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#### NOTE

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From:	Presidency
To:	Delegations
Subject:	Draft Council Conclusions on Internal Security and European Police Partnership

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Delegations will find attached in the Annex a revised version of the above draft Council conclusions<sup>1</sup>, further to the VTC meeting of COSI SG on 4 November 2020 and taking into account the written comments submitted by delegations.

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<sup>1</sup> Changes compared to the previous version are marked in **bold underlined** and ~~strikethrough~~.

**DRAFT**  
**COUNCIL CONCLUSIONS**  
**on Internal Security and European Police Partnership**

THE COUNCIL

WELCOMES the Commission's communication on the EU Security Union Strategy<sup>2</sup> setting out specific actions which aim to address strategic priorities in both the digital and the physical worlds in an integrated manner for the period 2021 – 2025, while building on the previous work of the Council<sup>3</sup>, and UNDERLINES the importance of Security Union reports as a tool to monitor progress and assess gaps and emerging threats.

POINTS OUT that significant progress on cooperation in the field of internal security across the Union has been achieved in recent decades and that the principle of availability of information for data exchange as already laid down in the Hague Programme, the improvement of **legislation and** tools for sharing information, and the setting of a common standard of data protection have been major steps in fostering cooperation between European law enforcement authorities.

**WELCOMES the trio Presidency (DE-PT-SI) program and coordination regarding new initiatives enhancing the internal security and related to the new EU Security Union Strategy.**

RECALLS that the previous trio presidency substantially advanced the discussion on the future of EU internal security policy, with an emphasis on the need to consolidate resources, share experience and expertise, and enhance the coordination of policing throughout the European Union to respond to evolving security challenges and harness the potential of technological developments.

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<sup>2</sup> 10010/20.

<sup>3</sup> Future of internal security debates ( Presidency report on outcome of discussions, 14297/19

ACKNOWLEDGES the recent discussions at the JHA Council<sup>4</sup>, in the Standing Committee on Operational Cooperation on Internal Security (COSI), the Law Enforcement Working Party (LEWP), **the Working Party on Terrorism (TWP)** and the Working Party on JHA Information Exchange (IXIM), which bring a new impetus to developing a European Partnership **for internal security** to reinforce the existing cooperation.

AGREES in particular that in a strengthened European Partnership **for internal security**, every **law enforcement officer** in every Member State should have access at all times to the information **available in any other Member State necessary to perform his or her duties, in accordance with applicable law.**

**REITERATES the principle of availability of information and REAFFIRMS that even though the common European data protection framework and various legal and technical instruments have already made it easier to connect existing information, there is still room for improvement.**

**AGREES that a strengthened European Partnership for internal security needs** continuous improvement of information management and optimisation of the use of existing instruments and agreements for information exchange

UNDERLINES, with regard to enhancing internal security, that technical progress and digital transformation call for appropriate new solutions and approaches for the security authorities.

**CONDEMNS the heinous terrorist attacks that recently took place in Austria, Germany and France. These attacks were an assault on the European values, fundamental rights and, eventually, our way of life. The European Partnership for internal security will ensure effective operational cooperation and cross-border investigation also regarding preventing and tackling violent extremism and terrorism, irrespective of its origin.**

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<sup>4</sup> WK 10468/2020

*I. Milestones in the establishment of an effective European Partnership for Internal Security (2020 – 2025)*

Against this background, the Council:

REITERATES the following political priorities for the coming years and STRESSES in particular that these milestones should be achieved by joint action by Parliament, Commission, Member States and the relevant JHA agencies between now and 2025 to support the functioning of the area of freedom, security and justice and to establish an effective European Partnership **for Internal Security**:

- Every **law enforcement** officer in the EU and in the Schengen area has access at all times to the information **available in any other Member State necessary** to **perform his or her duties** in line with the existing legal framework.
- The EU and the Member States have implemented technical solutions for law enforcement authorities to communicate with each other securely and confidentially ~~in every situation.~~
- Full use of the instruments for EU-wide alerts for criminal acts is standard practice, **e.g. the Schengen Information System alerts for persons or objects.**
- Our common data protection framework and numerous legal and technical instruments allow us to better connect the information we already have. The EU's information architecture follows the principle of availability even more closely. ~~A European Police Records Index System (EPRIS) is introduced, together with a renovated Prüm network.~~ **The Prüm framework is reviewed and updated, where appropriate.**
- A ~~robust and~~ modern **acquis on cross-border** police cooperation is established, in order, for example, to provide adequate **powers** for cross-border surveillance and hot pursuit.
- Law enforcement authorities **are able to** use appropriate artificial intelligence **technologies** in their daily work, subject to clear safeguards.
- **Law enforcement authorities of the MSs** and Europol are equipped to work more intensively **and share information** with third countries.

