COUNCIL OF THE EUROPEAN UNION

Brussels, 13 September 2013 (OR. en)

13647/13

LIMITE

COSI 111

NOTE

From:	Presidency
To:	Standing Commitee on operational cooperation on internal security (COSI)
Subject:	European Police Chiefs Convention 2013

Delegations will find attached the summary and recommendations transmitted by Europol of the European Police Chiefs Convention, which was held at Europol on 11 and 12 September 2013.

EUROPOL

European Police Chiefs Convention 2013

Summary and Recommendations

The Hague, 12 September 2013

EDOC # 686292-v3

Introduction

On 11 and 12 September 2013 in The Hague, Europol co-hosted the third European Police Chiefs Convention (EPCC) with the Lithuanian National Police.[1]

The event was attended by 200 high-level law enforcement representatives, from 41 countries[2] as well as delegates from the Council of the European Union, Eurojust, European Anti-Fraud Office (OLAF), European Commission, European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), European Parliament, European Police College (CEPOL), Frontex, EU Agency for Fundamental Rights, Interpol and the World Customs Organisation.

In preparation for the 2013 EPCC, four subject-specific working groups were formed, consisting of expert law enforcement personnel nominated by their national police chiefs. Throughout 2013 the working groups examined four subjects in detail so that they could define how international police cooperation could be better facilitated in these areas:

- Police leadership
- Modern technology
- Witness protection and informant handling
- Data protection.

On 12 September, Convention delegates discussed the outcomes of the working groups, resulting in a set of forward-thinking recommendations.

As part of the event, as in previous years, Europol facilitated many bilateral and multilateral meetings between law enforcement authorities from Europe and beyond. A Europol exhibition also allowed law enforcement partners to better understand the Europol products and services available to support them in tackling organised crime.

Summary

The 2013 European Police Chiefs Convention (EPCC) opened on 11 September, with a working lunch for police chiefs. Delegates were welcomed by Saulius Skvernelis, Commissioner General of the Lithuanian Police and Rob Wainwright, Director of Europol, who encouraged all participants to use the opportunity to inform the debate on what the law enforcement community needs from a future justice and home affairs programme.

[1] During the Lithuanian Presidency of the Council of the European Union.

[2] All 28 EU Member States plus Albania, Australia, Bosnia and Herzegovina, Canada, Colombia, former Yugoslav Republic of Macedonia, Iceland, Israel, Liechtenstein, Mexico, Moldova, Monaco, Montenegro, Norway, Russia, Serbia, Switzerland, Turkey, Ukraine and the USA.

Stefano Manservisi, Director General for Home Affairs at the European Commission, then took the floor to inform police chiefs about the ongoing reflections within the Commission on the follow-up to the Stockholm programme. Mr Manservisi recalled the development of the fight against organised crime from being based on inter-governmental cooperation, to having become one of the main policy areas of the EU. He noted that a number of important steps had been taken under the current programmes to ensure a robust body of EU law in justice and home affairs and in the adoption of a number of initiatives that had improved the possibilities for tackling crime and preventing terrorism. These initiatives were expiring. Challenges in designing a future policy framework included the sustained economic crises which made societies vulnerable, the increasing complexity of organised crime and its use of new technologies, the need to find the right balance between prosecution and prevention, and the protection of data and privacy. Mr Manservisi stressed that these challenges could not be tackled at national level only; a strong dimension at EU level, by creating European laws and standards for practical cooperation and risk analysis, would ensure better practical cooperation. Europol and other agencies were instrumental in this regard.

Mr Manservisi informed the police chiefs about the new instrument for co-financing Member States' activities over a seven-year period. The views of the police chiefs were important in the Commission's preparations, and Mr Manservisi asked for their assessment of the process to date to consolidate the European dimension – legislation, policy and practical cooperation framework, what the priorities and targeted EU actions should be for the coming years and what dimensions they would like to see further developed.

