Dutch Scientific Council for Government Policy has proposed a second scenario: in the specific domain of JHA, a two-step-procedure should be followed, consisting of two elements, namely a test of the implementation of the so-called "core *acquis*", and a test (administered at a later date) of a residual *acquis*. Such a procedure would first allow accession of the candidate countries to the EU, and the responsibility for (current) external border controls would initially lie with the current member states. After accession, the Council would have to take a unanimous decision about full participation of a particular country.

A third, related, scenario is the possible distinction between accession to the EU and the putting into effect of the provisions of the Schengen *acquis* (as was done for the Nordic countries).

Are we definitely heading for a patchwork Europe?

6. Summary of Joanna Apap's presentation: Maintaining the balance between freedom and security in the context of enlargement

Enlargement of the European Union will create a new external EU border in the eastern part of the continent. This new border will stretch from the north beginning with the twin town of Narva-Ivangorod on the Estonian-Russian border, through areas of Western Belarus bordering Latvia, Lithuania and Poland, to the Ukrainian borders with Poland, Slovakia, Hungary and all the way south along the Romanian border with Moldova and Ukraine. There will also be the Russian enclave of Kaliningrad, surrounded by the EU countries of Poland and Lithuania. Other new external EU borders will be drawn between Hungary and Slovenia on the one hand and Yugoslavia and Croatia on the other. The management of this future border will have a profound impact on relations between the EU and the non-EU parts of Europe.

EU policies, whether explicitly targeted at non-candidate countries or only affecting them indirectly, should take all possible measures to facilitate the crossing of its borders by the citizens of states neighbouring the EU. The construction of a new wall at the eastern-most extremes of the EU is an anachronism in the post-cold war era. The stability of the countries of Eastern and South-Eastern Europe that are outside the EU will be one of the crucial challenges for the enlarged European Union as a whole. Unfortunately, one can observe a distinct lack of coherence and coordination among three principal areas of EU policy, namely external relations, enlargement and justice and home affairs.

First, looking at EU foreign policies (CFSP) manifested both in high-level declarations by top EU officials and some of the foreign ministers of member countries, one can see an attempt to maintain a certain degree of openness towards the countries neighbouring the enlarged EU. Care needs to be taken that no new Berlin walls are erected and that the ultimate goal is to forge the closest possible partnerships.

These declarations, however, are contradicted by the dynamics of the enlargement process, where the strict application of the Schengen *acquis* concerning border controls and visa regimes is required from candidate countries. Their willingness to implement all restrictive border provisions is considered as one of most important indicators of their preparedness for membership. Furthermore, and in contrast to the stance taken vis-à-vis current EU member states, this appears to be a non-negotiable issue.

The underlying reason for such EU positions lies in the domain of EU home affairs policy, which is strongly influenced by widespread fear of uncontrolled immigration from beyond the EU's territory, and criminal activity by foreigners within members state societies. Restrictive immigration controls, manifested in particular in the form of visa regimes at external borders, are seen as a necessary response to those fears and determine the nature of external borders. This is the case, despite the fact that visas are not necessarily very effective instruments in curbing either criminal activity or illegal immigration.

These fears result in a paradox: new members are expected to introduce 'hard' Schengen borders that could negatively affect these countries' relations with non-EU neighbours, while at the same time the expected advantage of lifting border controls between old and new members, and the freedom of taking up employment, will be delayed for several years after accession. This consequence will not only have a negative impact on future EU neighbouring countries, but it will also produce feelings of second-class membership among new members.

The EU's position is generated by a dual fear on the part of current members: fear of immigration from non-candidate countries (the citizens of which are all subject to the visa regime) but also the fear of immigration originating from candidate countries. Candidate states are being asked to fully implement the Schengen *acquis* without sufficient consideration being given to the maintenance of stable geo-political relations in the region.

How can we prevent a substantial decrease of contacts between the CEECs?

An borders policy within Central and Eastern Europe has helped to break down stereotypes and hostilities in the region, such as between Poland and Russia. It has also helped foster contacts between national minorities, such as between Hungarians in Ukraine, and has generated spheres of economic activity and co-operation within the region. The EU accession of Baltic and Central European states threatens to undermine this program. (It is to be noted, however, that stricter visa regimes do not necessarily mean a complete breakdown in contacts, as the continued cooperation of citizens on the Finnish-Russian border shows, despite Finland's entry into the EU.