- Law enforcement agencies are **able** to work with public and private partners worldwide, **subject to a clear safeguards framework, and have access to the necessary information** to counter **serious crime and violent extremism and terrorism** exploiting the internet as ~~these entities may have information that our law enforcement needs to do its work.~~

## *II. Way forward*

### **1. Strengthening European law enforcement cooperation**

ACKNOWLEDGES that the **European dimension of law enforcement cooperation** needs to be strengthened. In general, more awareness of the information needs of European partners is required in daily work routines. Whenever there is a national alert, EU-wide alerts in the Schengen Information System (SIS) should become a standard practice in compliance with the applicable legal framework.

UNDERLINES that the COVID-19 pandemic has shown the importance of **secure communication channels**. Thus, the Council urges Member States, EU **JHA** agencies and the Commission, **while building on already existing mechanisms and networks (such as SIENA)**, to further develop technical solutions for secure and confidential communication between EU law enforcement authorities.

HIGHLIGHTS the fact that the EU JHA agencies, in particular Europol, the European Border and Coast Guard Agency (hereafter ‘Frontex’), and eu-LISA, are cornerstones of the European security architecture, and thus REITERATES that providing appropriate funding and staff to these agencies is indispensable. **In addition, international organisations and bodies, such as Interpol are essential partners for EU security.**

UNDERLINES the key role and the future direction of Europol, as stated in the Declaration of the EU Home Affairs Ministers of 21 October<sup>5</sup> [... further text elements to be added].

CALLS UPON Member States to make full use of the existing instruments for sharing information, **e.g. the SIS, Europol, as well as Interpol databases and to remove any obstacles for their full use and related exchange of information.**

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<sup>5</sup> Reference to be added after adoption.

CALLS ON all Member States to make use of the existing instruments to their full potential and to advance the exchange of relevant information of the highest possible quality. Member States, together with the responsible EU agencies, foremost eu-LISA, Europol and Frontex, must swiftly implement the adopted legal framework for the revised JHA information architecture to **achieve** the **interoperability** of **EU information** systems for borders, migration and security.

REQUESTS that the Commission present a legislative proposal for the further development of the Prüm framework. **The possible extension to/introduction of other information categories, e.g European Police Records Index System (EPRIS) could be considered in this context.**

REFERS to the conclusions on enhancing cross-border law enforcement cooperation in Annex 1<sup>6</sup>.and POINTS OUT the importance of establishing more effective law enforcement cooperation between Member States and their respective officers, in particular along the internal borders of the Member States.

EMPHASISES the need to take all necessary steps to further strengthen operational cross-border cooperation by effectively implementing existing instruments and, where appropriate, by enhancing, consolidating and simplifying the legal foundations in order to keep the European Union safe, and HIGHLIGHTS the value and success of local, regional and bi- or trilateral law enforcement cooperation ~~in particular in the internal border regions.~~

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<sup>6</sup> Text prepared at LEWP-level, to be inserted into this document at a later stage.

## 2. Shaping the future and keeping pace with technological progress

RECOGNISES that while digital transformation and the use of **new technologies, in particular artificial intelligence (AI)** is having a profound impact on all spheres of people's lives, **it enhances our capabilities to protect the common values in our societies.** The use of AI by law enforcement authorities can potentially facilitate and improve the provision of security and the prevention, investigation and prosecution of crime throughout the EU. Digital tools can facilitate the gathering of evidence by better structuring datasets and information, discern patterns, **detect links, identify victims and perpetrators as well as the location of the offence,** automate and accelerate the handling of standardised and uniform tasks, and help to **forecast criminal activities** thereby increasing the speed and effectiveness of law enforcement. **At the same time, the use of these tools will reduce costs and can limit the negative psychological impact that stressful material such as images of sexual abuse or hate crime may have on law enforcement personnel.**

STRESSES that using AI is likely to aid in the identification of new, previously unknown patterns and modi operandi, especially in the fields of **terrorism, cybercrime, sexual abuse of children, trafficking in human beings, drug-related crime and economic crime.** Therefore, law enforcement in the Member States should use AI to enhance **prevention and facilitate** investigation, as well as to protect the victims of such crimes.