During the ensuing discussion, participants stressed that in light of the developments of cybercrime, the European Union needed new technologies, new ways of working and to invest more in security infrastructures. At national level, Member States had to change their risk profiles and share more information. To be able to tackle organised crime, information sharing had to become quicker and had to be done in a more comprehensive way at European level. More could also be done to create a common map of the most criminal groups operating in Europe. Cooperation with third countries was highlighted as an important instrument to tackle crime at its origin. The police chiefs noted that available funding needed to be channelled to promote better law enforcement activities at national level, and, as part of that, international police cooperation across the EU. The Director concluded that Europol would play its part in representing the police community of Europe when advising the Commission and other institutional actors in this process.

On 12 September, EPCC delegates gathered for the main proceedings, which began with short introductions from Messrs Wainwright and Skvernelis. Next in his keynote speech, David Armond, Director Border Policing Command at the new UK National Crime Agency (NCA), explained the structure of his new agency and the importance that the NCA places on international partnerships and intelligence sharing to tackle serious organised crime threats. He also reassured police chiefs that the UK will not disengage from Europe on Justice and Home Affairs matters, and will seek to opt back in to a number of key EU police and criminal justice measures, including those that support practical cooperation between EU Member States.

Police chiefs then debated the outcomes of the working groups, resulting in the sets of recommendations summarised on the following pages.

Police leadership

The report from the working group on police leadership[3] explored how effective and pro-active leadership is required to drive policing forward to deal with existing challenges effectively and robustly, while continuing satisfactory delivery on its other core tasks. The leadership under discussion is not limited to the most senior level, but includes notably the ability to take leadership in the entire police organisation to a higher level of agility and effectiveness.

Presenting the report to the European Police Chiefs Convention, Rob Wainwright, Director of Europol, explained how a range of changes taking place in society have the potential to affect policing and the role of law enforcement in society. These are, among others, globalisation - where events in one part of the world directly affect others - and the global financial crisis. Other phenomena are the cross-border movement of people and the internalisation of crime, progressive digitalisation and enhanced communication facilities which advance the speed at which changes occur, including a rapid growth in cybercrime. These, combined with an uneven spread of public services including law enforcement, and rising public discontent, are challenges that law enforcement leadership will need to address.

A large range of competencies of relevance to management and leadership in general can be applied directly to police leadership. Leadership must be built on core values, future-orientation, performance, authenticity and collaboration.

In essence it can be seen that police leadership comes down to skills, attributes and competencies that can be structured in accordance with the distinctive areas of the competency model presented by the working group (core values of future focus, authenticity, collaboration and performance). This leadership competency model is generic enough to allow for implementation that respects the 'couleur locale'.

The implementation and application of the model at domestic level first and foremost requires commitment and ownership by today's leaders. A joint coordination initiative to support and strengthen the implementation of leadership development and a stronger focus on the international dimension of leadership was therefore considered further by the European Police Chiefs Convention.

Representatives from Belgium, Denmark, Estonia, Finland, Germany, Greece, the Netherlands and Spain contributed to the debate on the working group report and reiterated their support for the way forward. Ferenc Banfi, Director of CEPOL, added how more emphasis should be placed on police leaders participating in already-existing European police exchange programmes. He also spoke about how useful a tool the TOPSPOC course is, which should be further developed to have more visibility and impact at national level, and how CEPOL are ready to work together with law enforcement to develop a complex police leadership programme for the future.

Recommendations

The practical development of police leaders at national level can easily be lost amongst the multitude of daily priorities and incidents in a typical law enforcement environment. To mitigate this risk the EPCC recommends:

- the setting up of a joint coordination initiative that supports and strengthens the implementation of leadership development at domestic level, with the
- explicit commitment of the police chiefs to take personal ownership of implementing leadership development and succession planning.

[3] Moderated by Europol with participating experts from Austria, Hungary, Interpol, Netherlands and Spain.

Whereas the commitment of the police chiefs is relatively simple and straightforward to secure, the establishment of a joint coordination initiative deserves some further elaboration. The idea behind it is that the implementation at national level will raise questions and challenges that are of common interest. Mutual consultation on how certain issues are addressed can facilitate smoother implementation. The same applies to the sharing of best practices.

