



**COUNCIL OF
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NOTE

from:	Presidency
to:	CATS
Subject:	Participation of the Justice sector in implementation of the Internal Security Strategy (ISS)

The Internal Security Strategy for the EU (doc. 7120/10) was approved by the JHA Council at its meeting on 25-26 February 2010 and afterwards adopted by the European Council pursuant to Art. 68 TFEU. The Strategy provides for a European security model, which integrates the existing strategic and conceptual approaches and actions in law enforcement and judicial cooperation, border management and civil protection, to address the main threats and challenges in the field of security that the EU is facing.

Among the principles on which the ISS is based are the respect for fundamental rights, international protection, the rule of law and privacy, where justice, freedom and security policies are mutually reinforcing.

One of the ten guidelines for action in the internal security Strategy, adopted at the JHA Council in February, is precisely judicial cooperation in criminal issues, as set out in strategic guideline I (Wide and comprehensive approach to internal security).

Similarly, the relevance of the role to be played by judicial cooperation is set out in strategic guidelines III (Prevention and anticipation: a proactive, intelligence-led approach) in the reference to the gathering of evidence in the criminal process, V (Operational cooperation) concerning the mandate of COSI to ensure where appropriate, judicial cooperation in criminal matters relevant to operational cooperation in the field of internal security, and VIII (A commitment to innovation and training) in the reference, among others, to training of judicial services. Throughout the Strategy there are also several references to the role of Eurojust.

The comprehensive character of the Strategy means that the chosen security model integrates, amongst others, the action of police and judicial cooperation.

The Justice sector has, therefore, a role to play in the field of internal security which can be related to the implementation of the Strategy, taking into account the undeniable relationship between security and justice.

The Standing Committee on Operational Cooperation and Internal Security (COSI) which was established following the entrance into force of the Lisbon treaty (doc. 16515/09) is entrusted to ensure effective cooperation and coordination on internal security between all relevant authorities and bodies.

Internal security needs an appropriate legal framework which allows the prosecution of offences and the punishment of offenders. Similarly, the instruments available to the police and judicial authorities are essential to confront the threats facing the citizens of the Union. In order to ensure their safety, therefore, legislative as well as operational instruments must be used to prevent offenders from taking advantage of the freedoms of the citizens of the EU, in particular the free movement of persons.

We cannot fail to mention the role of units in Member States' Justice Ministries with competence in issues of criminal judicial cooperation as well as bodies such as the Prosecution Service which, due to the knowledge acquired thanks to their extensive practical experience, can and should make a valuable contribution to the development of policies designed to strengthen security in the Union.

Similarly, we should highlight the significant operational component of the tasks assigned to Eurojust, whose function is to support and enhance coordination and cooperation between the national authorities responsible for investigating and prosecuting serious crime that affects two or more Member States or that should be pursued according to common criteria (Article 85 TFEU).

In view of the above, and starting from the broad concept of internal security on which the Strategy itself is based, the participation and cooperation of the police and judicial authorities, among others, is essential for creating synergies that reinforce their performance in their respective areas of competence for the benefit of citizens.

Discussion points

The Presidency is therefore of the opinion that the general issue on how the criminal justice system may contribute to the implementation of the ISS and respectively to the operation of COSI has to be discussed at the level of CATS.

In accordance with the ISS, this involvement has to be lead by the requirement for supplementing actions to ensure a comprehensive approach and by the necessity to realize potential synergies between law-enforcement, customs and border control agencies and judicial authorities.

For example, in practical terms this approach may include:

the involvement of judicial authorities in concrete internal security actions at the earliest stage possible with a view to facilitating the collection of admissible evidence in subsequent court procedures;

the promotion of the setting up of JITs, wherever appropriate, while looking for the involvement of Europol and Eurojust as participants in the JIT as much as possible; providing for adequate training, while taking into account the dynamics in crime trends and their regional impact, including joint training programmes for law-enforcement and judiciary, for example relating to modus operandi or constitutive elements of emerging forms of crime.

The work of the Consultative Forum of General Prosecutors and Directors of Public Action regarding their possible contribution to the EU Internal Security should also be taken into account. The most recent meeting of the Forum took place on 20 May 2010 in Madrid.

It should be recalled that the Commission will deliver a Communication on the ISS which will include action oriented proposals. The Commission is invited to take into account the requirement of comprehensiveness and multidisciplinary of action and responses needed for the efficient implementation of the ISS.

In view of the above, the Presidency would like to invite delegations to submit their views regarding the following questions:

1. Which are the areas where in view of CATS a reinforced participation of the judicial sector in the implementation of ISS should be pursued? How should this be reflected in the work of COSI?

2. Which may be the concrete measures that should be put in place, so as to provide for effective cooperation of the judicial sector in the field of internal security?