



OIKEUSMINISTERIÖ

Kansainvälinen yksikkö

19.1.2006 OM 3/461/2006

Suuri Valiokunta
Eduskunta

Perustuslain 97 §:n 1 momentin nojalla oikeusministeriö saattaa kunnioittavasti suuren valiokunnan tietoon luonnoksen neuvoston päätökseksi eurooppalaisen korruptionvastaisen verkoston perustamiseksi.

Johtajan sijainen
Hallitusneuvos

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18.01.2006
EI JULKINEN

Asia

EU/OSA; Neuvoston päätös eurooppalaisen korruptionvastaisen verkoston perustamiseksi; järjestäytyneen rikollisuuden monialainen työryhmä, 20.1.2006

Kokous

Järjestäytyneen rikollisuuden torjunnan monialainen työryhmä; 20.1.2006 - 20.1.2006

Liitteet

Viite

EUTORI/Eurodoc nro:

[VN:n ja EK:n asiankäsittelyjärjestelmän EURODOC:n/EUTORI:n tunnus]

U-tunnus / E-tunnus:

[Tunnus perustuslain 96§ ja 97§ mukaisille ehdotuksille]

Käsittelyn tarkoitus ja käsittelyvaihe:

Järjestäytyneen rikollisuuden monialainen työryhmä; artiklakohtainen tarkastelu

Asiakirjat:

15629/05 CRIMORG 157
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EU:n oikeuden mukainen oikeusperusta/päätöksentekomenettely:

SEU 34 artikla 2 c

Käsittelijä(t):

OM/Juhani Korhonen, 1606 7586

Suomen kanta/ohje:

Yhtenä aloitteen tekijöistä Suomi kannattaa korruptionvastaisten toimien koordinoimista Euroopan unionin puitteissa. Kaavailtu verkosto tarjoaa sopivan välineen tähän tarkoitukseen, sillä verkostolla halutaan lisätä korruptionvastaisten toimien monialaisuutta ja parhaiden käytäntöjen luomista sekä tukea korruptionvastaisia toimenpiteitä kansallisella tasolla.

Pääasiallinen sisältö:

Päätösehdotus sisältää kahdeksan artiklaa. Niiden pääasiallinen sisältö on seuraava.

Artikla 2 sisältää määräyksiä verkoston kokoonpanosta. Sen mukaan verkosto koostuu jokaisen jäsenvaltion nimeämistä kontaktipisteistä (enintään 3 kustakin), joiden tulee edustaa kansallisia poliisin valvonta- ja tarkastuselimä ja myös muita asiaankuuluvia korruptionvastaisia tahoja. OLAF nimeää myös kontaktipisteen. Komissio, Europol ja Eurojust liittyvät verkoston toimintaan ("associated with the Network's activities"). Myös muut asiaankuuluvat tahot voivat liittyä toimintaan.

Artiklassa 3 on määräyksiä verkoston tehtävistä. Verkoston tulee myötävaikuttaa korruptionvastaisen taistelun erilaisten näkökohtien kehittämiseen EU:n tasolla ja tukea korruptionvastaisia toimia kansallisella tasolla.

Verkoston tulee erityisesti, kuitenkin vapaaehtoisuuden pohjalta ja kansallisen lain mukaisesti, edistää yhteistyötä ja kokemusten vaihtoa jäsenvaltioiden ja kansallisten organisaatioiden, jäsenvaltioiden ja OLAFin välillä, kuin myös jäsenvaltioiden ja komission ja neuvoston sekä muiden korruptionvastaisiin asioihin erikoistuneiden asiantuntijaryhmien ja verkostojen välillä.