An additional factor is that a joint approach will enhance the international alignment of leadership development, which in itself can contribute to better international cooperation. Furthermore, it also allows for the joint development of specific programmes that strengthen leadership and leadership development. There are several concrete themes that could be elaborated in this respect. For instance, there could be an alignment of principles, standards and instruments for accountability and reporting. Another possibility is to conduct a study on factors that determine the level of corporate agility and resilience. Gender balance in senior management positions, the concept of joint strategy development or an assessment of the role of police chiefs at international policy level are other potential topics. A joint initiative for coordinating the implementation of police leadership development also offers the possibility to apply a stronger focus on the international dimension of police leadership. It could even shape an international exchange programme for leadership development or establish specific training programmes, i.e. for international crisis management.

In summary, a joint initiative to better coordinate the implementation of leadership development offers many possibilities to increase the chances of success and adds several opportunities to strengthen the international dimension of leadership development.

Modern technology

Finding comprehensive strategies to prioritise future means and efforts is the responsibility of law enforcement leaders. Discussions on the report from the working group on modern technology[4] were opened by Michael Niemeier, Director for International Coordination at the German Federal Criminal Police Office (Bundeskriminalamt). There was focus on how to prepare law enforcement authorities for future developments and how essential it is to be aware that modern technology will increasingly influence both criminal activities and police work.

Modern technology is used by criminals as soon as their application is profitable, which may be almost instantaneously. If law enforcement authorities are to be one step ahead, technology-oriented foresight must be made strategically relevant. Additionally, foresight is a precondition for enhancing police effectiveness and efficiency. It helps to win time and to find intelligent and cost-efficient solutions. Foresight can inform legislation about potential future developments, and thus helps create legal certainty. Police chiefs from Denmark, France and Spain commented on the findings of the report and reinforced their support for the recommendations. The Greek Police Chief added that the EU Agency for large-scale IT systems (EU-LISA) should also be considered as cooperation partners in our initiatives on modern technology.

4 Led by Germany with participating experts from Austria, Belgium, Council of the EU, Europol (moderating), Finland, France, Interpol, Lithuania, Netherlands, Poland, Spain, Switzerland and the UK.

Recommendations

Following discussions, the European Police Chiefs Convention recommends:

- A technology foresight management support group should be established to provide strategic advice for heads of authorities
- Existing modern technology foresight efforts should be merged into a kind of 'technology radar' as a strategy-oriented tool on a national and European level. Other Member States should be encouraged to establish foresight activities
- Police chiefs should ensure that an executive is responsible for technology foresight on a national level and for the endorsement of the Council Conclusions on ENLETS (European Network for Law Enforcement Technology Services). This will facilitate innovation and access to European funding like Horizon2020
- Foresight methods like scenario-building should be used to prepare law enforcement agencies for future developments in the main crime fields, like organised crime, cybercrime or terrorism
- Awareness of modern technologies, especially digital and communication technologies, should be enhanced through training
- To encourage the use of modern technology throughout every organisation, more of law enforcements' current resources should be dedicated to dealing with modern technologies, and not only the resources of specialised task forces
- The coordination of approaches and efforts within and amongst Member States' law enforcement research and development (R&D) units, and cooperation with research institutions, to be more cost efficient.

Witness protection and informant handling

Introduced by Saulius Skvernelis, Commissioner General of the Lithuanian Police, the debate on the report from the working group on witness protection and informant handling[5] examined these two successful instruments in the fight against organised crime and terrorism. The complex structures and dynamics of organised crime and terrorist groups make insider knowledge indispensable to successful criminal law proceedings. Witness protection is also the chief method for law enforcement authorities to safeguard those who risk their lives giving evidence in court.

There is no doubt that both instruments have an international dimension. The relocation of witnesses at an international level is a critical success factor in many cases, and the use of informants of, or in, other Member States is standard practice in cross-border police cooperation.

Modern technology, such as the use of biometric data, the Internet - and social media in particular - poses a challenge to witness protection. Modern forms of cross-border management and social networks can reveal the identities of protected persons, and of those who have to protect them.

The flagging of high risk informants and the adequate rewarding of informants require further discussion to develop a common understanding at international level.

