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**NOTE**

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from:	Presidency
to:	Standing Committee on operation cooperation on internal security (COSI)
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Subject:	Policy Advisory Document for the years 2014 to 2017

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Action 30 of the EU policy cycle for organised and serious international crime<sup>1</sup> requires that COSI and the Commission produce a Policy Advisory Document (PAD) on the basis of the EU SOCTA 2013 to assist COSI in submitting to the Council draft conclusions setting the EU crime priorities for the upcoming cycle between 2014 and 2017.

Delegations will find in annex the Policy Advisory Document as it was agreed at COSI on 17 April 2013.

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<sup>1</sup> doc. 15358/10 COSI 69 ENFOPOL 298 CRIMORG 185 ENFOCUSTOM 94

## 1. INTRODUCTION

Europol has recently issued the first Serious and Organised Crime Threat Assessment (SOCTA)<sup>2</sup> together with an executive summary which includes conclusions and a list of recommended crime priorities in accordance with actions 26 and 27 of the Policy Cycle. With the SOCTA, Europol delivered a strategic report identifying and assessing threats in the EU, assessing vulnerabilities and opportunities for crime, including findings specific to regions and MS which are to be translated into political priorities, Multi Annual Strategic Plans (MASPs) and Operational Action Plans (OAPs).

This policy advisory document builds upon the executive summary of the SOCTA and proposes a number of priorities for consideration by COSI and for adoption by the Council. The setting of these priorities was principally based on the SOCTA recommended priorities, comments from Member States, Agencies and the Commission on the SOCTA but was also influenced by existing strategic papers and assessments, policies and legal instruments (see annex 1).

The proposed EU priorities are set out in chapter 3. The selection of priorities of a different nature in the cycle 2011-2013 (geographical approach, crime phenomenon, modus operandi) created several difficulties in the setting of strategic goals and their implementation in the OAPs and raised the risk of creating gaps and overlaps between priorities. The "criminal hubs" approach used in the previous OCTA has been abandoned by Europol and the focus has now been put on the type of crime in the new SOCTA, the so-called "commodity" based approach. In each of these areas, the most significant criminal groups and the countries most targeted will be identified. Further specification will be done in the MASPs based on the detailed assessments prepared per priority taking into account the regional dimension where appropriate. Obviously some of the recommended crime priorities will be closely related to some of the previous crime priorities and in this respect due attention should be given to the most appropriate manner to take account of their implementation.

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<sup>2</sup> doc. 7368/13 JAI 200 COSI 26 ENFOPOL 75 CRIMORG 41 CORDROGUE 27  
ENFOCUSTOM 43 PESC 286 JAIEX 20 RELEX 211

The EU Crime Priorities proposed in chapter 3 are identified on the basis of the SOCTA recommended priorities, contributions received from Member States, Commission and Agencies and therefore represent the main threats in the EU requiring combined efforts from Member States and Agencies to implement these priorities at EU level. This does, however, not exclude that different efforts are deployed at national and regional level for other types of crime with a more "local" character.

When the Policy Cycle has links with existing EU policies and initiatives, due care should be taken to complement the implementation of the latter.<sup>3</sup>

## **2. SOCTA RECOMMENDED PRIORITIES AND INPUT FROM MEMBER STATES, THE COMMISSION AND AGENCIES**

Based on the findings of the SOCTA, Europol recommended that the operational response to serious and organised crime in the EU should focus on the high priority threats set out below.

- **Facilitation of illegal immigration:** To reduce Organised Crime Groups (OCGs) abuse of legal channels for migration including the use of fraudulent documents as a means of facilitating illegal immigration. To weaken OCGs operating at the main entry points to the EU and those involved in large-scale facilitation of illegal immigration
  
- **Trafficking in human beings:** To weaken OCGs involved in intra-EU human trafficking for the purposes of labour exploitation and sexual exploitation, including those groups using LBS to facilitate or disguise their criminal activities

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<sup>3</sup> For instance regarding the fight against MTIC fraud, the possible investigations and prosecutions in the framework of policy cycle should avoid duplication of work carried out in the administrative control cycle by tax authorities, in line with the Council Regulation (EU) 904/2010 of 7 October 2010 on the administrative cooperation and combating fraud in the field of VAT, and built further on the administrative control results. Also regarding customs control on goods/fight against fraud, the possible investigations and prosecutions in the framework of policy cycle should avoid duplication of work carried out in the different groups managed by different authorities, in line with Council Regulation (EU) 2913/92 of 12 October 1992 establishing the Community Customs Code.