REAFFIRMS that the design, development, deployment and evaluation of AI for internal security must be guided by and aligned **with fundamental rights and data protection.** For AI used by law enforcement, specific fundamental rights **requirements** arise for the **development** and **the conditions** of deployment. To the extent that these systems are to be used, appropriate safeguards are needed to ensure responsible, trustworthy, public-interest-oriented and human-centric development and use of AI applications in the law enforcement sector. Users must adequately understand how AI tools **were developed and how they operate, they must be able to explain and demonstrate the results and must have clear knowledge about their impact on individuals, on minorities and on the society as a whole.**

STRESSES that the availability of **extensive, high-quality datasets is conducive to developing AI-based tools** for internal security in compliance with fundamental rights, safeguards and data protection rules. This is essential to guarantee non-biased, explainable outcomes, which should always be **subject of a human oversight throughout the lifecycle of AI and the outcome must be** submitted to a human decision.

EMPHASISES that it is especially necessary for **law enforcement** to receive comprehensive training to be able to reap the benefits of using digital technologies, including AI. The Council CALLS UPON Europol to pool and share the experiences and assessments collected by law enforcement in the Member States in order to facilitate an exchange of relevant practices.

**CALLS on the Commission to remove legal barriers to share and pool data amongst Member States for innovation purposes, in particular to train, test and validate algorithms.**

CALLS ON the Commission to promote the creation of an AI talent pool and facilitate the development of training opportunities in digital literacy and skills for **law enforcement**, e.g. through ~~project funding for~~ CEPOL training.

RECOGNISES that **hybrid threats** touch **almost** all policy sectors and go beyond the traditional elements of security policy. Therefore, comprehensive coordination between EU institutions and Member States and a proactive approach to countering hybrid threats is necessary. ~~In this context, the Council CALLS UPON the Commission to assess the challenges and risks of criminal AI use in order to assist the EU and Member States in improving the effectiveness of national responses in this regard.~~

REITERATES the **need to ensure lawful access to data and evidence in electronic communications and digital systems for law enforcement and judicial purposes as referred to in the Security Union Strategy and as pointed out by the European Council**<sup>7</sup> and UNDERLINES that independently of the technological environment of the day, it is essential to preserve the ability of law enforcement and judicial authorities to exercise their powers, as prescribed and authorised by law, both online and offline.

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<sup>7</sup> **EUCO 13/12, 1-2 October 2020**



UNDERLINES that **encryption** is an anchor of confidence in digitalisation and should be promoted and developed. Encryption is a means of protecting privacy as well as the digital security of governments, industry and society. **At the same time, lawful access for law enforcement and judicial purposes must be preserved.** As stated in the Council declaration on encryption<sup>8</sup>, any action taken has to balance these interests carefully, while seeking **technical solutions for lawful access to encrypted data in** a close dialogue with the technological industry.

**RECALLS the need for a balanced framework for targeted data retention, which effectively allows access to the information needed to combat serious crime, as well as the swift adoption of legislation on access to cross-border electronic evidence.**

### 3. Global challenges and international cooperation in the area of security

UNDERLINES the need to deepen **cooperation and sharing of information** with ~~strategic~~ **third countries**, in the field of law enforcement ~~and in the context of civilian CSDP missions~~, as such cooperation is closely linked to the wider security interests of the Union.

EMPHASISES the need to further promote the EU's security **and border management** partnership in the form of more operational cooperation between Frontex and third countries **and SUPPORTS bi- and multilateral initiatives of Member States to enhance operational coordination with third countries.**

RECALLS that existing status agreements need to be adapted to the new Frontex Regulation. Pending status agreements, in particular with the Western Balkan partners, should **be signed and** enter into force as soon as possible. The reinforcement of operational cooperation **in the area of internal security** with other third countries, whether neighbouring the EU or not, should be assessed by the Commission in close cooperation with **all actors involved.**

RECALLS that the implementation of the new Frontex Regulation in general and the deployment of the Frontex Standing Corps ~~in particular~~ are crucial for further development of **law enforcement** cooperation within the European security landscape, and thus URGES **Frontex and** Member States to fulfil their legally binding share.

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<sup>8</sup> Reference to be added.

POINTS OUT that European law enforcement agencies are an integral part of the international community and must be able to work together more **closely** with key partners from third countries ~~that share our European values.~~

RECOGNISES that **efficient** information **exchange** with third countries **and parties is needed to maximise EU internal security**, while ensuring necessary safeguards.

UNDERLINES the need for more effective and efficient coordination of measures taken by EU institutions bodies **and relevant actors** engaged in third countries, through common action in the field of security analysis, pilot projects and related activities.

EMPHASISES that CSDP missions set the foundations for further development while establishing the networks necessary for operational cooperation in the area of JHA, **as outlined in Civilian CSDP Compact**, and therefore provide added value for the third countries and for the European Union and its Member States.

