



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 9 March 2010

7184/10

LIMITE

**JAI 191
COSI 9
ENFOPOL 56
ENFOCUSTOM 15
FRONT 26
COPEN 55**

NOTE

From: Presidency
To: Standing Committee on operational cooperation on internal security / (COSI)
Subject: COSI's role in the coordination and follow-up mechanisms of joint operations

Introduction

As one of COSI's main role is to "facilitate coordination of the action of Member States' competent authorities"¹ and it shall also "help ensure consistency of action by [Eurojust, Europol, Frontex and other relevant bodies]"², an important activity will be to follow and coordinate joint operations.

The current note briefly sets out the different types of joint operations that are currently organised as well as the existing coordination mechanisms and provides a proposal for COSI's role in this area. In defining this role, the main concerns have been to ensure that

- no double work is created in relation to on-going work by other bodies and working groups
- on the other hand, all on-going activities are taken into account to ensure a real horizontal coherence and proper coordination
- actionable projects are set up and results can be accounted for, evaluated, measured and used as a basis for defining future projects.

¹ Article 71 TFEU.

² Article 5(2) of the Council Decision on setting up the Standing Committee on operational cooperation on internal security (doc. 16515/09 POLGEN 201).

Current joint operations

Joint Customs Operations (JCOs)

Joint Customs Operations (JCOs) are planned under the auspices of the Customs Cooperation Working Party of the Council (CCWP), which has elaborated a procedure for the planning, organisation, development and evaluation of the JCOs³. The CCWP also follows the organisation of regional customs operations and OLAF Customs Operations, even though the organisation of these types of operations is independent.

JCOs are lead and carried out by the Member States' customs administrations. The participation of other national law enforcement agencies in the JCOs is a question to be organised by each Member State at internal level, depending on the objectives of the JCO and their national organisation. Nowadays, different organizations participate in the JCOs, in some cases providing technical support for the information exchange, such as the OLAF, EUROPOL, WCO and INTERPOL. In the last years, some Joint Customs Police Operations (JCPO) have been also organised, with the participation of police, customs administrations and other law enforcement with competences in the specific risk area.

COSPOL projects

The COSPOL⁴ methodology was adopted by the Police Chiefs Task Force in 2004 as a means for enhancing operational cooperation to fight terrorism and organised crime. Several projects have been set up, some more successfully than others, covering a wide range of subjects and addressing various aspects of operational cooperation⁵.

Based on 5 years experience, the Police Chiefs Task Force agreed in November 2009 on a re-launch of COSPOL using a process-based approach (doc. 13610/2/09 REV 2), which defines that COSPOL activities should

³ Guide for Joint Customs Operations: document 8171/09 ENFOCUSTOM 38.

⁴ Comprehensive Operational Strategic Planning for Police

⁵ The current COSPOL project are focusing on Child Pornography (CIRCAMP), Western Balkans Organised Crime (WBOC), Organised Crime exploiting Information and Communication Technologies (OCICT), Heroin, Synthetic drugs, Cocaine, Vietnamese Organised Immigration Crime (VOIC).

- Take place within the ECIM cycle,
- Adopt an integral (prevention, pro-active, preparation, repression, victims assistance) and integrated (partnership) approach of the criminal phenomena,
- Support the ongoing investigations, and initiate new investigations, inter alia by means of an AWF at Europol,
- Facilitate (including training) the cross-border investigation cooperation,
- Enhance intelligence flow,
- Achieve concrete operational results,
- Prevent serious and organised crime and terrorism activities
- Exchange experience and develop best practices, in particular in the field of new and emerging threats.

Since the Police Chiefs Task Force will not convene anymore, there is agreement that COSI should ensure that the follow-up of the COSPOL projects is guaranteed.

Frontex joint operations

Frontex launches joint operations and pilot projects upon a proposal of the Agency or a Member State. Any joint operation is preceded by a risk analysis assessing the current risks and threats at the external borders suggesting a targeted joint operational response. The process before the launching of a joint operation is characterized by close coordination and consultation with the concerned Member States, in particular the host Member State.

The operational initiative is subsequently “translated” into an operational plan, which takes into account the recommendations from the risk analysis and includes details on deployment of technical equipment and human resources, the geographic location and time span of the operation as well as on the reporting mechanism. The operational plan also determines the role (tasks and responsibilities) of the host and other participating Member States.

The joint operations are coordinated through an international coordination centre, which is led by the hosting Member State, set up in the region where the operation takes place.