There are two major regions where the breakdown of contacts has the greatest negative potential: Kaliningrad and the Narva-Ivangorod border between Russia and Estonia. In the context of Kaliningrad, it was recommended that the current visa-free regime with Poland and Lithuania be maintained right up to the entry of these two countries into the EU, while the Estonian practice of issuing visas free of charge/for a minimal fee for citizens with family contacts on the other side of the border was seen as a potential model to emulate along the whole of the future EU border.

What are the possible paths forward following enlargement, after the extension of the Schengen *Acquis* to the new member states?

The perception of EU enlargement among the EU's future Eastern neighbours has both positive and negative aspects. Ukraine, for instance, sees itself as threatened with marginalisation from the rest of Europe, while simultaneously, envisioning the potential for an increase in prosperity for the Western border of Ukraine, which will lie along the future EU frontier. In order to increase the level of cooperation along the future EU border, some steps could be envisaged, such as: the increase of the motivation for 'blacklisted' countries to cooperate with the EU, to analyse good practices and see about the validity of their being exported to other parts of the future border. Possible best practices can be seen in the Greek practice of issuing residency permits to citizens in Albanian/Greek border areas.

Conclusions

The debate surrounding visa regimes on the future EU border often incorporates such images as a 'new Berlin Wall' or a new 'Iron Curtain': images suggesting a dominating

ideological element inherent in visa policy. Visa regimes are not intractable ideological barriers threatening to slice up Europe, but rather a challenge that can be surmounted with the necessary political will and technical innovation.

The actual dynamic invoked by the implementation of visa regimes is impelled by several developments, e.g. EU enlargement, foreign relations, migration policy, economic demands that are often mutually exclusive. To illustrate, economic demands dictate that it would be good for Russian business to radically simplify (or indeed cancel) the need for EU businessmen to obtain visas to visit Russia, while the logic of reciprocity in foreign relations means that such steps could not conceivably be taken without the EU implementing identical measures with respect to Russian businessmen.

Reactions to the presentation: A series of paradoxes

First paradox: On the one hand, it is said that you cannot have security with open borders, but on the other hand, there is a will to open borders to facilitate trade.

Second paradox: As candidate states align their visa policy by introducing visas (e.g. Slovakia for Ukrainian citizens), the neighbouring countries threaten to withdraw the readmission agreements they had concluded with these accession countries. To have a secure border you need to cooperate with the authorities of the bordering state and readmission agreements are essential in that cooperation. Another example of this paradox could be the one of Kaliningrad: according to security logic, the enclave should be cut from Lithuania and Poland. The situation in the enclave is already declining. As a result, the EU is going to have inside itself an island with very poor living conditions and widespread criminal activity.

Third paradox: by focusing so much on anti-terrorist measures, the authorities have created a psychosis leading to general anxiety about security (even if the situation in Corsica and the general violence against police officers in France contribute to this psychosis).

In the new anti-terrorist legislation (at least in Hungary and Slovenia), no single mention of civil liberties is made. Stability (as it was 10 or 20 years ago) is a more important value than civil liberties.

Fourth paradox: The existing policy involves immense hypocrisy. On the one hand, we pretend to abide by stringent and restrictive laws and on the other, we tolerate the existence of extensive areas of the shadow economy based on immigrant labour, which is undoubtedly beneficial.

Metaphor of the bird. Civil liberties are like a bird that is held in the hand: If you squeeze it, the bird will die. If you open it, it will escape.

However, the simple opposition between security and justice is not justified. A part of liberty is to have a minimum level of security. There is a problem only if security becomes an exclusive dimension.

Weiler says that if the European Union has a mission, it is to provide protection against the most security-oriented and restrictive patterns of national policies.

The question of joining Europe or not will be submitted to referendum. Citizens of the accession countries will have to give their opinion about a Europe that will not bring them the euro, freedom of movement or control over their civil liberties.

