



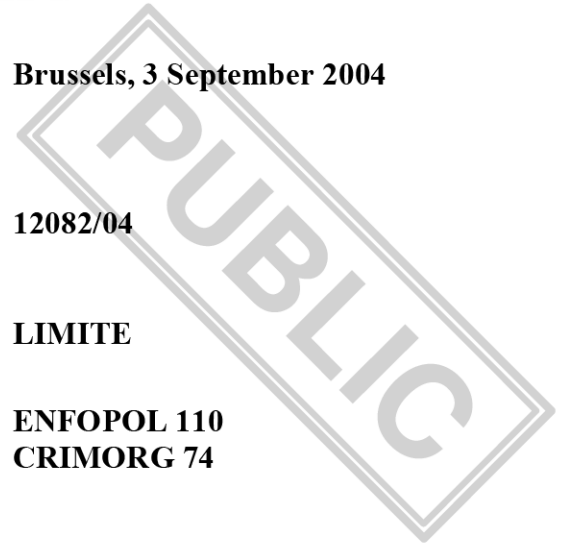
**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 3 September 2004**

**12082/04**

**LIMITE**

**ENFOPOL 110  
CRIMORG 74**



**NOTE**

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from :            Presidency  
to :              Article 36 Committee  
No. prev. doc. : doc. 10745/04 ENFOPOL 77 CRIMORG 53

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Subject :        Communication from the Commission to the Council and the European  
                    Parliament  
                    - Towards enhancing access to information by law enforcement agencies

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On 16 June 2004 the Commission issued its Communication entitled ‘Towards enhancing access to information by law enforcement agencies’ (COM (2004) 429 final). This Communication is a first contribution from the Commission in response to a request from the European Council in its Declaration on combating terrorism of 25 March 2004 (doc. 7906/04). The Council invited the Commission to bring forward proposals in relation to exchange of personal information and the use of passenger information for the purpose of combating terrorism. The Commission proposals should, according to the Council, also include provisions to enable national law enforcement agencies to have access to the European information systems.

In its Communication the Commission sets out the elements that are critical to achieving free circulation of information between the law enforcement authorities of the Member States, in a more structured way than has been the case up till now. In order to obtain a more accurate picture of the obstacles to free circulation of information, the Commission proposes to undertake a full stock-taking exercise on the conditions to access information, as well as a broad and open consultation with all interested stakeholders namely the European Data Protection Supervisor. The Communication also aims to provide the means of avoiding the materialisation of major threats, such as terrorism, by introducing the concept of intelligence-led law enforcement at EU level. It provides an agenda setting out how to achieve this, and it announces legislation to remove specific legal problems.

The Communication was introduced by Commissioner Vitorino during the meeting of the Council (Justice and Home Affairs) of 19 July 2004.

It is evident that improvement of the exchange of information in the JHA-field will be a crucial issue in the years to come, both in relation to the investigation of serious cross-border crime and in relation to the combat of terrorism. Several initiatives in this field are currently on the agenda of the Council and its working groups.

In order to provide the Commission with a first reaction of the Member States to the ideas and proposals of the Commission in the Communication the Presidency invites delegations to express their view on the content of the Communication. More specifically they are asked to point out which elements in the Communication, in their opinion, are most critical in order to enhance the exchange of information and therefore should be dealt with priority.

Finally the Presidency would like to point out that the results of exchange of views in the Article 36 Committee might also be useful in the context of the multi annual work programme for the Area of Freedom, Security and Justice.

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