#### **4. Fighting transnational organised crime**

RECALLS that **organised crime** causes enormous economic and personal damage. Since organised crime groups increasingly operate across borders, **maximising** operational cooperation, **use of available EU information systems** and information exchange **across** the EU and **third countries and international partners** is essential. The Council TAKES NOTE of the Commission's intention to present a communication on an EU Agenda to tackle organised crime (2021-2025).

UNDERLINES that the EU policy cycle for serious and international organised crime/EMPACT, provides a criminal intelligence-led methodology for authorities to jointly tackle the most serious criminal threats affecting the EU. The EU policy cycle/EMPACT will continue to be the key instrument in fighting organised crime. The extensive digitalisation of procedures in the EU policy cycle/EMPACT holds great potential, in particular with regard to the development of a joint platform for EMPACT **stakeholders** (EMPACT Exchange & Report (XR)).

TAKES NOTE of the worrying development of European **drug markets** in recent years. The situation is characterised by a high availability of various types of drugs, ever larger seizures, **increasing use of violence and intimidation** and huge profits. Drug markets and the associated organised crime groups have long proven to be very resilient – even during the global COVID-19 pandemic.

EMPHASISES the need for a reinforced **EU Drugs Strategy** for 2021-2025 to provide sustainable answers to these developments. The new EU Drugs Strategy should **continue following** a balanced, evidence-based, integrated, and multidisciplinary approach to tackling all aspects of the drugs phenomenon at national, EU and international level.

RECALLS that the COVID-19 pandemic also highlights the importance of the fight against counterfeit medicines or protective devices and their inherent danger

WELCOMES the Commission's strategy for a more effective **fight against sexual abuse of children, both online and offline**. UNDERLINES that **preventing and** combating the sexual abuse and sexual exploitation of children, especially during the COVID-19 pandemic, is a **shared** challenge that requires a joint, coordinated **and multi-stakeholder** approach at European and **global** level.

INVITES the Member States to implement **all the work strands of** the strategy. In line with the Council conclusions of 8 October 2019 on combatting the sexual abuse of children, the Council REAFFIRMS the commitment of the EU and the Member States to protect the fundamental rights of children and the rights of victims of crime, and to combat the sexual abuse and **sexual** exploitation of children regardless of the physical location or nationality of the children.

UNDERLINES that the **fight against firearms trafficking** remains a high priority **and** **WELCOMES the 2020-2025 EU action plan on firearms trafficking**. Recent progress should be noted in this area, including the work done under the EMPACT Firearms and the action plan on the illicit trafficking of firearms between the EU and the Southeast European region for 2015-2019. The fight against the illicit trafficking of firearms requires improved transnational information exchange, e.g. by systematically feeding the Schengen Information System (SIS) with information on lost and stolen ~~and sold~~ weapons.

RECALLS **its Conclusions of 5 June 2020 on enhancing cooperation with Western Balkans partners, which requested the Commission to integrate** the Roadmap<sup>9</sup> adopted at the Western Balkans Summit in London on 10 July 2018 **in the new EU action plan on firearms trafficking** and WELCOMES the fact that its goals are consistent with the efforts undertaken within the Union and the United Nations (UN) to combat the trafficking of **Small Arms and Light Weapons** (SALW) and their ammunition.

CALLS ON the Member States together with Western Balkan partners to continue the implementation of the Roadmap **as integrated** in with the 2020-2025 EU action plan on firearms trafficking and **in accordance with** the relevant Council decisions. This includes proven procedures and the successful cooperation with the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC).

CALLS ON the Commission to convene, together with the High Representative, a steering committee of key implementing partners and donors with the goal of ensuring the strategic global coordination of donors.

Due to diverse legal frameworks and needs, the systematic **collection of crime and criminal justice data** should be tailored according to the realities of each Member State. The Council CALLS UPON the Commission to discuss in further detail national implementation of the new key performance indicators **regarding the firearms action plan.**

**UNDERLINES that combating serious crime efficiently also requires a common commitment to strengthening our efforts in seizing and confiscating criminal assets, and that the efficiency of the European legislation in that respect should be assessed.**

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<sup>9</sup> Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of Small Arms and Light Weapons (SALW) and their ammunition in the Western Balkans by 2024.

UNDERLINES the importance of the **fight against trafficking in human beings and smuggling of migrants** and therefore WELCOMES the Commission's intention to develop a new EU strategy towards the eradication of trafficking in human beings **and to revise the current EU action plan on migrant smuggling** within the framework of the Security Union **Strategy**. The **trafficking in human beings** strategy should address all forms of exploitation, in particular measures to **prevent and** combat trafficking in human beings for the purpose of labour or sexual exploitation, as well as the identification and protection of and support for victims. Combating trafficking in children should remain a priority in the strategy. The strategy should provide for the analysis of current technological developments and their effects on human trafficking, improved data collection and evaluation **within the existing mechanisms**, and closer cooperation with the Council of Europe and GRETA.

