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NOTE

From:	AT, BG, CZ, ES, FI, FR, HU, HR, IT, PL, RO, SE, SI, SK delegations
To:	Standing Committee on operational cooperation on internal security
No. prev. doc.:	17047/13
Subject:	Future role of COSI

Following the discussion initiated in June 2013, in the light of the outcomes of the discussions in COSI on 17 September 2013 and of the COSI Support Group (CSG) on 28 October, 14 November, 2 December 2013 and 3 February 2014 and in the view of the forthcoming debate on the future role of COSI in its meeting in April 2014, the above mentioned Member States would like to convey some general ideas derived from their common debates on this topic.

Background & general guidelines

COSI is established by primary law and has a strategic as well as horizontal role as it is responsible for the whole area of EU internal security. COSI has interdisciplinary tasks and is at the same level as the Political and Security Committee.

Therefore, COSI should have the permanent capacity to influence the strategic choices of the EU on Internal Security related issues, namely while facing a new threat or unexpected evolutions on major and serious criminal phenomena. COSI should seek complementarity, coherence and consistency between the developments of EU internal security related policies by also taking into account the external dimension and regional cooperation.

This can be achieved by consolidating and increasing COSI's activity within the existing legal framework, by undertaking some workflow improvements both at the national and EU level and by increasing COSI's visibility within the Council. Some of the key areas on which COSI's work has to be strengthened, without being involved in the drafting process of legislative acts are:

- the development, monitoring and implementation of the Internal Security Strategy of the EU (ISS);
- annual reports on the implementation of the EU policy cycle should be presented to the Council, via COREPER, in order to trigger debates at ministerial level;
- COSI might reflect upon the Commission's and EU Agencies' relevant reports on EU internal security matters, such as the bi-annual report of the COM on the functioning of the Schengen area, in order advise ministers prior to their presentation in the Council;
- COSI should foster general discussions on relevant documents (e.g. COM's communications) on subjects of relevance for the Internal Security of the EU or the cooperation with third parties in the law enforcement area;
- COSI/PSC and CSG/CIVCOM cooperation should be further strengthened. Both COSI and PSC should be regularly and fully reported on the progress of the FSJ-CSDP roadmap and on other topics of common interest.
- COSI could be informed on, and contribute with strategic input to the discussions in JAIEX.

When drafting the new role of COSI, the evolution of the discussions held in parallel on the future JHA area - post-Stockholm programme should be taken into account. Moreover, COSI's consolidated activity and new tasks should be thoroughly reflected in the post-Stockholm Programme.

Legal framework & political guidelines

Treaty on the Functioning of the European Union

- promoting and strengthening operational cooperation on EU internal security and facilitating coordination of the action of Member States' competent authorities (Art. 71 TFEU);
- assisting the Council in matters relating to the "solidarity clause", e.g. by submitting joint opinions, in cooperation with the Political and Security Committee (Art. 222 TFEU).

Council Decision of 25 February 2010 on setting up COSI

- The Standing Committee shall facilitate, promote and strengthen coordination of operational actions of the authorities of the Member States competent in the field of EU internal security (Art. 2)
- evaluating the general direction and efficiency of operational cooperation; identifying possible shortcomings or failures and adopting appropriate concrete recommendations to be addressed (Art. 3 (2));
- contributions helping to ensure the consistency of action by Eurojust, Europol, FRONTEX and other relevant bodies (Art. 5)

Stockholm Programme

- one of the priorities of COSI should be the development, monitoring and implementation of the internal security strategy of the EU;
- in achieving this goal, COSI shall also cover security aspects of an integrated border management and, where appropriate, judicial cooperation in criminal matters relevant to operational cooperation in the field of EU internal security.

Way forward (goals & concrete proposals)

Taking into account the aforementioned general guidelines derived from the political will of the subscribing MS and assuming that COSI's future role can be strengthened within the existing legal framework, we kindly ask the Presidency to consider the following suggestions when drafting a discussion paper on this topic in view of the COSI meeting in April 2014.

