



Main points of the report by the Working Group on Freedom, Security and Justice, submitted to the European Convention at its plenary session on 5 and 6 December 2002.

Chairman of the Working Group: Mr John Bruton

A COHERENT AREA OF FREEDOM, SECURITY AND JUSTICE SUBJECT TO THE PRINCIPLES OF TRANSPARENCY AND DEMOCRATIC CONTROL.

The Working Group on Freedom, Security and Justice believes that Europe must be able to combat dangers such as drug trafficking, human trafficking and terrorism more effectively.

Its major objective is the establishment of a common legal framework for the construction of a genuine European area of freedom, security and justice.

On that basis, the Working Group issues recommendations on legislative procedures, the strengthening of operational co-operation and various related horizontal matters.

Legislative procedures

➤ **For matters within the competence of the European Community (former "first pillar"),** the Group's recommendations essentially concern:

- **Asylum, refugees and displaced persons:** the establishment of a general legal framework for adopting the measures needed for the introduction of a genuine common asylum system.
- **Visas:** introduction of a single provision enabling the adoption of all measures needed for a common visa policy.

The Group recommends that legislative acts in these two areas, as well as in the area of immigration, be adopted by qualified-majority voting under the codecision procedure.

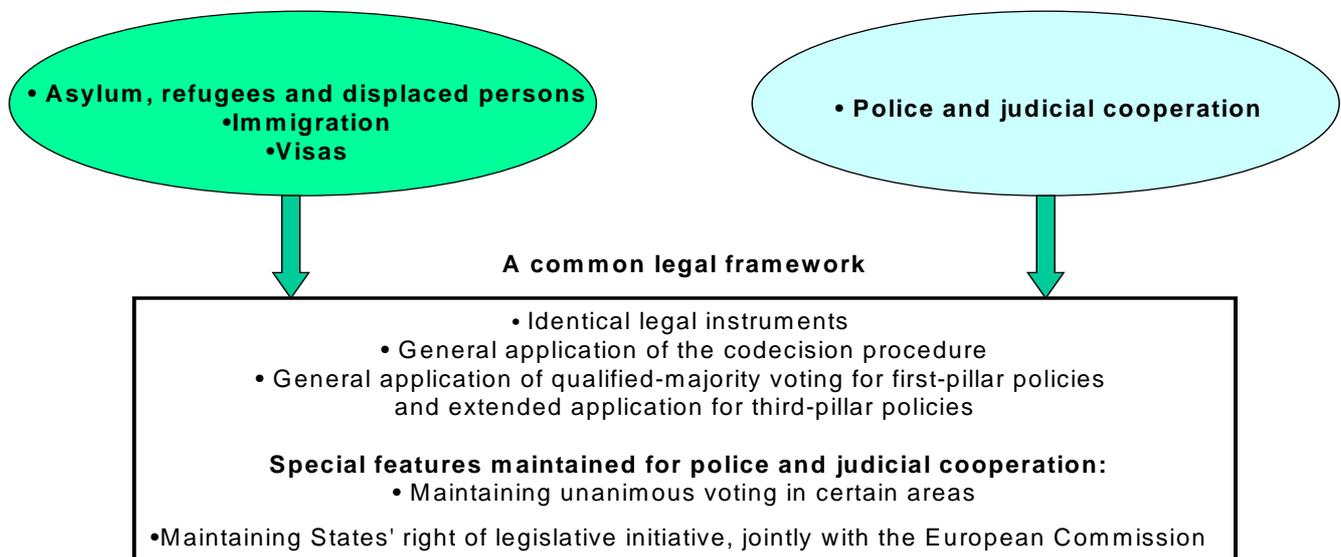
➤ **For police and judicial cooperation (former "third pillar")** the Group's main recommendations are as follows:

- Deletion of the particular legal instruments of the "third pillar" and their replacement with the instruments recommended by the Working Group on Simplification.
- Enshrinement in the Constitutional Treaty of the principle of mutual recognition (when judgments in one Member State are recognised by the authorities of another).
- Approximation in several areas of criminal law (with a cross-border dimension, for example) by the adoption of minimum rules on the constituent elements of certain criminal offences of a particularly serious nature and on their penalties, as well as approximation in certain aspects of criminal procedure.

The Group also considers that the codecision procedure should be the normal procedure and that qualified-majority voting should be extended.

However, for certain aspects relating to Member States' essential responsibilities, unanimous voting should be maintained (for example, the creation of Union bodies with operational powers).

The Group also considers that, jointly with the Commission, Member States should continue to have the right of legislative initiative if 1/4 Member States take the initiative.



Special features maintained for police and judicial co-operation:

On this point, the Working Group feels that considerable progress needs to be made in order to meet the expectations of Europe's citizens, in particular by introducing a strict separation of legislative and operational powers.