Verkosto voi myös edistää kansainvälistä yhteistyötä erilaisin käytännön toimin, kuten

- eri avainryhmien vuotuiset kokoukset,
- henkilöstövaihto jäsenvaltioiden relevanttien organisaatioiden välillä,
- konferenssit, seminaarit ja muut aktiviteetit
- yhteysluettelon perustaminen ja ajan tasalla pitäminen,
- yhteiset vaihto- ja koulutusohjelmat, parhaat käytännöt, menettelyohjeet, käsikirjat,
- tutkimus pitäen silmällä formaattia yhteiseksi ammatilliseksi kouluttamiseksi,
- yhdenmukaisten värväys- ja koulutusohjelmien kehittäminen,
- julkaisutoiminta (vuosittaiset raportit, tilastot, analyysit),
- minimistandardien määrittely eettisiksi ohjeiksi korruptionvastaisten asioiden kanssa tekemisiin joutuville lainvalvontaviranomaisille,
- ehdotukset yhteisten tietokantojen perustamiseksi ja tiedonvaihdoksi,
- ehdotukset yksityisen ja julkisen sektorin kumppanuudeksi korruptionvastaisessa taistelussa,
- vähimmäissääntöjen määrittely vastuiden ja läpinäkyvyyden varmistamiseksi kaikissa suhteissa.

Verkosto kerää ja analysoi tietoja korruptionvastaisista toimista, arvioi niitä ja analysoi parhaita käytäntöjä, tarjoaa asinatuntemustaan neuvostolle ja komissiolle ja toimittaa toiminastaan raportin neuvostolle kerran vuodessa.

Päätöksessä käsitellään vielä verkoston toimintaa, kansallisia edustajia ja sihteeristöä, joka jäsenvaltioiden tulee järjestää ja rahoittaa ja joka vastaa muun ohessa verkoston vuosiohjelman ja vuosiraportin laatimisesta.

Kansallinen käsittely:

[EU-ministerivaliokunta/komitea/jaosto/Ahvenanmaan informointi]

Eduskuntakäsittely:

[Tiedot yhteistoiminnasta eduskunnan kanssa, ml. valiokuntakäsittely]

Käsittely Euroopan parlamentissa:

[Tiedot valiokunta- ja täysistuntokäsittelyistä]

Kansallinen lainsäädäntö, ml. Ahvenanmaan asema:

*[Tiedot sääntelytasosta(laki/asetus/VnP/P/muu) liittymäkohdat
Ahvenanmaan toimivaltaan]*

Taloudelliset vaikutukset:

[Tiedot asian taloudellisista vaikutuksista sekä kansallisesti että yhteisölle]

Muut mahdolliset asiaan vaikuttavat tekijät:

[Tiedot muiden jäsenmaiden kannoista tai muista asiaan vaikuttavista tekijöistä]

Asiasanat	järjestäytynyt rikollisuus
Hoitaa	OM, SM
Tiedoksi	EUE, PLM, STM, TH, UM, VM, VNEUS



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 December 2005

15629/05

LIMITE

CRIMORG 157

COVER NOTE

from : Austrian, Finnish, Greek, Hungarian, Lithuanian, Luxembourg and Slovak
Delegations

dated : 29 November 2005

Subject : Council Decision on the setting up of a European Anti-Corruption Network

Delegations will find attached an initiative from the Austrian, Finnish, Greek, Hungarian, Lithuanian, Luxembourg and Slovak delegations.

COUNCIL DECISION
of [...]
Setting up a European Anti-Corruption Network

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Articles 29, 30 (1), 31 and 34 (2) (c) thereof,

Having regard to the establishment of a European Anti-fraud Office,

Having regard to the initiative of the Republic of Austria, the Republic of Finland, the Hellenic Republic, the Republic of Hungary, the Republic of Lithuania, the Grand-Duchy of Luxembourg and the Slovak Republic,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) Article 29 of the Treaty states that the objective of the Union in this area is to be achieved by preventing and combating corruption and fraud, organised or otherwise.
- (2) In the Action Plan to combat organised crime¹ the Council stressed the importance of enhancing transparency in public administration and in businesses and preventing the use by organised crime of corrupt practices.

¹ Action Plan to combat organised crime, adopted by the Council on 28 April 1997; OJ C 251/01, 15.08.1997, p.1.

