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NOTE

From:	Presidency
To:	Law Enforcement Working Party
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Subject:	Proposed actions against metal theft

One of the most common forms of theft is the theft of metal. Copper, lead, stainless steel, aluminium and used iron are the objects sought by offenders in order to rapidly acquire funds. The fact that processors are increasingly interested in these metals makes them more valuable. Thieves disassemble and steal parts of gas pipes, electric cabling, copper wire, lightning conductors which they take not only from unguarded and abandoned premises, industrial buildings, offices and construction sites but also from public spaces. The metal is then sold, thus generating a considerable profit for the offenders, which may encourage them to commit further crimes.

The theft of rails is an increasingly frequent occurrence, bringing very large losses and even posing threat to human life and health. In Slovakia the theft of metal on the railways is almost a daily occurrence, and is sometimes linked to serious and organised crime activities.

Materials obtained in this way have long had great macroeconomic and economic significance. Unfortunately, this activity is often termed 'collecting' and the material is resold, which is clearly against the law and benefits the 'collectors', as they are known, as well as other entities connected with the purchase or sale of metal waste.

It is unfortunately a daily activity for many petty thieves as well as more or less organised thieves with adequate technical equipment.

To fight such crime effectively not only requires strict requirements for determining collectors' responsibility for purchasing raw materials which clearly derive from criminal activity. It is also important for these rules to be effective and strictly and properly enforceable, with penalties imposed if they are broken. Greater cooperation between the supervisory authorities, law enforcement agencies and/or local government is required.

This type of crime poses a major problem throughout the EU and certainly extends beyond the borders of just one Member State. This topic needs to be given greater visibility because it is also linked to serious and organised crime.

In the light of the above, the Presidency completed a series of consultations with the European Coalition against Metal Theft¹ and wishes to share with delegations the proposed actions against metal theft at European level, developed by the European Coalition against Metal Theft, as set out in the Annex.

¹ The European Coalition against Metal Theft represents eleven associations representing the railway, public transport, and energy sectors as well as the recycling industry (more than 3000 companies, transport operators and other subjects are included):

- **CEDEC**, European Federation of Local Energy Companies;
- **CER**, Community of European Railway and Infrastructure Companies;
- **COLPOFER**, Collaboration of railway police and security services;
- **EDSO**, European Distribution System Operators' Association for Smart Grids;
- **EFR**, European Ferrous Recovery and Recycling Federation;
- **ENTSO-E**, European Network of Transmission System Operators for Electricity;
- **EURELECTRIC**, Union of the Electricity Industry;
- **EUROMETREC**, European Metal Trade and Recycling Federation;
- **GEODE**, European independent distribution companies of gas and electricity;
- **UIC**, International Union of Railways;
- **UITP**, International Association of Public Transport.

EUROPEAN COALITION AGAINST METAL THEFT:**JOINT CALL FOR ACTIONS AGAINST METAL THEFT AT EUROPEAN LEVEL****Metal theft: continuity of services at great risk**

Metal theft happens every day across Europe and results in the disruption of many services of general interest, such as public transport, railways, energy networks and telecommunications. Metal theft not only causes huge economic losses for businesses and society but can also create potential risks for the safety of companies' staff and citizens, and has negative impacts on the quality of services and security of supply.

Furthermore, in many cases, metal theft is a form of organised cross-border crime, and as such represents a threat to the internal security and economies of EU Member States. Different items are being stolen due to the monetary value of their constituent materials, most frequently ferrous and non-ferrous metals, and in most cases thieves seek to Exchange their stolen metal for money. However, the impact of metal theft goes far beyond the actual value of the stolen material.

Metals and their alloys play an important part in all infrastructures of general interest due to their characteristics such as, inter alia, strength, conductivity and durability. They are widely used in rail signalling, telecommunication and electrical equipment, which are essential for the functioning and the efficiency of services of general interest.

In this sense, metal theft causes important damage and inefficiencies in the overall economy of the affected sectors, also due to interdependencies among them, and implies serious losses of material and the accompanying need to quickly replace them in order to restore the disrupted services.

Our organisations, representing public services strongly affected by metal theft (public transport, railways, energy networks) and the recycling industry, see metal theft as a phenomenon having a clear European cross-border dimension. Thus, we are joining forces in order to urge the EU policy makers to tackle metal theft without further delay by addressing the following aspects:

☐ **Legislative action**

☐ **Coordinated action and data collection**

☐ **Dissuasive action**

LEGISLATIVE ACTION

Some EU Member States have taken a variety of measures to prevent or sanction metal theft, such as stricter rules for buying/selling “sensitive” items (e.g. manhole covers, storm drains, electricity poles or transmission towers, commemorative plaques, transport structures, railway parts, etc.) or legislation setting a limit for or even prohibiting cash payment for scrap metals and waste, in particular regarding copper.

Nonetheless, in order to ensure that minimum standards are respected across Europe, it is important that the European Commission ensure that Directive [2008/98/EC](#) on waste is properly implemented by Member States.