- **Counterfeit goods with an impact on public health and safety:** To weaken OCGs involved in the production of goods violating health and safety regulations and sub-standard goods
  
- **Missing Trader Intra Community (MTIC) fraud:** To weaken the capacity of OCGs and specialists involved in MTIC fraud
  
- **Synthetic drugs production and poly drugs trafficking in the EU:** To reduce the production of synthetics drugs in the EU and to weaken the capacity of OCGs involved in this activity and those associated with poly-drugs trafficking
  
- **Cybercrime:** To combat cybercrimes committed by organised groups and generating large criminal profits (such as online fraud), cybercrimes which cause serious harm to their victims (such as online child sexual exploitation), and cybercrimes which affect critical infrastructure and information systems in the EU:
  - Profit-driven cybercrime and hacktivism
  - Online Child Sexual Exploitation
  - Payment Card Fraud
  
- **Money laundering:** To increase the investigation of OCGs' financial activities and promote further possibilities for asset recovery.

The 2013 SOCTA also contains findings about the continuing evolution of the OCGs active in the EU, which are increasingly networked, much less defined by their ethnicity or nationality and capable to operate on an international basis with multiple partners and in multiple crime areas and countries.

Whereas most of these threats affect all Member States, some threats mainly affect particular Member States ("most affected EU countries"), set out in annex 2. It is recommended that those Member States join the corresponding crime priority(ies) and appoint experts to participate in the elaboration of the MASPs and OAPs (see point 6: Next steps).

### 3. PROPOSED EU PRIORITIES

The Presidency and the Commission have drawn up the following draft list of priorities.

- **Facilitation of illegal immigration:** To disrupt Organised Crime Groups (OCGs) involved in the facilitation of illegal immigration, operating in the source countries, at the main entry points to the EU on the main routes and, where evidence based, on alternative channels. To reduce OCGs abuse of legal channels for migration including the use of fraudulent documents as a means of facilitating illegal immigration.

- **Trafficking in human beings:** To disrupt OCGs involved in intra-EU human trafficking and human trafficking from the most prevalent external source countries for the purposes of labour exploitation and sexual exploitation ; including those groups using Legal Business Structures to facilitate or disguise their criminal activities.

- **Counterfeit goods with an impact on public health and safety:** To disrupt OCGs involved in the production and distribution of counterfeit goods violating health, safety and food regulations and those producing sub-standard goods.

- **Excise fraud and Missing Trader Intra Community (MTIC) fraud:** To disrupt the capacity of OCGs and specialists involved in excise fraud and MTIC fraud.

- **Synthetic drugs production and drugs trafficking in the EU:**

- To reduce the production of synthetic drugs in the EU and to disrupt the OCGs involved in synthetic drugs trafficking,

- To reduce cocaine and heroin trafficking to the EU and to disrupt the OCGs facilitating the distribution in the EU.

- **Cybercrime:** To combat cybercrimes committed by OCGs and generating large criminal profits such as on-line and payment card fraud, cybercrimes which cause serious harm to their victims such as online Child Sexual Exploitation, and cyber-attacks which affect critical infrastructure and information systems in the EU.

- **Illicit trafficking, supply and use of Firearms:** To reduce the risk of firearms to the citizen including combating illicit trafficking in firearms.

- **Organised property crime:** To combat organised property crime committed by Mobile Organised Crime Groups.

#### 4. CROSS CUTTING AND EMERGING THREATS

The SOCTA recommends money laundering as an EU crime priority. However, since it affects other EU crime priorities, money laundering should be considered as a horizontal cross-cutting issue. Disrupting OCGs involved in money laundering should therefore be taken into account when elaborating the MASPs and OAPs for the different EU crime priorities. The opportunities for asset recovery should also be explored.

In the implementation of the EU crime priorities, Member States should consider, where relevant, the geographical dimension of crime phenomena related to regions such as the Western Balkans and West Africa.

Member States should also consider, where relevant, focusing on network based OCGs such as Mafia-style OCG's or outlaw motorcycle gangs when tackling all forms of serious and organised crime.

Furthermore, Member States should pay attention to the fact that OCG's are highly adaptable and demonstrate considerable flexibility in their efforts to profit from new or poly crime activities.

By addressing the most relevant threats and by properly managing its available resources, each Member State ensures that a certain capacity remains available to tackle cross cutting, unexpected or emerging threats.

SOCTA mentions corruption as one of the crime facilitators. Corruption is closely linked to organised crime with an international dimension and it facilitates the operation of illegal markets such as trafficking in human beings, cigarettes smuggling, drugs, prostitution, car-theft and extortion.