- (3) The Vienna Action Plan¹ called for an equally efficient approach in combating serious criminal conduct. This applies in particular for policy areas where the Union has developed common policies, and for policy areas with strong cross-border implications such as corruption and fraud.
- (4) The Tampere European Council of 15 and 16 October 1999 identified corruption as one of the areas of particular relevance and concluded that there was a need to develop common definitions, incriminations and sanctions.
- (5) The European Union Strategy for the beginning of the new millennium on the prevention and control of organised crime² underlined the need for an approximation of national legislation and the development of a multi-disciplinary EU policy towards corruption.
- (6) The European Security Strategy, “A Secure Europe in a Better World”, of December 2003, emphasises that corruption is one of the key factors for State Failure, which undermines good governance and adds to regional instability.
- (7) The UN Convention against Corruption signed in December 2003 in Mexico requires countries to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under domestic law. In some cases, States are legally obliged to establish offences; in other cases, in order to take into account differences in domestic law, they are required to consider doing so.

¹ Action plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice — Text adopted by the Justice and Home Affairs Council of 3 December 1998.

² The prevention and control of organised crime: a European Union strategy for the beginning of the new millennium; OJ C 124/01, 03.05.2000, p.1.

- (8) The European Council welcomes the development in The Hague Programme (point 2.7)¹ of a strategic concept with regard to tackling cross-border organised crime at EU level and asks the Council and the Commission to develop this concept further and make it operational, in conjunction with partners such as Europol, Eurojust, the Police Chiefs Task Force, EUCPN and CEPOL. The European Council demands in this context that issues relating to corruption and its links with organised crime be examined.
- (9) The Heads and key representatives of the Police Monitoring and Inspection Bodies as well as the Heads and key representatives of the Anti-Corruption Agencies met in November 2004 in Vienna at the AGIS Conference on the Enhancement of Operational Cooperation in Fighting Corruption in the European Union. They stressed the importance of a further enhancement of their cooperation, inter alia, through annual professional meetings and welcomed the idea of a European Anti-Corruption Network based upon the existing structures.
- (10) In its Resolution of 14 April 2005 concerning a comprehensive EU policy against corruption which is related to the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee on a Comprehensive EU Policy against Corruption of 28 May 2003, the Council welcomes the Communication from the Commission and reaffirms the importance of the role and work of the Member States in developing a comprehensive, multi-faceted policy against corruption in both the public and private sectors, in partnership with all relevant players in civil society and business alike.
- (11) Society as a whole must be involved in the development of a partnership between national, local and regional public authorities, non-governmental organisations, the private sector and citizens. Corruption is a social danger to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law. It has a devastating impact on economic and social development and undercuts those services, such as health, education, public transportation or local policing, which the most deprived members of society are most dependent upon.

¹ The Hague Programme: Strengthening freedom, security and justice in the European Union; OJ C 53, 03.03.2005, p.1..

- (12) Among the main factors contributing to corruption are weak government and development policies, failing institutions, inadequate checks and balances, an undeveloped civil society, a weak criminal justice system, inadequate remuneration for civil servants and a lack of accountability and transparency. As the causes of crime are multiple, they must therefore be dealt with by measures at different levels, by different groups in society, in partnership with the players involved who have different powers and experience, including first and foremost civil society and a free and independent media.
- (13) The fight against corruption includes all measures that are intended to reduce or otherwise contribute to reducing corruption, either through directly operational activities or through policies and interventions designed to reduce the potential for corruption and the causes of corruption. It includes work by government, competent authorities, criminal justice agencies, local authorities, and the specialist associations they have set up in Europe, the private and voluntary sectors, researchers and the public, supported by a free and independent media.
- (14) The enhancement of international cooperation is a keystone in the fight against corruption. By cooperating effectively, promoting opportunities, working together, sharing good practices and developing high professional standards, the fight against all types of corruption shall be improved, in particular corruption and any (criminal) misbehaviour in law enforcement agencies.

HAS DECIDED AS FOLLOWS:

Article 1

Objective

1. A European Anti-Corruption Network (EACN), hereinafter referred to as ‘the Network’, is hereby set up.
2. Network national representatives and a Secretariat shall ensure the proper functioning of the Network in accordance with this Decision.