It is also critical that all legal or natural persons that sell or buy metal waste and scrap (e.g. collectors, transporters and carriers of waste and scrap, dealers, brokers, sorters, processors and metal-works) are either registered or have a permit to do so according to the existing European and national rules. Member States’ national authorities should have the capacity to enforce existing legislation and prohibit uncontrolled management of metal waste and scrap. In particular any waste management facility that is neither registered nor has a permit, and/or is not running its business according to existing legislation must face effective, proportionate and dissuasive penalties so that it is either forced to comply or closed down in a timely manner.

On top of the actions mentioned above, the European Commission should consider proposing new measures requiring that all legal or natural persons buying metal waste and scrap keep a record of the purchased material, the sellers' identity (name, document used for identity verification, and address) and of information on the vehicle rear registration plate, if used to transport scrap and waste. Such information should be kept on record and made readily available to law enforcement authorities investigating metal theft in accordance with the applicable legislation on the processing of personal data and on the free movement of such data. Any new measures should be proportionate and fit for the purpose of combatting metal theft. Their final aim should be to guarantee that law-abiding legal or natural persons that sell or buy metal waste and scrap do not suffer from illegal activities.

It should also be noted that, whilst the EU is a net importer of materials, there is both an intra-EU and an extra-EU trade in waste and scrap, with non-ferrous metals commonly transported in containers and ferrous scrap in bulk carriers. In order to prevent illegal waste shipment, which is usually carried out by organised crime networks, Member States should 'provide, inter alia, for inspections of establishments, undertakings, brokers and dealers in accordance with Article 34 of Directive 2008/98/EC, and for inspections of shipments of waste and of the related recovery or disposal', as stated in article 50(2) of Regulation (EU) No 660/2014 amending Regulation (EC) No 1013/2006 on shipments of waste.

Over time, a thorough monitoring and authorisation process will allow the identification and prosecution of illegal waste management facilities while at the same time creating the right conditions for law-abiding ones to thrive.

COORDINATED ACTION AND DATA COLLECTION

In our respective fields, there have been strong efforts to find the best solution to decrease the negative impact of metal theft on the quality of public life. In order to protect our infrastructures from metal theft, our sectors have put different technical measures in place and established cooperation mechanisms with law enforcement authorities and other sectors, also representing infrastructures of general interest. These measures have already improved the level of protection of services when combatting certain forms of metal theft.

As an example, early warning systems have been put in place by operators of public services and metal recyclers. Such initiatives between operators of public services and metal recyclers should be supported and further developed across Europe.

However, considering the scope of the problem, there is a need for additional and complementary EU policy actions. Hence, the EU institutions, national authorities and private sector need to work together in order to enhance the effectiveness of their respective actions. The Pol-PRIMETT I & II project, an EU co-funded project tackling metal theft via a transnational public-private sector partnership, represents a good example of how this kind of cooperation can lead to positive results.

The international coordination and cooperation between law enforcement authorities and affected market operators also need to be intensified and extended, taking into account the implementation of already existing practices, strategies and approaches at national and European level such as, among others, the European Council's *Stockholm Programme – An open and secure Europe serving and protecting citizens* (2010), Europol's *EU Serious and Organised Crime Threat Assessment* (2013), the Council's *Priorities for the fight against serious and organised crime between 2014 and 2017* (2013) as well as the strategic goals defined under the European Multidisciplinary Platform against Criminal Threats (EMPACT) project on Organised Property Crime.

Effective law enforcement actions require exchange of data at national and European level, which can feed into a more accurate intelligence picture of organised metal theft crime and, under Europol's coordination, enable law enforcement authorities to be more efficient and effective. All EU Member States need to make proper use of Europol's communication channels, and disclose relevant information to affected infrastructures and stakeholders so that they can also work effectively and more efficiently.

Furthermore, a common European data collection could enable the comparison of trends in metal theft crime at the EU level. Such data would highlight the actual extent of metal theft in each Member State.

From a broader perspective, better knowledge of metal theft must be accompanied by an ever more effective EU police and judicial cooperation in criminal matters as metal stolen often cross borders and requires an efficient and fast response from police forces and judicial authorities in different Member States.

DISSUASIVE ACTION

In some Member States the metal thieves are punished only based on the value of the stolen material. Nevertheless, the real impact of metal theft on the businesses, their customers and the whole society needs to be taken into account. It is therefore important that the foreseen penalties are proportional to the considerable seriousness of the offences. The European Commission together with the Member States should consider establishing common definitions and sanctions for crime on services of general interest, such as metal theft crime against public services (energy, transport, and telecommunications), taking into account the real impact of the crime when punishing the offenders.

Furthermore, appropriate awareness-raising campaigns and training sessions should be promoted for judicial authorities in the EU Member States. This would provide them with the necessary knowledge basis that will allow them to take into consideration all the material and immaterial implications of metal theft when deciding on sanctions.