Beside the list of recommendations, the SOCTA includes two "emerging threats" which will need a close follow-up:

- Environmental crime (illicit waste and endangered species trafficking)
- Energy fraud.

According to action 3 of the EU Policy Cycle mechanism, such threats should be monitored by Europol taking into account their possible rapid evolution and should be submitted to COSI attention when required/deemed appropriate. COSI is therefore invited to confirm that both "environmental crime" and "energy fraud" are closely monitored by Europol and to address these as it sees fit.

## **5. FOLLOW UP OF THE PRIORITIES OF THE 2011-2013 POLICY CYCLE**

Some of the recommended crime priorities are closely related to some of the previous crime priorities (Illegal immigration, THB, Synthetic drugs, Cybercrime, MOCG). When drafting the MASPs and OAPs the progress achieved within the priorities of the policy cycle 2011-2013 should be built upon where relevant.

The fact that some priorities of the previous cycle are not included in the new cycle does not mean that the fight against these crimes will be discontinued. Regional dimensions should be taken into account when drafting the MASPs and OAPs in a number of the new priorities.

Some of the previous priorities have attained a certain level of maturity to be able to continually develop through the existing means of cooperation within the EU as well as through the mechanisms for bilateral or multilateral cooperation at police and judicial level.

## **6. IMPACT ON OTHER WORK/FILES**

As the new cycle will cover a 4 year period (2014-2017), the relevant EU Agencies and other JHA stakeholders are requested to take the new EU crime priorities into account in their activities e.g. when developing new initiatives or drafting their work programmes. Future strategic documents must remain consistent with the EU priorities and the EU Policy Cycle.

The external dimension of several crime priorities underlines the importance of a close cooperation with the EEAS, relevant international organisations such as Interpol and third countries. COSI therefore encourages active EEAS participation in the elaboration and implementation of these priorities.

COSI also invites the Council preparatory bodies, JHA Agencies, Commission and EEAS to align all relevant activities to the implementation of the EU crime priorities. The incoming Presidencies are invited to take this into account when preparing the programmes of the respective Council working groups.

Regarding training and awareness raising, CEPOL is invited to continue to include the crime priorities in its training activities. Similarly Member States are encouraged to make full use of training opportunities linked to the EU Policy Cycle offered by CEPOL in 2013 and cascade the knowledge by organising awareness and training for law enforcement officers involved in the implementation of the EU Policy Cycle at national level and tailored to their specific needs. Member States are invited to include the EU Policy Cycle in their respective training curricula for senior as well as junior law enforcement personnel.

Member States are encouraged to consider aligning their membership in EMPACT projects with their membership in Europol Focal Points insofar as this is not the case yet.

The fully-fledged four-year cycle does not only concentrate on law enforcement actors. Against this background, all current actors of the Policy Cycle should reflect upon the inclusion of new actors (public and private) in order to comply with the multidisciplinary approach.

Finally, COSI recalls the importance of obtaining adequate funding under the Internal Security Fund (ISF) in order to effectively support the activities agreed upon within the policy cycle. To this end, in addition to joint actions, appropriate actions at national level to support these priorities should be included by Member States in their national programmes under the ISF.



## 7. NEXT STEPS

Member States and EU actors are invited to consult the "timeline for the EU Policy Cycle activities in 2013" (doc. 5071/13) to ensure the proper implementation of the policy setting and decision making process through the upcoming Multi-Annual Strategic Plans (MASP) and Operational Action Plans (OAP) workshops.

The MASP workshops are scheduled in June and early July under the auspices of the Commission in Brussels (to be adopted at the COSI meeting in September), while the OAP workshops should be held at Europol in October (to be adopted in the COSI of December).

Based on the identification of the "most affected EU countries" provided in the SOCTA (see annex 2), Member States are also invited to join the relevant EU crime priorities and to nominate Drivers and participants duly empowered to actively participate in the respective workshops.

In the course of 2015, a mid-term review should be conducted through the production of an interim assessment by Europol and the subsequent review, if necessary, of the MASPs (for the period 2016-2017).

