



Meeting of G8 Justice and Home Affairs Ministers *Washington – May 11, 2004*

RECOMMENDATIONS ON SPECIAL INVESTIGATIVE TECHNIQUES AND OTHER CRITICAL MEASURES FOR COMBATING ORGANIZED CRIME AND TERRORISM

The G8 States have noted a substantial development of serious and organized crime, and terrorism, which operates through structured networks in numerous fields. The recourse by criminals to ever more complex, sophisticated and increasingly dangerous methods of operation, together with the increasingly international nature of serious and organized crime and terrorism and their cross-border ramifications, makes investigations more difficult. To gather evidence effectively on organized crime and terrorist groups, law enforcement therefore often requires the ability to apply the special investigative techniques described below, as well as measures designed to encourage witnesses who may face a substantial prison sentence, or retaliation by others, to nonetheless come forth.

Under the U.S. and French presidencies of the G8, in the framework of the work of the Lyon and Roma groups, a survey of special investigative techniques has been undertaken. Based on the discussions and the importance of special investigative techniques in fighting serious and organized crime and terrorism, G8 States recommend that legal systems allow, in the manner set forth below, for the use of special investigative techniques such as use of undercover agents, use of covert filming and listening devices, and covert interception of all forms of electronic communications, as well as for the use of other critical measures which by their effectiveness facilitate the investigation and prosecution of serious and organized crime and terrorism:

1. States should recognize the importance of using a variety of special investigative techniques to support criminal proceedings at national and international levels.
2. States should ensure the existence of an adequate legal framework that allows use of special investigative techniques in respect to serious crimes, including organized crime and terrorism.
3. States should ensure access to a broad array of special investigative techniques for the purpose of international cooperation in the investigation of the offenses described in paragraph 2.
4. States should ensure that the use of special investigative techniques is subject to conditions and safeguards provided for by law, which protect human rights and liberties, taking into account, inter alia, the nature of the privacy right involved and the degree of intrusiveness of the special investigative technique.

5. States are encouraged to enhance international judicial cooperation by ratifying those Conventions containing provisions addressing the use of special investigative techniques in international judicial cooperation.
6. Requested States should work with requesting States to maximize the likelihood of admissibility in the requesting State of evidence provided through special investigative techniques. The mere fact that a special investigative technique, carried out by the requested State in accordance with its law, would not be available to the requesting State in similar circumstances, should not per se bar the use of evidence so acquired in the requesting State's courts.
7. States should have the ability to take appropriate measures to provide effective protection from retaliation or intimidation of those who come forward as witnesses in organized crime and terrorism prosecutions. States should also examine measures to encourage participants in organized crime and terrorist groups to cooperate as witnesses with national authorities. For example, in appropriate cases and in accordance with fundamental principles of domestic law, States should consider the possibility of mitigating the punishment of a person who provides substantial cooperation in an investigation or prosecution.

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