Article 2

Composition of the Network

1. The Network shall consist of contact points designated by each Member State.
2. Each Member State shall designate not more than three contact points.
3. These contact points shall include representatives of the national Police Monitoring and Inspection Bodies, but also of other relevant Anti-Corruption Agencies.
4. The European Anti-fraud Office (OLAF) shall also designate a contact point.
The Commission, Europol and Eurojust are associated with the Network’s activities. Other relevant bodies may be associated with the work.
5. Each Member State shall ensure that its contact points have sufficient knowledge of at least one other official language of the Union to enable them to communicate with the contact points in the other Member States.

Article 3

Tasks of the Network

1. The Network shall contribute to developing the various aspects of the fight against corruption at Union level and shall support anti-corruption activities at national level.
2. In particular, the Network shall, on a voluntary basis and subject to national legislation:
 - (a) Facilitate cooperation, contacts and exchanges of information and experience between Member States and between national organisations, as well as between Member States and OLAF, other constituent entities of the Commission, the Council, and other groups of experts and networks specialising in anti-corruption matters;
 - (b) promote further enhancement of international cooperation by various practical measures.

These may include the following:

- regular annual meetings of the Heads and key representatives of the national Police Monitoring and Inspection Bodies as well as the Heads and key representatives of the Anti-Corruption Agencies in a Member State of the Network;
- arrangements for and organisation of exchanges of staff between the relevant organisations in the Member States to encourage learning and sharing of information;
- conferences, seminars, meetings and other activities designed to promote consideration of these specific matters, and to disseminate the results thereof;
- setting up and constant updating of a 'Contact Catalogue' covering data and Points of Contact of all the national Police Monitoring and Inspection Bodies as well as the national Anti-Corruption Agencies;
- mutual exchange and common training programmes amongst the units and the general public and development of joint best practices, codes of conduct and hand books;
- researching the potential of a format for common professional training and qualifications for those engaged in combating corruption, especially those involved in police monitoring and inspection duties;
- developing standardized recruitment and training programmes;
- publishing and exchanging of analytical papers such as general and specific reports on related topics and annual reports and statistics;

- defining minimum standards for a professional Code of Ethics for police and law enforcement officials dealing with anti-corruption matters;
 - making proposals for setting up common databases and networks and sharing information;
 - making proposals for setting up public-private partnership initiatives in the fight against corruption;
 - defining minimum standards to ensure accountability and transparency in all aspects.
- (c) collect and analyse information on anti-corruption activities, the evaluation thereof and the analysis of best practices;
- (d) provide its expertise to the Council and to the Commission, where necessary and upon request, with a view to assisting them in all matters concerning corruption;
- (e) submit to the Council a report on its activities each year, through the competent working bodies, and indicate the areas for priority action in its work programme for the following year and ask the Council to take note of and endorse the report and forward it to the European Parliament;
- (f) develop cooperation with applicant countries, third countries and international organisations and bodies.

Article 4

Operation of the Network

To accomplish its tasks, the Network shall:

- (a) favour a multidisciplinary approach;

- (b) be in close contact, through the contact points, with law enforcement authorities and civil society as well as with research institutions and non-governmental organisations in the Member States;
- (c) set up and operate a website, containing the relevant information about the contact points and activities of the Network;
- (d) endeavour to use and promote the results which are relevant for the fight against corruption and are obtained from its activities which are funded through Union programmes.
- (e) meet at least once every six months on the invitation of the Member State which is holding the Presidency of the Council at that time.

Article 5

National Representatives

1. In conjunction with meetings of the Network, the Network's national representatives, made up of one representative from each Member State designated in accordance with Article 2 (3) shall meet to decide on the matters referred to under Article 5 (3). They shall meet at least once during each Presidency. The Network's national representatives' meeting shall be chaired by the representative of the Member State which is holding the Presidency of the Council at the time.
2. The Network's national representatives shall draw up their rules of procedure, to be adopted by unanimity.
3. The Network's national representatives shall decide on the Network's annual programme. They shall, in particular, determine:
 - the priority fields to be examined;
 - the main specific actions to be carried out, such as seminars and conferences, studies and research and training programmes.