**EXISTING STRATEGIC PAPERS AND ASSESSMENTS, POLICIES AND LEGAL INSTRUMENTS INFLUENCING THE PRIORITIES**

- "Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace"<sup>4</sup>,
- the EU Action on Migratory Pressures<sup>5</sup>,
- the Return Directive<sup>6</sup>,
- the Sanction against employers of illegally staying TCN' Directive<sup>7</sup>,
- the Frontex Annual Risk Analysis (2012 edition ),
- the EU Drugs Strategy 2013-2020<sup>8</sup> and draft EU Action Plan on Drugs 2013-2016<sup>9</sup>,
- the EU Strategy towards the Eradication of Trafficking in Human Beings 2012 - 2016<sup>10</sup>,
- Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims<sup>11</sup>,
- Council Regulation (EU) 2913/92 of 12 October 1992 establishing the Community Customs Code
- the EU Customs Action Plan to combat intellectual property rights infringements (2013 to 2017)<sup>12</sup>,

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<sup>4</sup> doc. 6225/13 POLGEN 17 JAI 87 TELECOM 20 PROCIV 20 CSC 10 CIS 4 RELEX 115 JAIEX 14 RECH 36 COMPET 83 IND 35 COTER 17 ENFOPOL 34 DROIPEN 13 CYBER 1

<sup>5</sup> doc. 9650/12 MIGR 45 FRO<sup>L</sup> T 67 COSI 25 COMIX 288, doc. 6443/13 MIGR 17 FRONT 12 COSI 15 COMIX 102

<sup>6</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals; OJ L 348, 24.12.2008, p. 98–107;

<sup>7</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals; OJ L 168, 30.6.2009, p. 24–32

<sup>8</sup> doc. 17547/12 JAI 901 CORDROGUE 101 SAN 324 JAIEX 124

<sup>9</sup> doc. 5418/1/13 REV 1 CORDROGUE 5 SAN 18 ENFOPOL 12 RELEX 42

<sup>10</sup> doc. 11780/12 JAI 465 GENVAL 43 COSI 53 ENFOPOL 208 JAIEX 48 RELEX 589 EUROJUST 58

<sup>11</sup> Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims of 21 March 2011, OJ L 101, 15.4.2011, p. 1.

<sup>12</sup> adopted by 3208th Competitiveness Council on 10 December 2013

- Council Regulation (EU) 904/2010 of 7 October 2010 on the administrative cooperation and combating fraud in the field of VAT establishing Eurofisc network<sup>13</sup>,
- the Commission Action plan of December 2012 ( COM (2012) 722 final) on tax fraud and evasion<sup>14</sup>,
- The Commission proposals to amend the drug precursors legislations to better control the intra-EU trade in acetic anhydride and international trade in medicinal products containing ephedrine and pseudo-ephedrine,
- the FATF interpretative note to the Recommendation 30<sup>15</sup>,
- the Council 5th cycle of mutual evaluation on financial crime and financial investigation<sup>16</sup>.
- European Action Plan to combat illegal trafficking in so-called "heavy" firearms which could be used or are used in criminal activities"<sup>17</sup>
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and the Court of Auditors on the Commission Anti-Fraud Strategy (SEC 2011 791 final),
- Strategy for future Customs Law Enforcement cooperation<sup>18</sup>.

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<sup>13</sup> [http://europa.eu/legislation\\_summaries/taxation/lf0003\\_en.htm](http://europa.eu/legislation_summaries/taxation/lf0003_en.htm)

<sup>14</sup> [http://ec.europa.eu/taxation\\_customs/taxation/tax\\_fraud\\_evasion/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/index_en.htm)

<sup>15</sup> FATF, p. 97 point 2, [http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF\\_Recommendations.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf)

<sup>16</sup> <http://register.consilium.europa.eu/pdf/en/12/st12/st12657-re02.en12.pdf>

<sup>17</sup> doc. 16427/1/10 REV 1 ENFOPOL 338 COARM87

<sup>18</sup> doc. 17778/12 ENFOCUSTOM 142 COSI 131

## LIST OF AFFECTED EU COUNTRIES (based on the SOCTA)

MS/ Priorities	III imm	THB	Counterfeit goods	MTIC	Synthetic drugs Poly- drugs	Cyber	Money- laundering
AT	X			X	X	X	X
BE	X	X	X	X	X	X	X
BG	X	X		X	X	X	X
CY				X	X	X	X
DE	X	X	X	X	X	X	X
CZ	X	X	X	X	X	X	X
DK	X			X	X	X	X
ES	X	X	X	X	X	X	X
EE				X	X	X	X
FI	X			X	X	X	X
FR	X	X		X	X	X	X
EL	X			X	X	X	X
HU	X	X	X	X	X	X	X
IE		X		X	X	X	X
IT	X	X	X	X	X	X	X
LV				X	X	X	X
LT				X	X	X	X
LU				X	X	X	X
MT	X			X	X	X	X
NL	X	X	X	X	X	X	X
PL	X		X	X	X	X	X
PT				X	X	X	X
RO	X	X	X	X	X	X	X
SI	X			X	X	X	X
SK	X	X		X	X	X	X
SE	X	X		X	X	X	X
UK	X	X	X	X	X	X	X