7. Summary of Elspeth Guild's presentation

The period from 20 September until 19 October 2001 is marked by six events at EU level evidenced in the statements, minutes and declarations which have had the consequence of changing dramatically the venues within which policy development takes place in the European Union specifically in any field intended to touch upon the issue of terrorism. During this month of transformation, the institutions of the EU change the terms of reference of many policy-generating fora and created new ones to fill perceived gaps. The speed with which the fora were created/transformed and the diversity of actors engaged at national and EU level represents a substantial change. Since the late 1980s and the early 1990s when the number of fora for discussion of inter-member state police, immigration and justice issues reached surprising proportions, there has been a consistent effort to reduce this number through their incorporation in the treaty structures first in Maastricht then more substantially, at Amsterdam. This process of convergence of policy-generating fora and their “taming” within a highly structured institutional forum appears to have been reversed.

Snapshot of Events, 20 September – 19 October 2001

Event	Date	Result
JHA Council Meeting	20 September	Conclusions (SN3926/6/01)
Joint statement on terrorism (Interior and Justice Ministers)	20 September	EU-US Ministerial Statement Presided by Javier Solana
European Council Meeting (Heads of State)	21 September	Conclusions and Plan of Action (SN140/01)
European Parliament vote on European Council 21 September 2001	4 October	431 votes in favour; 45 against; 24 abstentions.
General Affairs Council Meeting	17 October	Conclusions
European Council Meeting	19 October	Declaration (SN4296/2/01)

New Fora, Institutions

Taking the meetings chronologically, the following fora are changed or newly established:

1. The Police Chiefs Task Force will be placed in charge of cooperation between police and intelligence services in the member states. It will also be responsible for the broad lines of investigation of a team to be established under Europol on anti-terrorism. It is also responsible for a further tightening of controls at the external borders. They are also charged with inviting US authorities to share practices and developments, linked with the Head of Police and Security and Intelligence Services.

2. New institution: a team of counter-terrorist specialists to be set up within Europol but linked to the Police Chiefs Task Force. It will consist of two liaison officers from each member states police and intelligence services irrespective of the legislation that covers their operation. Article 13 Mutual Assistance in Criminal Matters Convention is intended to make this legal. The new team's tasks will be collect relevant information and intelligence concerning the current threat; analyse the information and undertake operational and strategic analysis, draft a threat assessment document. It has a life time of six months but may be renewed. This team is also to establish relations with US authorities and make a joint evaluation of terrorist threats and exchange information on national measures to fight terrorism.
3. Pro-Eurojust (which is intended to become Eurojust after 6 & 7 December Council Meeting adopts its statute; currently it operates under the mandate of a decision of the Council of 28 December 2000). It is charged with examining with US magistrates how to improve counter-terrorism judicial cooperation.
4. Forum of magistrates investigating terrorism in the 15 member states.
5. Europol: it is charged with receiving information from police and intelligence services on terrorism. The Director is charged with establishing informal cooperation with the US authorities and preparing an agreement to permit cooperation with US authorities formally including exchange of liaison officers in the policing sector. He is also to prepare a second agreement to permit the exchange of data with US authorities.
6. Article 36 Committee (the Schengen Committee): assigned new task of coordinating between Europol, Eurojust and the Police Chiefs Task Force.
7. New Forum: Head of Police and Security and Intelligence Services to be set up by 1 November 2002.
8. New Forum: under the control of the Article 36 Committee a group of two national experts on counter-terrorism seconded from police and intelligence services to define a peer assessment of national anti-terrorist arrangements such as legislation that makes administrative telephone tapping legal. An evaluation report must be produced by the end of 2002.
9. CORTER/JHA Working Party on Terrorism Troika: it will have twice yearly meetings with US authorities.
10. The Financial Action Task Force is to identify measures to take against countries and territories that are not cooperative in the fight against terrorism (all by the JHA 20 September 2001 meeting).
11. A European coordinator for civil protection measures will be appointed to supervise work on biological and chemical terrorism (European Council, 19 October 2001).

8. Consequences of 11 September on JHA

There is no direct cause and effect relationship between the terrorist attacks and the tightening of visa regimes. The latter was already on the agenda before 11 September. The terrorist attacks did not shape the agenda of the Belgian presidency dramatically. They were an excuse to reinforce priorities given to certain matters over the others.