4. They shall also draw up the annual report on the activities of the Network.
5. The decisions of the Network national representatives shall be adopted by unanimity.

Article 6

Secretariat

1. The Secretariat for the Network shall be provided by the Member States.
2. The Network's Secretariat and its activities shall be financed by the Member States.
3. The Secretariat shall be responsible for drafting the Network's annual programme and the annual report on the Network's activities. It shall carry out everyday Network activities involving collating, analysing and disseminating information in liaison with the national contact points. It shall assist the Network members in devising, formulating and implementing projects. It shall establish and maintain the website of the Network. When performing its functions, the Secretariat shall work closely with the Network's national representatives.

Article 7

Notifications

The national contact points and all changes concerning them shall be notified to the General Secretariat of the Council within [...].

Article 8
Entry into force

This Decision shall enter into force on the day following that of its adoption/publication.

Done at Brussels [...]

For the Council

The President

[...]



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 December 2005

**15629/05
ADD 1**

LIMITE

CRIMORG 157

ADDENDUM TO THE COVER NOTE

from :	Austrian, Finnish, Greek, Hungarian, Lithuanian, Luxembourg and Slovak Delegations
dated :	29 November 2005
Subject :	Council Decision on the setting up of a European Anti-Corruption Network

Delegations will find attached the explanatory note on the above-mentioned initiative.

**Explanatory note on the proposal of Austria, Finland, Greece, Hungary,
Lithuania, Luxembourg and Slovakia for a Council Decision (JHA)
concerning the setting up of a European Anti-Corruption Network**

1. Content and general objective

The Council Decision aims at setting up a European Network against Corruption (EACN). This Network shall enhance cooperation between national Police Monitoring and Inspection Bodies and other Anti-Corruption Agencies of the Member States in order to:

- develop and implement an efficient and comprehensive EU approach as regards the fight against corruption;
- coordinate and push forward existing initiatives by EU institutions and the Member States;
- enhance transnational cooperation in anti-corruption matters;
- support the Member States' efforts in the fight against corruption at national level as well as their efforts to strengthen international cooperation in this field.

The setting up of a formal network complies with a proposal contained in the Action Plan implementing the Hague Programme and constitutes the consequent next step following the formation of an informal network of anti-corruption organisations and experts by EU Member States. Adding value to the endeavours already made, a formal European Network against Corruption contributes substance to declarations of intent and achieve a more harmonised approach towards anti-corruption in the EU context.

2. Justification for the proposed legal basis

The proposal is based on Article 29, 30 (1), 31 and 34 (2) (c) of the EU Treaty. Article 29 TEU states that in order to provide citizens with a high level of safety, the EU shall prevent and combat crime, organised or otherwise, in particular also corruption and fraud, through closer cooperation between police forces and other competent authorities in the Member States. Articles 30 (1) and 31 underline the importance of operational and judicial cooperation. Article 34 (2) (c) is considered the appropriate legal basis because, in order to implement the Decision, no laws or regulations of the Member States need to be harmonised, but a binding effect upon the Member States is being sought.

3. Justification for the initiative in terms of proportionality and subsidiarity principles

The draft of the Decision does not interfere with the principles of proportionality and subsidiarity.

4. Relation to working programmes of the Commission

Comprehensive EU Policy against Corruption:

In its *Comprehensive EU Policy against Corruption*¹ the Commission lists the enhancement of interagency cooperation and joint investigations among the most important measures to fight corruption. Furthermore, in order to facilitate international cooperation, the setting up of networks and national contact points specifically dealing with corruption cases is encouraged.

¹ COM(2003) 317 final, Council document 10332/03.

Framework programme ‘Security and Safeguarding Liberties’:

Stressing the fact that measures at EU level have to provide added value, the framework programme defines criteria which are fully met by the Network:

- The Hague Programme (2.7.) reaffirms the EU’s commitment to fight corruption;
- The Action Plan implementing the Hague Programme sets out the importance of networking between the competent authorities.
- The Network consists of national and EU experts in the anti-corruption field. Its secretariat will act as point of contact, information and coordination. Thus the Network’s activities can be designed complementarily to those financed at national level. Furthermore, the Network will also allow for the avoidance of duplications between the EU and Member States authorities.
- The Network reinforces national exchanges at European level, generates synergy effects and economies of scale, especially at the operational level.
- The Network is built on existing structures, namely on the informal networking of the Police Monitoring and Inspection Bodies and Anti-Corruption Agencies of the Member States. It constitutes the essential next step necessary to improve existing cooperation of the Member States.