1. The visibility of COSI within the Council meetings should be increased. COSI should stimulate debates in the Council on EU internal security issues and the Council could assign COSI with appropriate topics, according to its competencies. In other words, COSI should advise the Council on EU internal security matters.

This could be achieved by:

- presenting annual updates on the implementation of the EU policy cycle by the COSI Chair to the Council to trigger debates at ministerial level;
- tasking COSI to reflect upon the Commission's and EU Agencies' relevant reports on internal security matters, in order to identify possible shortcomings and advise ministers prior to their presentation in the Council; *The bi-annual report of the Commission on the functioning of the Schengen area* and the CTC Report are good examples in this regard.

– organising orientation debates on relevant documents issued by COM for the area of law enforcement cooperation and EU Internal Security, taking into account the opinions of the technical groups and, on this basis, preparing the discussion in Council (e.g.: recent COM's communications on TFTS/TFTP, PNR etc.)
– assessing the need for developing a similar methodology to the Policy Cycle on serious and organised crime in other areas of EU internal security; This could be the case for areas that are not fully covered by strategies and plans of actions (e.g.: emerging threats);
– advising the Presidency/Council on the implementation of the mechanism of the Solidarity Clause.

2. As terrorism represents a major threat to the internal security of the European Union, COSI should approach terrorism issues at strategic level. The strategic and policy shaping approach would contribute to avoiding any overlaps with the more operational work of the Terrorism Working Party and other groups.
   Increasing COSI's role in terrorism issues would require a coordinated approach of the Member States on the level of involvement and prioritisation of capabilities/resources in the field of serious and organised crime and terrorism.
   It is important that COSI only acts where it adds value, having due regard to the already initiated work streams, and does not interfere with the activities of MS security and intelligence services.

This could be achieved by:

– fostering orientation debates on strategies in the field of counter-terrorism, radicalisation and recruitment (e.g. – on the revision of the EU R&R Strategy);
– organising general discussions on initiatives or possible new instruments with relevance for the cooperation within the EU or with third parties in countering terrorism (such as the recent COM communications on TFTS and TFTP, the EU PNR initiative, etc.), in preparing the discussions on these issues in the Council;
– encouraging a systematic involvement of the CTC in COSI meetings and organising orientation debates in COSI on the 6-monthly discussion papers of the CTC as well as the state of play of the EU Counter-terrorism Strategy;

– keeping COSI regularly informed by the competent EU Agencies and other relevant EU bodies/structures on terrorist threats, in order to ensure consistency and coherence in its approach;
– dealing, within COSI, on a case by case basis, with topical terrorism and counter-terrorism items, from a multidisciplinary point of view, provided that this would bring added value to identifying ways forward (e.g. foreign fighters);

3. The role of COSI as regards the coordination and the evaluation of the general direction and efficiency in the field of operational cooperation has to be strengthened.
Referring to Article 3 of Council Decision on setting up COSI, one of the main tasks of COSI should be to seek complementarity and consistency between the developments of policies at the level of the strategic committees involved in internal security, including justice topics. Furthermore, COSI should be able to identify possible links and to bridge the existing gaps between the above mentioned policy areas (e.g. links between terrorism and organised crime).

As concerns the evaluation tasks, these should be further developed according to Art. 3 (2) of the Council Decision on setting up COSI. The COSI evaluations should be based on the Member States findings and experiences as well as relevant reports by the Commission and EU Agencies on the state of operational cooperation matters.

The future evaluations should be focused on the general direction and efficiency by avoiding micro-assessments and overlaps with similar evaluation procedures such as those undertaken by other Council structures and the Commission (GENVAL, Schengen Evaluation). Appropriate concrete recommendations should be presented to the Council, via Coreper, based on the evaluation and COSI findings.

