



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 June 2013

**9154/1/13
REV 1**

GENVAL 25

NOTE

From: Presidency

To: Working Party on General Matters including Evaluations (GENVAL)

No. prev. doc.: 6865/1/13 REV 1 GENVAL 9

Subject : Follow-up to mutual Evaluation Reports

1. At the GENVAL meetings of 16 January and 20 March 2013, delegations had a discussion on the follow-up to mutual evaluation reports.

2. Most delegations were satisfied with the current system in place, preferring the "*peer pressure approach*", putting the emphasis on learning from each others' best practices through a constructive expert dialogue rather than introducing a more stringent control and sanction system. Consequently, it is suggested that the current system and the procedures are maintained, with only marginal adjustments to clarify the procedure. To this end a number of concrete proposals, while maintaining the overall structure, were put forward as well. These were, among other things to:
 - set up procedural rules stipulating the deadlines for sending comments, as well as concerning minimal periods between the sending of the report and the pre-meeting date or discussion in the GENVAL group, etc.;

- attach possible comments from the evaluated Member State - and/or other Member States - to the report (or footnote these). This had already been done in the past;
 - 18 months after the discussion in GENVAL of the report, to discuss what has been undertaken following the experts' recommendations; this should include participation of the three Member States' experts.
3. The mutual evaluation process is governed by Joint Action 97/827/JHA¹. The sole procedural rule regarding a deadline is laid down in Article 7, according to which "*the evaluation team shall draw up the draft report no later than one month after the evaluation visit and submit it to the Member State evaluated for its opinion*". An overarching important factor that has affected the evaluation process since its beginning is that the number of Member States to be evaluated in one round has almost doubled since the Joint Action was adopted in 1997 when the EU had only 15 Member States. Owing to this, the frequency of evaluation visits has augmented considerably while at the same time the availability of the different actors in the evaluation process has not kept pace, and keeping such a deadline has therefore sometimes proven to be difficult.

What is suggested

4. In order to create more clarity concerning procedures, it is suggested to lay down **tentative** deadlines, as follows, taking the evaluation on-site visit as point of departure:

¹ Joint Action 97/827/JHA of 5 December 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, establishing a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organized crime, OJ L 344, 15.12.1997, p. 7.

- deadline for experts and other participants in the evaluation visit to submit comments to the Council Secretariat: two/three weeks;

- deadline for submitting first draft report to the evaluated Member State: one month (Article 7) with a possibility of prolonging to six weeks;

- deadline for the evaluated Member State's comments: four weeks;

- time between the day the Council General Secretariat circulates the draft reports to Member States and the GENVAL meeting where the report is to be discussed: at least one week (5 working days);

- discussion at GENVAL meeting (3-4 per semester): at the latest five months after the evaluation visit, unless the deadline foreseen in the point above has not been met.

5. It was considered essential that the findings of the final generic reports with general conclusions and recommendations would always be examined at Council level. This would ensure political support for possible changes to be suggested. These final reports have sometimes (but not always) been discussed by the Council. According to Article 8(3) of the 1997 Joint Action, the Presidency shall inform the Council once a year of the results of the evaluation exercises. In the past this was sometimes done in the form of "summary reports". It is suggested to make it the rule that the final report goes to the Council.
6. Agree to the suggestion that comments from evaluated Member States and/or other Member States be included as footnotes to the evaluation reports as well as to the final report.

7. Considering the suggestion of an 18 months period follow-up to implement / take into account the recommendations contained in each specific country report, this time-limit was considered appropriate. The follow-up should then be discussed by GENVAL.

The elaboration of manuals of best practice, such as the one developed in relation to the fifth evaluation round: "*Manual of Best Practices in the fight against financial crime: A collection of good examples of well-developed systems in the Member States to fight financial crime*"², should be considered.

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9. It is suggested that whatever arrangements are agreed, they are referred to CATS for information.
10. Delegations are requested to ~~consider the suggestions contained in this note for the next GENVAL meeting on 11 June 2013~~ agree to these recommendations.

² 9741/13 JAI 393 COSI 59 CRIMORG 75 ENFOPOL 144.