5. Article-by-article comments on the individual provisions

Article 1 - Objective

After several years of informal networking of the EU Member States’ Police Monitoring and Inspection Bodies and of other Anti-Corruption Agencies, this Council Decision finally constitutes the formalization of this ongoing initiative.

The national representatives establish the annual working programme, decide on the main initiatives, activities and reports, and give direction to the Network. The secretariat shall have the role of an administrative tool, managing daily business.

Article 2 - Composition of the Network

Article 2 (1) provides for the designation of contact points by the Member States. The contact points will be listed in a contact catalogue constantly updated by the secretariat of the Network. Every contact point on the list will be regularly provided with information about the Network's activities.

The contact points shall include the bureau of the national representative. The fact that the Member States can designate up to three contact points guarantees that also Member States with different types of anti-corruption bodies are sufficiently represented.

The focus on law enforcement entities is mandatory, since an effective penal law and the rule of law are vital for democracy. Therefore, police monitoring and inspection is regarded as a key area in fighting corruption and is a precondition for effective anti-corruption measures in other parts of society. As a consequence, the participation of the Police Monitoring and Inspection Bodies is indispensable for the success of the Network. Nevertheless, corruption remains a unwieldy matter, which can be fought best if the approach is comprehensive.

A comprehensive approach including all relevant institutions is likewise necessary on EU level. Especially OLAF can contribute with its inter-institutional competence in the EU-wide fight against corruption. EUROPOL and EUROJUST can bring in their experience in law enforcement cooperation.

Article 3 - Tasks of the Network

In the last years, the fight against corruption has undergone a dynamic process on international level. Member States have participated in the different international legal instruments and in other anti-corruption activities and have done a lot to enhance their national anti-corruption capacities. On the one hand, it is necessary for the EU to catch up with the standards already reached at national level on the other hand, a point of coordination within Member States is needed to avoid dispersal of the efforts on the EU level.

This article describes the tasks of the Network which are the facilitation of cooperation, the exchange of information and experience, as well as the promotion of international cooperation and of practical measures proposed to achieve these aims.

The Network shall not interfere with the efforts of the Member States but bring in different expertise of the Member States in order to achieve regular and fruitful dialogue and cooperation between the different agencies and bodies fighting corruption.

The objectives are the enhancement of (future) interoperability and the networking of the operational units. To this end, it is vital to streamline the efforts of the Member States and the EU institutions.

Cooperation in anti-corruption matters with applicant countries, third countries and international organisations is to be regarded as a necessary contribution to the comprehensive EU strategy aiming to reach stability in its neighbourhood.

Article 4 - Operation of the Network

The key area of fighting corruption is the supervision of effective law enforcement. Even Member States which have not focused very much on anti-corruption matters so far, dispose of units specialised in this field. As the need for a broad approach is apparent, many of the Member States go beyond the supervision of law enforcement, setting up anti-corruption bodies in other branches of civil administration or creating Police Monitoring and Inspection Bodies with overall anti-corruption authority.

In order to start fighting corruption effectively, a consolidation period in which all forces and efforts are pooled, is of vital importance.

Article 5 - National Representatives

The assembly of the national representatives shall steer and control the Network both in substantial and in (important) administrative matters.

Article 6 - Secretariat

The secretariat will be the administrative tool which has to manage daily business and serves as point of contact, information and coordination.

Article 7 - Notifications

The national contact points and all changes concerning them shall be notified to the General Secretariat of the Council within [...].

Article 8 - Entry into Force

This Decision shall enter into force on the day following that of its adoption/publication.

6. Financial implications

The draft Council Decision will not entail financial implications for the budget of the European Communities. It might, however, entail financial implications for the Member States.
