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**CATS 42**

**NOTE**

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from : Presidency

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Subject : Strengthening the EU operational police co-operation

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**1. Introduction**

The 1999 Tampere conclusions of the European Council call in paragraph 44 for the establishment of a "European Police Chiefs Operational Task Force to exchange, in co-operation with Europol, experience, best practices and information on current trends in cross-border crime and contribute to the planning of operative actions".

Since then, the Police Chiefs Task Force (PCTF) has been meeting once every Presidency and has spent a large part of its meetings on the discussion of its tasks.

In its Declaration on combating Terrorism of 25 March 2004, the European Council called "on the Task Force to review how its operational capacity can be reinforced and to focus on proactive intelligence."<sup>1</sup>

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<sup>1</sup> The report of the PCTF regarding this subject is set out in document 9453/04 CATS 22 ENFOPOL 50, which has been discussed at the Article 36 Committee in its meetings of May and June 2004.

Moreover, the Hague Programme refers to Article III-261 of the draft Treaty establishing a Constitution for Europe which sets out the need to "ensure that operational co-operation on internal security is promoted and strengthened within the Union".

The current document provides a basis for discussing what is covered by the above-mentioned texts and clarifying which needs exist. Following the debate at the Article 36 Committee of 7-8 October, a proposal for the positioning of the PCTF is included.

## **2. Needs and possible methodology**

The tasks of the PCTF as defined in the Tampere conclusions can be divided into two different areas:

- a strategic aspect: exchange experience, best practices, information on current trends of cross-border crime;
- an operational/operative aspect: contribute to the planning of operative actions.

This complies with a twofold need for enhancing the operational police co-operation in the EU:

- setting up concrete joint investigations/operations to tackle specific problems and
- providing input from the operational police point of view into the policy-making of the EU.

### Operative aspect

At several instances, the need for more co-ordination of operative actions has been stated. It follows notably from the Tampere conclusions and their proposal to set up the PCTF but has recently been more developed in two different proposals on a methodology for European police co-operation: the Comprehensive Operational Strategic Plan for Police (COSPOL) of the Netherlands delegation and the European Criminal Intelligence Model (ECIM) of the UK delegation.

While the COSPOL and ECIM proposals may differ on the practical and procedural details, they are based on the same premises

- European police co-operation should be "intelligence-led policing", providing for a link between "assessment" and "action"<sup>2</sup>, requiring the political level to pro-actively set priorities
- the potential of available actors and instruments for European *operational* police co-operation should be enhanced and made better use of.

Moreover, both models set out the following general requirements:

- at a political level, the priorities for operational co-operation should be decided, on the basis of up-to-date and accurate threat analysis
- following directions on how to operationalise these priorities, Europol should set out the intelligence requirements for the Member States (obviously in co-operation with HENU's)
- taking these into account, Member States should provide the necessary intelligence for Europol to store and analyse, on the basis of which, Europol and the concerned Member States' law enforcement agencies should co-ordinate and execute investigations
- the debriefing of these investigations should provide the necessary input for Europol to draw up the analysis for the political level to set the priorities.

In this methodology, the "action" is left to the law enforcement agencies of the Member States, with the assistance of Europol. The "assessment" belongs to the policy-making level.

#### Strategic aspect

The first part of the Tampere conclusion setting up the PCTF reads: "to exchange experience, best practices, information on current trends of cross-border crime". This should encompass discussions and agreements on strategies, mid and long term co-ordination of operational activities, issues related to structural problems etc. These issues could then also be used in the European policy-making, which can currently only take account of the operational police point of view through national consultation procedures.

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<sup>2</sup> See Declaration of the European Council of 25 March 2004 ("focus on proactive intelligence") and the proposals for COSPOL and ECIM.

### **3. Positioning of the Police Chiefs Task Force**

As set out above, the competence for operational action belongs to the law enforcement authorities of the Member States, with, where appropriate, the assistance of Europol and Eurojust.

Since the PCTF's main task is to contribute to the planning and co-ordination of operational actions, it is desirable to bring the PCTF closer to Europol. Therefore, Europol should host the relevant meetings and ensure that one or two members of its staff are permanently available for supporting the work of the Task Force<sup>3</sup>. This should be done under the direction of the latter's Presidency and in co-operation with any Presidency staff available for this task.

The above-mentioned meetings can be attended by (representatives of) the Chiefs of Police and/or experts, depending on the level and subject of the meeting.

This arrangement is without prejudice to the provisions on Europol's Management Board, with which the necessary co-ordination should, nevertheless, be guaranteed. The same is valid for the HENU's.

In order to cater for the strategic role of the Chiefs of Police with regard to European police co-operation, the Police Co-operation Working Party should convene a limited number of times per year (once or twice per Presidency) with the Chiefs of Police. This will allow to discuss strategies and issues related to structural problems as well as provide a clear operational point of view in the Council's proceedings. Moreover, it will ensure the accountability of the European operational co-operation.

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<sup>3</sup> To ensure the co-ordination with the work of the Council, the Council Secretariat will be closely associated to these activities. In addition, the Commission is attending all meetings of the PCTF.