The focus of the evaluation should be efficiency, consistency and possible shortcomings of EU-legislation relating to operational cooperation, practices and structures at EU level, at regional level as well as at Member States' level. COSI should not evaluate the national implementation of various EU legal instruments or national arrangements, because this is the task of other Council fora.

This could be achieved by:

- ensuring the updating of the Internal Security Strategy for the European Union;
- developing the reporting system of operational cooperation
- developing a formalised assessment methodology together with the Commission and relevant EU Agencies;
- performing a follow up and regular assessment on implementation of the recommendations drafted in the field of EU internal security and relating the recommendations on the area of operative cooperation;
- providing advice to the Commission while evaluating and assessing third states on security matters (e.g. visa dialogue, MS' experts missions);

4. As concerns Freedom Security and Justice and the Common Security and Defence Policy cooperation, we are in favour of COSI/PSC and CSG/CIVCOM meetings fully in line with the 'Working method for closer cooperation and coordination in the field of EU security (doc. 10715/11).. At the same time, there is a need for further implementation of the FSJ-CSDP roadmap, in close cooperation with the MS. Therefore, we encourage further development of this cooperation platform and consider that it would bring added value to the process of strengthening ties between FSJ and CSDP.

   While respecting the decision making autonomy of the PSC, we should find the appropriate modus-operandi to involve COSI (and JHA actors) in the preparation of civilian CSDP missions. An important part of this is for COSI to be more engaged in processes within CSDP that have internal security implications or involve resources from Member States' law enforcement agencies (such as police etc.). COSI could contribute with relevant knowledge and expertise in planning and preparing new missions that include objectives with JHA implications. This is true also for review of mandates etc. of existing missions.

   It is also important for COSI to regularly, in close cooperation with PSC, review the implications of current threats and trends with internal/external security implications, e.g. terrorism and foreign fighters, firearms smuggling into the EU, trafficking in human beings and support networks for illegal immigration, illicit drug trafficking and deteriorating states and resulting insecurity.

This could be achieved by:

- prioritisation of concrete actions by the Member States;
- active involvement of all stakeholders and allocation of sufficient financial and human resources;
- COSI could contribute with relevant knowledge and expertise regarding the planning of new external EU missions with JHA implications;
- regular thematic discussions on implications of currents internal/external security threats and trends should be held in COSI, and if possible jointly with PSC, and similar discussions in PSC with internal security implications should where possible be held together with COSI;
- COSI and PSC should be regularly (at least twice a year) and fully informed on the progress of the FSJ-CSDP roadmap implementation.

5. As stated earlier, COSI should have the permanent capacity to influence strategic choices in the EU's fight against terrorism and organised crime while facing a new threat or unexpected evolutions of serious criminal phenomena.

   When increasing COSI's responsibilities by consolidating the already existing discussion topics (fight against terrorism) or adding new ones (evaluation role) and by strengthening ties between COSI and Council, it seems reasonable to analyse possible improvements that can be achieved at the level of the working methodology.

   A clear and commonly approved working procedure would help all entities to be aware of the options in addressing a certain issue. Its major goal would be ensuring the full capacity of COSI for providing guidelines and setting agendas by better considering priorities.

This could be achieved by:

- authorising COSI to express the necessity of new legislative proposals, expected by the operational services. Such a capacity should still respect the initiative prerogative of the Commission and Article 4(2) of the Decision 2010/131/UE which forbids COSI to prepare legal texts.
- drafting a working procedure as soon as any area in which COSI's role should be strengthened is clearly defined and approved by the MS.

The working procedure could make reference, among others, to:

- guidelines as regards the need to assure a proper representation from the capitals tailored on the agenda subjects;
- procedures regarding the setting up of the agendas and the possibility of a MS to request an item to be put on the discussion table;
- allocating more time to study the documents of the agenda, considering the sensitivity of the COSI issues and the necessity to coordinate all the national structures involved.
- the principle of intelligence led policing;
- possible mirroring the working procedure used by CIVCOM, COSI SG or other Council working parties could be tasked to deliver written advice to COSI, upon request.