5 Led by Lithuania with participating experts from Austria, Belgium, Croatia, Denmark, Estonia, Europol (moderating), France, Germany, Greece, Hungary, Italy, Lithuania, Netherlands, Romania, Slovakia, Spain, Special Tribunal for Lebanon, Sweden and the UK.

Both topics also share a financial dimension - witness protection can be very costly, especially if more than one person is affected and the witnesses are relocated to a different country. Financial support could mitigate certain cases. In the field of informant handling, complementary funding to national reward systems could become beneficial to international cases.

Police chiefs from Belgium and Greece both commented on two recommendations concerning the issue of financial support, which they thought was a sensitive issue and should be discussed further at a later stage. The recommendations were that:

- The financial challenges in witness protection matters are brought to the attention of the European Commission and Council working groups to explore the possibility of establishing a dedicated fund (administered by Europol), to support the relocation of witnesses in the EU
- The Commission and Council working groups explore the possibility of establishing a dedicated fund (administered by Europol), to support the payment of informants at European level. Although all crime areas should in principle be eligible for support, priority should be given to information supporting actions focussing on EU-wide crime, serious cases involving substantial assets, or EMPACT[6] projects.

Finally, participants from Estonia and Sweden reiterated their support of the working group's report and its recommendations.

Recommendations

In light of the debate on the report of the working group on **witness protection**, the European Police Chiefs Convention recommends that:

- All EU Member States adhere to the Salzburg Forum Treaty in order to work towards standardised and harmonised cooperation on witness protection matters in the EU
- Europol's guidelines for financial support for euro counterfeiting cases serves as a model for all crime areas falling under Europol's competence
- Member States, with Europol's support, develop guidelines on the use of social media in witness protection cases at European level
- Member States, with the support of Europol and the European Commission, further explore how to overcome obstacles with respect to biometric data
- Member States, with Europol's support, establish an international expert group on Internet security and bridged technology, to develop international guidelines for witness protection units on internet security in witness protection programmes, including recommendations for protected witnesses
- Member States, with the support of Europol and CEPOL, develop common training modules for the staff of witness protection units, with a particular focus on the Internet, social media and biometric data in the context of witness protection.

Having discussed the report on **informant handling,** the EPCC recommends that:

- Member States adhere to the basic principles outlined in the Common Criteria and Basic Principles on Informant Handling, the International Rewards Request Protocol and Europol's Guidelines on Financial Support against Euro Counterfeiting
- Member States, with the support of Europol, elaborate detailed conditions and a scoring matrix for the unbiased payment of rewards to informants. This could be done in the framework of the Europol working group on informant handling
- Member States take part in the European alert system

[6] European Multidisciplinary Platform Against Criminal Threats.

- Member States provide the European codes of their high-risk informants to Europol for insertion into the High Risk Informant Database. In addition, all Member States should provide the updated contact details for their single point of contact(s) on informant handling at national level. Member States, with the support of Europol, should elaborate on the appropriate communication channels, the periodic review and update of the information, and a procedure for urgent cases and other relevant related matters.

Data protection

In February 2013, the Europol Management Board requested the creation of a working group to examine the Draft Directive on data protection in the field of police and judicial cooperation in criminal matters ('the Draft Directive', COM(2012)10).

The European Commission published the proposal for the Draft Directive in January 2012. The Draft Directive aims to establish a comprehensive data protection framework covering both the domestic and cross-border processing of personal data related to police and judicial proceedings, harmonising the applicable national legislations. According to the European Commission this will allow the protection of individuals with regard to the processing of their personal data and, at the same time, ensure the exchange of information between Member States' (MS) police and judicial authorities and therefore facilitate cooperation between MS in this area. The Draft Directive, once adopted, has to be implemented into national law and is currently being discussed by the Council working group DAPIX. The Commission also published a Draft Regulation on data protection in January 2012, which regulates the data protection obligations of the private sector and, once adopted, is directly applicable in the Member States.

