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NOTE

From:	Presidency
To:	Standing Committee on operational cooperation on internal security
No. prev. doc.:	6954/14, 17047/13
Subject:	Future role of COSI

Delegations will find attached the outlines about the future role of COSI as agreed at the COSI meeting on 16 April 2014.

General remarks

Considering the broad mandate of the Committee as laid down in the Council Decision 2010/131/EU of 25 February 2010, COSI, as established by Art. 71 TFEU, should further develop its strategic, operational as well as horizontal role as it is responsible for the development, monitoring and implementation of the Internal Security Strategy of the EU (ISS). COSI should also better cover the 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.

This multidisciplinary character should be strengthened also with regard to the cooperation with the JHA Agencies. This will require effective coordination both at national and EU level so that all relevant JHA actors can contribute to COSI's work.

COSI should have the permanent capacity to influence the strategic choices of the EU on the EU's Internal Security related issues.

COSI has already successfully developed the EU policy cycle with a remarkable progress in a very short time as witnessed by a growing number of participants and concrete actions. This methodology applies to the field of serious and organised crime and the Presidency is in favour of developing similar approaches or methodologies in the future to other fields of the EU's internal security, if necessary and based on the experiences learnt from the EU policy cycle on serious and organised crime. New threats or unexpected evolutions in the field of SOC are, however, to be addressed in the framework of the EU policy cycle and COSI should play an important role in preparing Council discussions on topics of EU internal security without prejudice to COREPER's role and competences. This will contribute to increasing COSI's visibility.

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.

The discussions on the future of COSI are closely related to the discussions held in parallel on the future JHA area - post-Stockholm programme / Strategic guidelines for the legislative and strategic planning in the area of freedom, security and justice to be approved by the European Council. COSI's consolidated activities and new tasks should be thoroughly reflected in those guidelines.

Concrete proposals on the way forward:

1. Terrorism

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. The activities of COSI in this regard should be prepared by the relevant Council working parties (in particular the Terrorism Working Party) in line with their respective mandates.

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 is to 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) where appropriate;
- organising, within the terms of its mandate, orientation discussions on initiatives or possible new instruments / measures 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 through COREPER in the Council;
- encouraging the involvement of the CTC in COSI meetings on a case by case basis 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, such as the CTC, 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).

2. Coordination - cooperation JHA Agencies

Referring to Article 3 of the 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. 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).

COSI's role as regards the coordination and evaluation of the general direction and efficiency in the field of operational cooperation is to be strengthened.

One of the COSI's core tasks is to help ensure the consistency of action by the JHA agencies and should be exercising with regard to the operational cooperation of, with and through the JHA agencies in matters of internal security. COSI should monitor the interaction between the different agencies and, indirectly, with the concerned Member States' authorities. COSI therefore encourages EU Agencies to report malfunctions on operational cooperation and information exchange and to organise debates to address the problems.

3. Evaluation

As concerns the evaluation tasks in accordance with Art. 3 (2) of the Council Decision on setting up COSI, these should be further developed. 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 play on operational cooperation matters and should take into account the outcome of other evaluations, in particular when major shortcomings in the operational cooperation are identified.

The future evaluations should focus on the effectiveness of the operational cooperation, while **avoiding** micro-assessments and overlaps with similar evaluation procedures such as those undertaken by other Council structures and the Commission (GENVAL, Schengen Evaluation).

Where necessary, appropriate concrete recommendations should be presented to the Council, via Coreper, based on the evaluation and COSI findings. The monitoring of implementation of the recommendations elaborated during an evaluation will be brought to the attention of COSI as well.

The focus of the evaluation should be the general direction and efficiency of operational cooperation, consistency and possible shortcomings of EU-legislation relating to operational cooperation, practices and structures at EU level, regional level and between Member States. COSI should not evaluate the national implementation of various EU legal instruments or national arrangements.

This is to be achieved by:

- ensuring the updating of the Internal Security Strategy for the European Union;
- 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).
- drafting a working procedure, where appropriate.

4. Internal - external security

As concerns Freedom, Security and Justice (FSJ) and the Common Security and Defence Policy (CSDP) cooperation, the Presidency encourages the practical workflow 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, COSI acknowledges the need for further implementation of the FSJ-CSDP roadmap, in close cooperation with the MS, within the framework of existing powers and legal provisions. Therefore, the Presidency invites the competent parties to further develop this cooperation platform which would bring added value to the process of strengthening ties between FSJ and CSDP.

COSI, together with the PSC, should play a key role as insuring security within the Union and efforts must be directed in areas outside the EU, where criminal phenomena have direct or indirect consequences on EU internal security.

While respecting the decision making autonomy of the PSC, COSI should contribute to the preparation of civilian CSDP missions, where appropriate. An important part of this is for COSI to be more engaged in processes within CSDP that have internal security implications, since they 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 civilian missions that include objectives with JHA implications, focusing on pragmatic, operational and targeted actions.

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 and illicit drug trafficking.

This is to 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 civilian EU action with JHA implications;
- regular thematic discussions on implications of current 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 and fully informed on the progress of the FSJ-CSDP roadmap implementation.

5. New threats

COSI should have the capacity to influence strategic choices in the EU's fight against terrorism and serious and organised crime, including new threats and/or unexpected evolutions of serious criminal phenomena, which should be addressed in the context and accordingly to the EU Policy Cycle methodology.

6. Working procedure

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 without prejudice to COREPER's role and competences, it seems reasonable to analyse possible improvements that can be achieved at the level of the working procedures.

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 is to be achieved by:

- expressing the operational necessity for improvements on operational cooperation in the law enforcement area, as well as contributing from an operational perspective to the discussion of new legislative proposals in other Working Parties, evaluating respective needs to be expressed 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 mentions that COSI shall not be involved in preparing legislative acts.
- 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:

- 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.

7. Increasing COSI's visibility:

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 without prejudice to COREPER's role and competences.

This is to be achieved by:

- Submitting an annual discussion paper by the COSI Chair, without prejudice to Article 240 TFEU, to the Council on the results, operational shortcomings and lessons learned of the EU policy cycle to trigger debates on the implementation of the EU Policy cycle. This discussion paper should be based on the progress reports of the Drivers, the outcome of the NEC meetings and the Europol's Director report and agreed by COSI;
- 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;
- organising orientation debates on COM proposals relevant to the 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. COM's communications on TFTS/TFTP, PNR etc.);
- without prejudice to Article 240 TFEU, and on the basis of the outcome of the discussions within the framework of the FoP IPCR/SCI on the Solidarity Clause implementation, COSI could assist the Council, if necessary, by the submission of joint opinions with the PSC on the Solidarity Clause.