In the whole context of control and security, one must not however ignore civil rights and liberties, including those of candidate countries. For instance, due to a toughening up of visa regimes, persons in neighbouring states find it difficult to visit relatives across the border. This situation is also potentially leading to a problem of small border traffic. More concretely, the Russians citizens living in Kaliningrad will be subject to severe visa restrictions, which will hinder their movement within the Baltic region and further westwards. This could also lead to a negative perception of their neighbours, thus placing restraints on their potential cooperation and motivation to ameliorate the situation within the enclave.

Schengen has a dual nature. One aspect is of conceptual nature and is linked to the psychological perception of being put on the black list or on the SIS. The second is of technical nature, that is to say the technical barriers (visas, mechanisms of border control). However, these barriers have so far been more efficient in restricting the entry of normal honest citizens rather than well-connected human traffickers.

Human trafficking (which must be distinguished from human smuggling) from Eastern Europe is still prevalent. Since 1996, the decision to fight trafficking – especially of women from the CEECs – has been taken. The security threat is actually an external one, but our society is at risk. Therefore, it also becomes a matter of internal security. However, it is very difficult to determine whether the trafficked persons themselves are also part of the security threat. Due to their illegal work, potential collaboration with the traffickers sometimes remains an option, even if they are the victims most of the time. In a recent judgement by the ECJ (Nov 2001), it was established that prostitution as a self-employed activity does not guarantee admission (entry and residence) for third country nationals, as long as that activity is not recognised by the member state as a profession. And if so, there is a right of establishment according to the provisions of the association agreements with the individual Visegrad countries.

Security in this context is perceived in a very narrow sense, meaning protection of the labour market from those who engage in black market labour without paying social security as well as assuring public safety on behalf of the whole society's interests.

What is a proportionate response to the challenges of the 11 September? We should avoid the risk that the metaphorical pendulum (see H. Wallace and W. Wallace, 1996, *EU Policy-Making in the Process*), which oscillates between national and supranational interests in response to the evolving needs of the member states, swings too much towards security and repressive policies, while distorting the Tampere agenda.

Annex I

Members of the Network in Attendance

Elsbeth Guild, Professor, University of Nijmegen (eguild@kingslenapley.co.uk)
Kerstin Imbusch, Research Fellow, FU Berlin (Kiimbusch@zedatofu-berlin.de)
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Annex II

Agenda of the CEPS-Sitra Network Meeting

7-8 December 2001

Friday, 7th December

17h00-18h00

The agenda for Justice and Home co-operation in relation to enlargement by M. Anderson

18h00 – 19h00

Results of the CEPS research on JHA so far (to presented by Joanna Apap):

19h00-19h30

Potential sources of further funding and collaboration for the network

Saturday, 8th December

09h30 – 10h15 Keynote presentation

The concepts of trust and flexibility in the context of Schengen
Malcolm Anderson

10h15-11h00 Opening Panel

To what extent can there be flexibility in the application of Schengen in the new member states?

Monica Den Boer

Maintaining a balance between freedom and control in the context of enlargement

Joanna Apap

The legal mechanisms: Co-operation Structures in Justice Home Affairs *Elsbeth Guild*

11h15 – 13h00 Roundtable seminar - Part 1:

Chair: Peter Cullen

- What is the trade off between trust and flexibility in the implementation of the JHA acquis in the candidate countries?
- To what extent is there policy spillover into other policy areas?
- In what way can we prevent an incoherent outcome between the priorities of internal and external affairs policy in 3 regions: EU Member States; candidate countries; neighbouring States?
- What are the possible ways forward following enlargement and following the implementation of the Schengen acquis by the new Member States?

13h00-14h00 Lunch (served in CEPS)

14h00- 15h45

Roundtable Seminar - Part 2:

Chair: Olga Potemkina

- What could be a proportionate response to the challenges posed by the new security environment?
- How can we promote civil liberties as well as installing controls, especially after 11th September?
- What safeguards can be envisaged to reduce discrimination against non-EU citizens residing in the new member states (for example, non-USSR nationals) following enlargement?