For that purpose, it recommends:

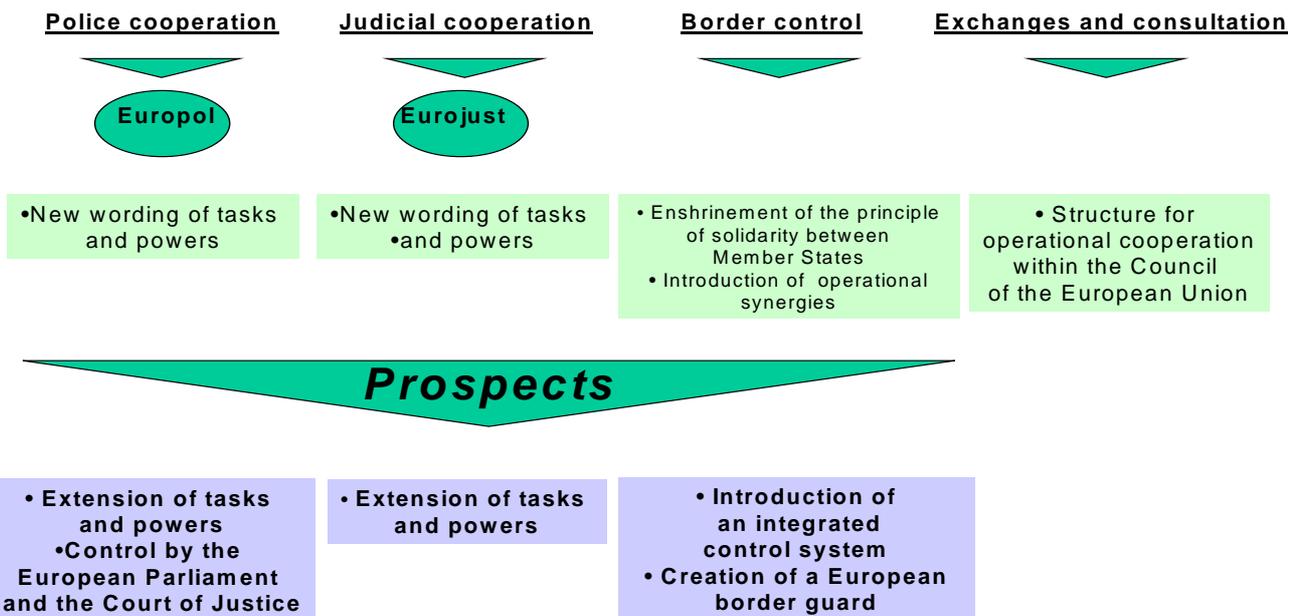
➤ For Europol,

- replacement of the description of Europol's tasks with a more concise text containing a legal basis that would allow the legislator subsequently to extend Europol's tasks and powers. The text would establish Europol's central role within the framework of police co-operation, the scope of its action (serious crime affecting several Member States) and the requirement that it act in liaison with the departments of the States concerned.
- introduction of political control by the European Parliament, and possibly by national parliaments, as well as judicial control by the Court of Justice.

➤ For Eurojust,

- replacement of the current description of Eurojust's tasks with a more concise and general description containing a legal basis that would give the legislator more latitude to extend Eurojust's tasks and powers.

- possible creation of a European Public Prosecutor's Office, an idea supported by a significant number of Working Group members.
- **For the management of external border control**, making it legally possible in the long term to introduce an integrated system and create a European border guard (idea supported by a majority of Working Group members). In the more immediate term, introduction of practical measures such as common training or equipment-sharing. The Group also recognises the principle of solidarity, including financial solidarity, between Member States in the field of external border control.
- **Intensified co-operation within the Council of the European Union**, the introduction of a high-level structure for operational cooperation (reform of the Article 36 Committee), making it possible to strengthen mutual trust.



Horizontal questions

The Working Group also addressed the following questions:

- The competence of the Court of Justice, where the Group finds it difficult to accept that the Court's competence could still be limited in areas directly concerning the fundamental rights of individuals and in matters of judicial control. Consequently, a majority of the Group considers that the general framework of the Court of Justice's competence should be extended to the area of freedom, security and justice, including acts adopted in this field by Union bodies.
- The possible involvement of national parliaments, which could be involved in defining the broad strategic guidelines and have recourse to the "early-warning mechanism" recommended by the Working Group on Subsidiarity.
- Opting-in, opting-out and reinforced-cooperation mechanisms, which the Group leaves for discussion by the Convention.
- More satisfactory implementation and the maintenance of high standards, for which the Group in particular suggests a wider application of the "peer review" system already introduced by the Council of the European Union and the possibility for the Commission to intervene before the Court of Justice.
- Stable representation of the Union in the negotiation of international agreements.