Dietrich Neumann, Head of Corporate Services at Europol, presented the findings of the report from the EPCC working group on data protection,[7] which detailed general concerns regarding the overall effect of the Draft Directive on Member States' police activities:
- Increase of bureaucracy for Member States' police forces
- Impact of the Draft Directive on national (penal) procedural law
- Unclear relation between the Directive and the Regulation
- Relation between the Draft Directive and the Framework Decision 2008/977/JHA on the protection of personal data in criminal matters
- Need to take the police perspective into account during discussions on the Directive.

Specific concerns were also raised regarding:
- No limitation of data exchange between Member States (Article 1)
- Prohibition to process sensitive categories of data (Article 8)
- Rights of the data subject (Articles 11 to 14)
- Right to erasure (Article 16)
- Data protection supervisory authority (Articles 25, 26 and 46)
- Transfer of data to third countries and organisations (Arts. 33 – 38)
- Relationship with international agreements (Article 60).

These findings were discussed by the police chiefs, with Austria, Denmark, Germany and Turkey backing the recommendations and the sharing of them with the likes of the European Commission, European Parliament and the Council of the EU.

[7] Moderated by Europol with participating experts from Austria, Bulgaria, Estonia, Germany, Interpol, Lithuania, Luxembourg, Sweden and the UK.

Recommendations

The European Police Chiefs Convention discussed the findings of the working group and recommends that these findings are made available to the relevant EU institutions for further consideration. The findings concluded that the Draft Directive on data protection in the field of police and judicial cooperation in criminal matters[8] generally:

- lacks the necessary balance between data protection and law enforcement requirements
- puts unnecessary and onerous bureaucratic burdens on Member States' police authorities
- requires, at least in some Member States (MS), to change national penal and penal procedural law which conflicts with MS' legislative competencies in this area
- does not cover all areas of policing and consequently conflicts with the field of application of the Draft General Data Protection Regulation, which will lead to difficulties in the practical application of national law based on this Directive
- should have been submitted only once the Framework Decision on data protection has been implemented in all Member States and its implementation evaluated
- should be negotiated with the close involvement of EU law enforcement experts.

In particular, police chiefs were concerned that the Draft Directive:

- does not allow Member States' police authorities to specify conditions for the use of information shared with others and therefore could lead to countries being reluctant to share information at all
- generally prohibits the processing of sensitive categories of data although these need to be regularly processed in order to allow for effective investigations; the exemptions offered by the Directive are considered to be incomplete
- puts a considerable and unnecessary administrative burden on Member States' police forces with regard to the extensive information obligations vis-à-vis the data subject
- will lead to unintended negative consequences in relation to the duty to delete data which, for example, would affect the procedural rights of the suspect
- would negatively affect current cooperative relationships between police and data supervisory authorities and would lead to difficult questions with regard to the liability of supervisory authorities, for example after the latter have imposed a processing ban
- imposes severe and unnecessary limitations on international police information exchange, which are inadequate in view of the threats coming from globalised organised crime, terrorism and cybercrime
- affects, by imposing additional limitations on lawful international police information exchange, Member States' sovereignty to manage their external relations.

In his closing words at the 2013 European Police Chiefs Convention, the Director of Europol expressed his thanks for such positive and lively debates by police chiefs on these important topics. The new format developed for the 2013 EPCC has worked very well, providing a good opportunity for senior law enforcement practitioners to raise awareness on pressing issues and the solutions required. In addition the facilitation of bilateral and multilateral meetings between different law enforcement authorities, which included a meeting of senior customs officials, were very useful and well received.

[8] In the meantime, the Irish Presidency has tabled a revised version of the Draft Directive on data protection (Council Document 11624/13 DAPIX 90 of 28 June 2013). This revision addresses and partially resolves issues which were seen critically by the EPCC. The basic structure of the proposal, however, remains unchanged and therefore meets the same concerns as those expressed by the chiefs of police.

In recent years there has not been enough work done to ensure that the law enforcement community has a strong enough voice - the EPCC aims to provide that opportunity, allowing law enforcement leaders to influence wider policy and legislative developments. This has included discussion on what will follow the Stockholm process, what currently works and does not work for EU law enforcement authorities, and what is needed in terms of methods and support.

The European Police Chiefs Convention has become an effective platform for giving the law enforcement community of Europe the opportunity to influence the wider policy agenda.