15h45-16h00

Concluding Remarks

ABOUT THE CEPS-SITRA NETWORK

CEPS, with financial assistance of the Finnish SITRA Foundation, embarked at the end of 2000 on a programme to examine the impact of Justice and Home Affairs acquis on an enlarged European Union, the implications for the candidate countries and for the states with which they share borders. *The aim of this programme is to help establish a better balance between civil liberties and security in an enlarged Europe.*

This project will lead to a series of policy recommendations that will promote cooperation in EU JHA in the context of an enlarged Europe as well as institutional developments for the medium- to long-term in areas such as a European Public Prosecutors Office, re-shaping Europol and a developed system of policing the external frontier (Euro Border Guard). These must be made within a balanced framework. *There are two key issues:*

First of all, to prevent the distortion of the agenda by “events” – some items are being accelerated and other marginalised, which risks upsetting the balance, carefully crafted by the Finnish Presidency, between freedom, security and justice. The current ‘threat’ is that security issues, at the expense of others, will predominate after the catastrophic events of 11th September. The monitoring of items, which could be marginalised and the nature of the institutional/political blockages that could distort the Tampere agenda, is our priority.

Secondly, how to look beyond the Tampere agenda, both in terms of providing a flexible approach during the period of completion of the Tampere programme as well as what should come afterwards. Much detail remains to be filled in about rigid items on the Tampere agenda and CEPS will continue to work in three very important areas:

- Arrangements for managing and policing the external frontier
- Judicial co-operation leading to the development of a European Public Prosecutor
- Strengthening of Europol, particularly in the field of serious trans-frontier violence and moves towards a more federalised policing capacity

The CEPS-SITRA programme brings together a multi-disciplinary network of 20 experts drawn from EU member states, applicant countries as well as neighbouring states: the European University Institute in Florence, the Stefan Batory Foundation (Warsaw), European Academy of Law (ERA Trier), Academy of Sciences (Moscow), London School of Economics, International Office of Migration (Helsinki), Fondation Nationale des Sciences Politiques (CERI) in France, Universities of Budapest, Université Catholique de Louvain-la-Neuve, University of Lisbon (Autonoma), University of Nijmegen, University of Burgos, CEIFO in Stockholm, University of Tilberg and University of Vilnius, as well as members with practical judicial and legislative backgrounds

A Note about SITRA (Suomen itsenäisyyden juhlarahasto

Is the Finnish National Fund for Research and Development. It is an independent public foundation under the supervision of the Finnish Parliament. The Fund aims to promote Finland’s economic prosperity by encouraging research, backing innovative projects, organising training programmes and providing venture capital.

ABOUT CEPS

MISSION

The Centre for European Policy Studies is an independent policy research institute founded in 1983:

- To produce sound policy research leading to constructive solutions to the challenges facing Europe.

GOALS

- To achieve high standards of academic excellence and maintain unqualified independence.
- To provide a forum for discussion among all stakeholders in the European policy process.
- To build collaborative networks of researchers, policy-makers and business across the whole of Europe.
- To disseminate our findings and views through a regular flow of publications and public events.

ASSETS AND ACHIEVEMENTS

- Quality research by an international staff of 30 drawn from fifteen countries.
- An extensive network of external collaborators, including some 35 senior associates with extensive experience working in EU affairs.
- Complete independence to set its own priorities and freedom from any outside influence.
- Ability to anticipate trends and to analyse policy questions well before they become topics of general public discussion.

PROGRAMME STRUCTURE

CEPS is a place where creative and authoritative specialists reflect and comment on the problems and opportunities facing Europe today. This is evidenced by the depth and originality of its publications and the talent and prescience of its expanding research staff. The CEPS research programme is organised under two major headings:

Economic Policy

Macroeconomic Policy
European Network of Economic Policy
Research Institutes (ENEPRI)
Financial Markets and Institutions
European Credit Research Institute (ECRI)
Trade Developments and Policy
Energy for the 21st Century
Efficiency in the Pursuit of Collective
Goals

Politics, Institutions and Security

Political Institutions and Society
The Wider Europe
South East Europe
Caucasus and Black Sea
EU-Russian Relations
The CEPS-IISS Security Forum
South East European Security Cooperation
Justice and Home Affairs

In addition to these two sets of research programmes, the Centre organises a variety of activities within the CEPS Policy Forum. These include CEPS working parties, the lunchtime membership meetings, network meetings abroad, board-level briefings for CEPS corporate members, conferences, training seminars, major annual events (the CEPS International Advisory Council and the awards ceremony of the Bentinck Prize) and internet and media relations.