



Council of the
European Union

Brussels, 5 June 2024
(OR. en)

10493/24

LIMITE

COSI 111
JAI 956

NOTE

From: Swedish delegation
To: Delegations

Subject: Non-paper on a New SecEUrity Package
– *Information from Sweden*

Delegations will find in the Annex a non-paper from the Swedish delegation on a "New SecEUrity Package" with a view to an 'Any other business' item at the Council ('Justice and Home Affairs') on 13-14 June 2024.

Stockholm, May 17th 2024

The New SecEUrity Package

Taking responsibility to keep its citizens and society safe from harm

Sweden proposes that a key priority for the incoming European Commission should be to bring about a fundamental change of perspectives in EU efforts to fight organised crime and terrorism. Within the remit of its competence, policy initiatives for the coming five years should be guided by the perspective of victims and society's legitimate interest in the protection against crime. We suggest a **New SecEUrity Package** composed of the following elements:

- Creating adequate EU institutional working methods
- Follow the money
- Going dark - Access to digital data
- Making the most of operational support

1. The Challenge

The situation is well known; **organised crime is on the rise in several EU Member States**. Revenues from drug sales, trafficking and other illegal activities, provide criminal groups with substantial economic gains. Assets are often hidden abroad, and criminal leaders frequently operate from countries outside the EU. In some cases, **organised criminal groups take aim at public institutions** and civil society organisations threatening our open societies based on trust and democratic values. Organised crime groups also use their financial resources to corrupt our society, launder proceeds and infiltrate our economy. Furthermore, the threat of terrorist attacks remains high. There are individuals in Europe guided by extremist ideals who are prepared to commit acts of terror, to hurt and kill civilians and create chaos in our societies.

Digitalisation of our societies, and the creation of a cybersecure environment, makes us a strong global player with prosperous economies. We should value the benefits it creates for our open societies. However, as society goes digital and the digital economy grows, so does organised crime and the threat from terrorism. Cybercrimes range from ransomware attacks on public institutions to child sexual abuse and fraud. Measures from the industry to protect the legitimate interest of fundamental rights such as the right to privacy, combined with tools exclusively designed for criminals to avoid detection, risk creating safe havens for criminality.

The EU has managed to agree on several initiatives over the last years. Nevertheless, proposals with crime fighting purposes are too often watered down during the legislative process in the name of the imbalance of interests in relation to fundamental rights (including the right to privacy) and distrust towards law enforcement agencies. The current political discourse contributes to maintaining an imbalance between different legitimate interests, such as the protection of privacy on the one hand, and the need of access to data for law enforcement purposes on the other. Law enforcement agencies and other actors focusing on victims' rights and crime prevention need to have a **stronger say in the EU policy making process**. Security is not in opposition to fundamental rights. On the contrary, the right to safety is a fundamental right. Personal safety is at top of citizens' priorities and should be at the top of policy makers' agendas.

These developments are the reason why the fight against organised crime and terrorism should be a top priority for the Union in the five years to come – 2024-2029.

2. How to address this challenge?

Sweden proposes a *New SecEUrity Package*. This package should be launched during the next legislative cycle, as a joint commitment between EU policy-making institutions. The EU should aim for a “whole of government approach” using all the instruments in the toolbox available in the fight against organised crime and for the protection of our democracies. We suggest that the package should include the following elements:

- **Creating adequate institutional working methods**

A perceived trade-off between the right to personal safety versus right to privacy has too often torn EU institutions and co-legislators apart and has seriously hampered the EU's ability to tackle cross border organised crime. This risk eroding trust in EU as a dynamic actor in this field and must be addressed.

New working methods need be explored. Dialogue and negotiations between co-legislators have proven challenging. To properly address the joint European challenge of cross-border organised crime, we suggest that **the co-legislators draw up a joint roadmap** for the *New SecEUrity Package*, engaging the relevant Commissioners, the rotating EU Presidencies of the Council and the relevant rapporteurs and dedicated Members of the European Parliament. The roadmap leading up to the agreement on the European Pact on Migration and Asylum has shown how the different institutions can work better together over time and towards clear objectives, even on the most contentious and sensitive files.

Considering the specific nature of the policy field relating to national security, Member States should be able to take relevant measures at national level when needed, taking into account the context and problems of each Member State. But more often, when problems cut across borders and issues cannot be effectively dealt with at national level, action at the Union level is called for. An important task for the incoming Commission should be to support Member States, for example through **following up of the implementation of the vast amount of**

legislation tabled and negotiated during the last legislative cycle, as well as giving operational support and facilitating exchange of best practices between Member States.

Finally, to ensure that policy initiatives the coming five years are guided by the perspective of victims and a person's right to safety as well as society's interest in the protection against crime, we suggest that the incoming **President of the Commission includes in the mission letters addressed to the relevant Commissioners** that all new legislation and initiatives should be based on evidence and take into account the effects for law enforcement and judicial authorities. Such effects should be thoroughly evaluated before the launch of any new initiative, for example through dedicated impact assessments.

- **Going dark – Access to digital data**

The abuse of digital tools for anonymisation and encryption to plan and commit crime with low risk for detection is a major and growing challenge. Without access to digital information and evidence our law enforcement agencies' ability to fight crime will erode. EU legislation on lawful access to data lags behind technological development. For this reason, the *High-Level Group on Access to Data for effective law enforcement (HLG)* was launched during the Swedish Presidency. The group will present its recommendations for future policy making in June, in particular on:

- **legislative recommendations**, (such as access to digital data),
- **cooperation with the industry** (for example by speaking with a common strong EU voice with the tech companies),
- **capacity building** (such as strengthening the rôle of Europol in gathering and sharing best practices among for example forensic authorities in EU Member States).

To avoid a digitally empowered impunity, the incoming Commission should base its efforts to improve law enforcement access to data on these recommendations.

- **Follow the money**

Today members of criminal groups can have prosperous lives using assets gained from cross-border criminal activity, such as trafficking of drugs, weapons and human beings. We need to **disrupt the flow of illicit profits by ensuring**

- full implementation of the Directive on asset recovery and confiscation that was recently agreed on and contains, *inter alia*, rules on confiscation of unexplained wealth.
- that all national confiscation orders are fully enforceable between Member States, e.g. through reviewing the 2018 Regulation on the mutual recognition of freezing orders and confiscation orders.
- cooperation between the EU and third countries. It should be explored how the role of Europol and Eurojust can be strengthened in this context.

- **Making the most of operational support**

Europol and Eurojust have a key role in enhancing the Union's capabilities to jointly strengthen the protection of internal security and combat cross-border organised crime and violent extremism. Law enforcement and judicial authorities across the EU have benefitted significantly from information-sharing and new working methods developed by these agencies. Europol and Eurojust are crucial actors in ensuring that all relevant law enforcement authorities are fully operational and efficient. To make full use of their potential, we must ensure that Europol and Eurojust are given the basis to work effectively and efficiently to fulfil their respective tasks.