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NOTE

From: Presidency
To: Law Enforcement Working Party
Subject: Discussion paper on intelligence-led policing through closer cooperation with Europol in the fight against itinerant criminal groups

Crime committed by mobile and itinerant groups is a serious and increasing problem in Europe. In order to successfully fight the activities of these groups there is a need for close cooperation between Member States.

Mobile and itinerant groups commit a wide range of crimes such as shoplifting, theft, frauds and burglaries which yearly result in losses in the Member States adding up to billions of euro. The extent of the problem can be illustrated by the report compiled by the Europe Committee of the Dutch Retail Association in 2009 which estimated that only the retail sector in 16 European countries covered by the analysis loses up to 7.6 billion euro a year¹.

¹ In 2009 the Europe Committee of the Dutch Retail Association published the report "Itinerant groups target stores in European Union – An urgent cross-border problem" that compiles a survey of losses caused by itinerant crime groups to the retail sector in the Netherlands, Belgium, Germany, the United Kingdom, France, Italy, Spain, Sweden, Denmark, Switzerland, Austria, Greece, Estonia, Poland, the Czech Republic and Slovakia. The report is only referred to as an example and does not express the views of the Presidency.

When considered in isolation most of the crimes committed by itinerant groups are minor offences. They are therefore generally not regarded as organised or serious crimes. However, when added up, such crimes committed by itinerant groups constitute a serious problem that in many instances appears to be organised and has a significant impact on the daily life of many EU citizens. Furthermore, the mobility and the use of false identities by some of these criminal groups are fundamental problems that generally make it difficult to fight this type of crime by traditional investigative measures.

For these reasons, the Stockholm Programme – an Open and Secure Europe Serving and Protecting Citizens² recognises the type of crime committed by itinerant groups as a problem that must be dealt with at the EU level. The Stockholm Programme thus points out that more effective European law enforcement cooperation should also focus on cross-border wide-spread crime that have a significant impact on the daily life of the citizens of the Union.

The need for closer European cooperation in the fight against these types of crime has also been emphasised by the Council in its conclusions on the fight against crimes committed by mobile (itinerant) criminal groups³. The Council invites Member States to make full use of the existing European instruments and tools for the exchange of information on a strategic, tactical and operational level. Furthermore, the Council invites Member States, together with Eurojust and Europol, to explore possibilities to enhance cooperation and effectiveness in the fight against this criminal phenomenon.

The Council also underlined the importance of addressing the problem of crimes committed by itinerant groups by including this as one of the eight EU crime priorities in the Council conclusions on setting the EU's priorities for the fight against organised crime between 2011 and 2013⁴ in the framework of the EU Policy Cycle. As a shared strategic goal for all of the priorities within the Policy Cycle the Standing Committee on Operational Cooperation on Internal Security (COSI) shall assess how to enhance information exchange in order to get a better intelligence picture at EU level.

² OJ C 115, 4.5.2010, p. 1.

³ 15875/10 GENVAL 19 ENFOPOL 314, adopted during the Belgian Presidency.

⁴ 11050/11 JAI 396 COSI 46 ENFOPOL 184 CRIMORG 81 ENFOCUSTOM 52 PESC 718 RELEX 603.

In addition to the existing initiatives, the need for further EU cooperation to tackle this imminent problem was raised by Member States at the JHA Council meeting on 13-14 December 2011 on the basis of a note from France, Germany, Italy and Spain⁵.

The EU has already adopted a number of instruments aimed at improving cooperation in criminal matters which are already well-functioning or in the phase of being implemented. These instruments include, *inter alia*, the European Arrest Warrant, the EU convention on mutual legal assistance, the Prüm Decisions, the ECRIS Decisions and the framework for JITs. All these instruments are important for effective investigation and prosecution of criminal offences. When the Prüm Decisions are fully implemented in all Member States the EU will furthermore have an effective tool for establishing the identity of persons involved in criminal activities in different Member States.

However, as underlined in the aforementioned Council conclusions on the fight against crimes committed by mobile (itinerant) criminal groups and the Council conclusions on setting the EU's priorities for the fight against organised crime between 2011 and 2013 it is essential that Member States as a supplement to the legal instruments create a strong intelligence picture that can be used by Member States to identify, map and prevent the criminal activities of these groups.

This idea is further developed in the Operational Action Plan (OAP) related to the EU crime priority on mobile organised crime groups⁶ which includes operational actions focusing on the creation of a better EU intelligence picture in relation to this problem and a streamlined framework for the feeding of the Europol's database.

Alongside this ongoing work in COSI, it is important to consider how Member States can further enhance the use of intelligence-led policing in this field through existing means of intelligence-sharing and make full use of the future EU intelligence picture in this area.

⁵ 18293/11 JAI 936 COSI 124 ENFOPOL 466 GENVAL 135 COMIX 825+COR 1.

⁶ 17827/2/11 REV 2 JAI 904 COSI 111 ENFOPOL 451 CRIMORG 244 ENFOCUSTOM 170 PESC 1566 RELEX 1273 JAIEX 139 GENVAL 132 RESTREINT EU/EU RESTRICTED.

This could e.g. be achieved if Member States systematically make use of the Europol Information System (EIS). The EIS is a well-functioning system that gives designated authorities in Member States access to a wide range of information including biometric data such as DNA profiles, fingerprints and photos of suspected offenders⁷.

The essential precondition for the EIS to deliver useful intelligence information and create added value to national law enforcement work is that Member States systematically provide the system with all relevant intelligence and information. In other words, the more data on itinerant crime that is provided to the EIS the bigger are the chances that cross-checks will identify new leads for investigations or intelligence operations. This would also make Europol the hub for information exchange between law enforcement authorities as recommended in the Stockholm Programme.

To illustrate the current use of the EIS by Member States, Europol has provided detailed statistics on the use of the EIS set out in annex 1 (see in particular the chart 1.1 showing the progress of the EIS content since December 2006 and the chart 1.6 showing the progression of searches ran in the EIS since 2006).

Against this background the Presidency invites Member States to discuss the following points:

It seems that Member States have varying experiences when it comes to intelligence led policing and the use of the EIS against crime committed by itinerant groups. The Presidency therefore invites Member States to share their experiences on the following:

- *To what extent is intelligence-led policing against crime committed by itinerant groups applied?*
- *Is the use of EIS part of the intelligence-led policing?*
- *If yes, how often is the EIS used?*
- *If yes, what are the experiences?*
- *If no, what are the reasons?*

⁷ For examples of successful use of the EIS see annex 2.

How can the use of the EIS be extended and further incorporated in the work of law enforcement authorities in the field of fighting itinerant crime?

Do Member States see any obstacles when it comes to making the EIS an integrated part of law enforcement authorities' investigations against crime committed by itinerant groups, and what can be done to overcome these obstacles?

Would a way forward be to introduce an obligation for Member States to provide a certain minimum of information to the EIS in the field of fighting itinerant crime?

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