



**COUNCIL OF
THE EUROPEAN UNION**

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From: General Secretariat
To: COREPER/Council

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Subject: Draft Council Conclusions on a European system for forensic drug profiling

At its meeting on 10 November 2009, the Article 36 Committee reached agreement on the draft Council Conclusions on a European system for forensic drug profiling as set out in annex.

COREPER is therefore requested to invite the Council to approve the draft Council Conclusions on a European system for forensic drug profiling as set out in annex.

DRAFT**COUNCIL CONCLUSIONS****on a European system for forensic drug profiling**

The COUNCIL,

RECALLING that:

1. One of the objectives of the European Union is the progressive establishment of an area of justice, freedom and security by developing common action among the Member States in the field of police and judicial cooperation in criminal matters.
2. Exchange of information and intelligence on crime and criminal activities is crucial to enable law enforcement authorities and judicial authorities to successfully prevent, detect, investigate and prosecute crime or criminal activities.
3. The EU Drugs Strategy (2005-2012) and the EU Drugs Action Plan (2009-2012), notably Action 30, encourage Member States to take the necessary steps to adopt and implement an EU-wide system for forensic profiling in relation to drugs law enforcement.
4. The rationale for the establishment of such a system is that law enforcement intelligence, including forensic drug profiling, can be an additional tool to identify targets or groups involved in organised crime. It is a way of enhancing the capacity to fight organised crime in general and drug production and/or trafficking in particular. The information from drug profiling can be useful for law enforcement officers when employing criminal intelligence to link seized drugs with targets or suspects involved in organised crime and drug production and/or trafficking. Profiling should support focused law enforcement intelligence analysis, be of a high scientific and legal standard and preferably be suited to court scrutiny.

5. A European system for forensic drug profiling should be set up with the aim of carrying out and comparing forensic profiling analysis according to reliable and well-defined standards. The outcome of the CHAIN project should also be considered in this context. The system could be extended to other drugs and drug precursors in the future, depending on the outcome of the European Drugs Profiling System project feasibility studies, inter alia with regard to its added value. Such a system would include a European Union drug profiling database.
6. A European system for forensic drug profiling should be law enforcement driven and, taking into account national and international needs as well as national resources, facilitate close co-operation with forensic experts to maximise the use of the results of law enforcement intelligence/information and related forensic drug profiling in investigations and, preferably in the subsequent prosecutions; this should be done in a manner consistent with the standards applied by Member States' judicial authorities.
7. Such a system should build on the existing harmonised working model for impurity profiling, collaboration and information exchange between law enforcement authorities and forensic institutes, including, where appropriate, customs laboratories, would be developed through projects such as CHAIN (JLS/2006/AGIS/128), TEACH (JLS/2005/AGIS/151) and CHEDDAR (JAI/2003/AGIS/122; JAI/2004/AGIS/162) and would take into consideration results from ongoing projects in the field, such as the European Drugs Profiling System (JLS/2009/ISEC/CFP/AG/088), Europol expertise and the experience gained through Europol Project Synergy, including its components (e.g. Europol Ecstasy Logo System and the Europol Illicit Laboratory Comparison System) in accordance with the EU Drugs Action Plan 2009-2012; (Action 30), relevant experiences of forensic expert centres, e.g. UNODC and experiences of Member States' institutions involved in drug profiling projects.
8. The system should take account Council decision of 28 May 2001 on the transmission of samples of controlled substances (2001/419/JHA) in order to facilitate the transmission of legal drug samples between the authorities of the Member States.

9. The system should be coordinated with existing initiatives aimed at facilitating the exchange of information and intelligence within the European Union, taking into consideration the principle of availability as laid down in the Hague Programme and the Council Framework Decision (2006/960/JHA) of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States.
10. The establishment and operation of an European Union drug profiling database should be carried out in close co-operation with Europol and the European Commission.
11. Appropriate funding needs to be identified and an appropriate management system implemented in order to establish and guarantee the long-term sustainability of a European system for drug profiling.

INVITES THE MEMBER STATES to:

1. Ensure that law enforcement personnel and judicial authorities in the Member States dealing with drug related investigations, intelligence work, and prosecution are encouraged to use the results of law enforcement intelligence/information and related forensic drug profiling in their work.
2. Ensure that relevant drug samples, in particular those taken with regard to international investigation and intelligence purposes, will be submitted to approved¹ laboratories for profiling analyses and forensic links.

¹ Today forensic laboratories are approved by the management organisation of a project responsible for a certain method harmonisation (CHAIN, European Drugs Profiling System). In the future, approval should instead be given by the new organisational structure set up by Member States and Europol.

3. Designate National Contact Points in law enforcement organisations as a part of a network for information exchange, building upon the existing networks (Europol, ENU). The National Contact Points should make sure that law enforcement case information and related forensic information is properly exchanged.
4. Ensure enhanced collaboration and exchange of information between law enforcement agencies (including Europol) and forensic institutes within the European Union.
5. Ensure that national or designated forensic institutes and other drug testing laboratories approved to deliver results from forensic profiling are equipped with material and financial resources that will enable them to contribute to the further development of profiling methodology in relation to other drugs and drug precursors, if the outcome of the European Drugs Profiling System project feasibility studies identifies the need to do so, inter alia with regard to its added value.

INVITES EUROPOL to:

1. Take the necessary measures for hosting a European Union Drug Profiling Database (EUDPD), from 2012 onwards within the existing structure of Europol and subject to the resources available.
2. Take a leading advisory role in the current European Drugs Profiling System project with a view to supporting the establishment of the database at Europol in 2012.
3. Study the management of a post-European Drugs Profiling System project structure.

INVITES THE COMMISSION to:

Continue to consider financial support, within the requirements of the relevant funding instruments managed by the Commission, for development, for training and implementation of methods and procedures for law enforcement purposes and for forensic research in order to expand the system to other commodities as well as for related national and transnational projects.