After each joint operation, Frontex evaluates the results on the basis of the data collected during the operational activity which is also used for enriching the situational picture at the external borders and elaboration of further risk analysis. The evaluation results of the operation are subsequently used to refine the preparation process of future joint operations.

In 2009 Frontex coordinated a total of 59 Joint Operations composed of 8 (Land), 9 (Sea) 10 (Air) and 32 (Return) operations. These operations represented a total of 5086 “operational days”.

Other coordinated and/or joint police operations

On a bilateral or multilateral basis, other coordinated or joint police operations are regularly organised. They can concern the investigation of criminal offences or aim at maintaining public order and security, e.g. by providing assistance at major events.

Some of these operations are widely advertised (e.g. via PCWP or PCTF), seeking the involvement of a large number of Member States, others are organised between a few concerned States. This can be on an ad hoc basis or within a set framework (e.g. the Baltic Sea Task Force or MAOC-N).

The legal basis for such operations is mostly bilateral or multilateral agreements but the "Prüm Decisions" of 2008 can also be used for certain types of operations.

There is no overview on what is being done and by whom and in too many instances a number of actors, and Europol in particular, remain unsighted about these bi- and multilateral activities even if they fall within their mandate.

Joint Investigation Teams

A JIT is an investigation team set up on the basis of an agreement between two or more Member States and/or other parties, for a limited duration and mainly to obtain information and evidence about the crime for the investigation of which it has been established. Europol and Eurojust have elaborated a "Guide to EU Member States' legislation on Joint Investigation Teams" and a "Joint Investigation Teams Manual"⁶ to inform practitioners about the legal basis and requirements for setting up a JIT and to provide advice on when a JIT can be usefully employed. On 25/26 February 2010, the Council adopted a Resolution on an updated Model Agreement for setting up a JIT⁷.

⁶ Doc. 13598/09 + COR 1 COPEN 178 ENFOPOL 218 EUROJUST 55 EJM 35

⁷ Doc. 6397/1/10 REV 1 COPEN 43 CRIMORG 29

There is no comprehensive overview of on-going JITs but under Article 13(5) of the new Eurojust Decision Member States are required to notify their Eurojust national member of any JIT set up. So there is some information available under the Case Management System of Eurojust, in as far as it was already provided under the new Eurojust decision. However, the Secretariat of the Network for Joint Investigation Teams Experts, which is to be established within Eurojust, could play an important role in producing such an overview.

Coordination mechanism

In order to avoid overlaps among JCOs, operations run for any of the COSPOL projects and Frontex operations, a coordination mechanism was established⁸ to achieve synergy effects, avoid duplication of efforts and waste of resources as well as to avoid infringements caused by uncoordinated overlaps.

Under the mechanism, the Chairman of the CCWP/Experts, the Head of the Police Chief Task Force Support Unit and a representative from FRONTEX are appointed as the Single Points of Contact (SPOC). The SPOCs must meet at least once per Presidency and gather general information related to the aim, time and geographical area of the operations of their respective entities, and meet in order to identify if a possible overlap from the analysis of the three items (aim, time and geographical area) can be anticipated.

If an overlap is foreseen, all parties responsible for the operational activities are alerted and set in contact with each other. The coordinators of the operations will then exchange operational information in order to confirm the overlap and if that is the case, to reach a conclusion on how to deal with it (e.g. merge or change the projects).

Role of COSI

As stated in the introduction, the Presidency is of the opinion that COSI should ensure that on-going work is not hampered but encouraged and no double work is created.

However, COSI should improve the coordination between different on-going operations and to that end, a complete view is necessary and may then lead, in due time and for specific reasons, to slight adaptations in existing mechanisms.

Finally, it is acknowledged that certain activities can be improved and expanded.

⁸ Doc. 13403/2/07 ENFOCUSOM 95 ENFOPOL 155 REV 2

On that basis, COSI is invited to discuss and approve the following proposals:

- the COSI counsellors will examine whether and how the coordination mechanism can be expanded to include all operational activities in order for COSI to have a general overview and, consequently, examine how to adapt this mechanism to the new situation and structures (notably including Europol in view of its new role as Project Support Manager for COSPOL projects)
- Europol, through its own structures, will evaluate the current COSPOL projects and make recommendations for an improved handling of these projects
- on the basis of the above report and evaluation, the COSI counsellors should elaborate a proposal for a process that will provide COSI with a focused and actionable mechanism to play its role in facilitating coordination and ensuring consistency but also to improve the operational delivery of Council's relevant strategies and action plans.