##### **5. Preventing and combating terrorism and ~~politically motivated~~ violent extremism**

RECALLS that much has been achieved in recent years to strengthen EU cooperation in the **fight against violent extremism and terrorism**. Nevertheless, the terrorist threat to the European Union and its Member States remains high **demonstrated also by the recent attacks in Austria, France and Germany**. This threat emanates from **all types of violent extremism, including** religious and politically motivated **violent extremism, and targets our free and open societies**. **URGES the swift adoption of the proposal for a regulation on the prevention of dissemination of terrorist content online and CALLS ON all parties to negotiate in a spirit of compromise to maintain a high level of ambition in that respect.**

Mindful of the historic responsibility of Europe to safeguard the fundamental rights and security of its Jewish citizens and communities, the Council UNDERLINES the importance of the fight against antisemitism as a cross-cutting issue in all policy areas (with reference to Council Declaration **on Mainstreaming the fight against antisemitism across policy areas**)<sup>10</sup> and POINTS OUT that security remains a **major** concern for Jewish citizens and communities. The Council URGES the Member States to ~~place particular~~ focus on the security of Jewish institutions, in close collaboration with Jewish communities **and to facilitate the exchange of best practices and cross-border cooperation in this area.**

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<sup>10</sup> Doc. ref xxxx/20

EXPRESSES ITS CONCERNS about **violent** extremist groups of **any ideology** trying to use the COVID-19 pandemic for their own purposes, agitating and recruiting both on- and offline. The Council CONDEMNS all attempts to undermine social cohesion and promote violence and EMPHASISES that, within a comprehensive whole-of-society approach, all efforts must be taken to prevent further radicalisation and counter all forms of violent extremism **and terrorism. The Council CONDEMNS all forms of racism, xenophobia and other forms of intolerance.**

The Council therefore CALLS ON Europol to continue to monitor the developments in that regard and support Member States' efforts to counter violent extremism and terrorism emanating from or amplified by the pandemic.

CALLS UPON Member States to continue to strengthen their efforts to prevent radicalisation **leading to violent extremism** online and offline, in particular by extending their prevention and deradicalisation programmes to all phenomenon areas where this is not yet the case.

UNDERLINES that particular attention in this regard should continue to be paid to returnees from conflict zones as well as to prisons and released prisoners.

**ENCOURAGES Member States to pay special attention to persons assessed by Member States to be a terrorist or violent extremist threat<sup>11</sup>, and UNDERLINES that in a Europe without internal borders it must be ensured that information is shared reliably and fast when such persons travel or connect with individuals or networks in other Member States, within the existing national and European regulatory frameworks.**

**STRESSES that, apart from the specific category of Foreign Terrorist Fighters, so far, there are not any common standards or criteria establishing which of those persons should be inserted in European databases and information systems. While there is a legal framework in place on which information may be entered into these databases, this does not yet guarantee that at least persons who are assessed by Member States to pose a serious terrorist or violent extremist threat can be found there. Therefore, the Council DEEMS IT IMPORTANT to, in principle, enter persons who are assessed by individual Member States to pose a serious terrorist or violent extremist threat in the relevant European databases and information systems, unless legal or operational concerns demand otherwise. UNDERLINES the respect of fundamental rights and appropriate protection of personal data in this context.**

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<sup>11</sup> The next 3 paragraphs have been prepared by TWP

**WELCOMES that the responsible working party is currently addressing the need for information exchange on persons who are assessed to pose a terrorist or violent extremist threat; WELCOMES in this regard further work to have a shared understanding of which persons are assessed by the individual Member States as persons regarded a terrorist or violent extremist threat without affecting the different national legislations in this regard, and CALLS UPON Member States, with support of the Commission and Europol, to engage in a continued strategic dialogue on this issue.**

**STRESSES that** the rise of violent ~~right-wing~~ extremism poses a threat to security in Europe. TAKES NOTE that social media fuel the dissemination of ~~right-wing~~ violent extremist ideology and contribute to radicalisation. Violent ~~right-wing~~ extremism has an increasing international dimension and the international and cross-border links between **violent** extremist groups via internet have to be tackled.

**CALLS UPON the Member States to continue developing and sharing good practices on strengthening the prevention, detection and addressing of violent extremism and terrorism and to address the spread of violent extremist content online and offline, including through cooperation with key third countries.**