



Brussels, 15 December 2016
(OR. en)

15277/1/16
REV 1

LIMITE

JAI 1074
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NOTE

From:	Presidency
To:	Standing Committee on Operational Cooperation on Internal Security
No. prev. doc.:	11001/1/16 REV 1
Subject:	Renewed European Union Internal Security Strategy and Counter-Terrorism Implementation Paper: Report on implementation in the second half of 2016

Executive Summary

This report gives an overview of the progress achieved in the implementation of the Renewed EU Internal Security Strategy (2015-2020)¹, which is an overall priority for the Slovak Presidency. The NL-SK-MT Trio Presidency decided to follow the same structure for the implementation paper ISS as the one developed under the Luxembourg Presidency², which was agreed on the joint COSI - CATS meeting on 22-23 July 2015. The implementation paper³ for the second half of 2016, which was endorsed by COSI at its meeting on 28 September 2016, contained a list of forty different measures and served as a living, non exhaustive work programme for the different Council preparatory bodies under the Slovak Presidency.

1 9798/15
2 10854/15
3 11001/1/16 REV 1

The implementation paper also contained a new annex, which provided an overview of the most relevant counter-terrorism actions that have been agreed by the Council, either politically or legally. In this way, the implementation paper incorporated the so-called master document on counter-terrorism, on the development of which COSI agreed on 18 April 2016. For each of the forty different actions contained in the implementation paper, the current report makes a distinction between those that are being/were implemented and those that remain to be implemented.

Improving the information exchange and information management in the EU was a top priority for the Slovak Presidency. The progress in the implementation of the Roadmap on information exchange and information management including interoperability solutions in the Justice and Home Affairs area was closely monitored by the Council on 18 November 2016. The Council also endorsed at that meeting a contribution by the G13 group, which will be reflected in the report on the implementation of the Roadmap. Also further support measures to be taken at EU level were discussed to help Member States in better feeding EU databases and fully implementing and using various information exchange instruments and databases.

The activities of High Level Expert Group⁴ set up by the Commission were regularly presented to COSI and an interim report is expected before the end of December 2016. After the last meeting of HLEG in May 2017 the Commission will prepare a final report to the European Parliament and the Council in June 2017, which will present the main findings of HLEG and propose concrete actions for follow-up.

The fight against terrorism also remained high on the agenda of several Council meetings. Important progress was made in the implementation of the counter-terrorism agenda as reported by the EU CTC. The state of play of the implementation of the counter-terrorism agenda set by the European Council on 12 February 2015 was presented by the CTC at the JHA Council on 18 November 2016. On 9 December 2016 the Council also discussed the issue of Foreign terrorist fighters returnees on the basis of a CTC paper. On 25 October 2016 the High Level Meeting of Customs Directors General discussed the role of Customs in fight against terrorism.

⁴ Three meetings of the HLEG have taken place so far; on 20 June, 20 September and 29 November 2016. Further work is organised around three sub-groups (existing systems, new systems and interoperability), reporting to the HLEG's plenary meetings.

Europol and IntCen presented future oriented threat assessments to COSI which contributed to strengthening the cooperation on counter-terrorism threat analysis. The Council also discussed the information needs in counter terrorism during the lunch of the JHA Council on 18 November 2016.

Intensive discussions on the revision of the draft Firearms Directive took place in the previous months and a political agreement has been reached between the Parliament and the Council.

The fight against serious and organised crime continued notably via a series of operational actions developed within the EU Policy Cycle. The results of the independent evaluation of the Policy Cycle were presented to COSI and the final evaluation report is expected in the beginning of 2017. This will constitute an important contribution to the development of the new EU Policy Cycle in 2017. The coordination of operational actions within the EU Policy Cycle with CCWP continued under the Slovak Presidency. The results of operation Ciconia Alba were brought to the attention of the Council on 18 November 2016.

Various measures were also taken to enhance the security at the external borders and to move towards a stronger border management as a component of the EU's Internal Security Strategy. The Regulation establishing the European Border and Coast Guard entered into force on 6 October 2016 giving Frontex new competences to ensure a European integrated border management. The Commission also submitted a legislative proposal for an EU Travel and Information Authorisation System (ETIAS) on 16 November to allow for advance security checks on visa-exempt travellers and a first exchange of views took place at the JHA Council on 18 November 2016. Negotiations continue on the Entry-Exit System (EES), EURODAC and the Commission proposals to improve the SIS functionalities.

The Commission also issued two progress reports "towards an effective and genuine Security Union"⁵ which track the implementation of the European Agenda on Security⁶ and the Communication on a Security Union⁷ and identify where more efforts are needed.

⁵ 13442/16, 14617/16

⁶ 8293/15

⁷ 8128/16

Overview of counter-terrorist work which was carried out in the second half of 2016

For each of the items mentioned below, more detailed information is provided in annex II regarding the Working Parties in which the work was carried out.

Threat assessment

Europol and INTCEN presented future oriented threat assessments on terrorism. On the basis of this input by Europol and the threat assessments prepared by INTCEN a set of conclusions and policy recommendations were prepared in the Terrorism Working Party and submitted to COSI for endorsement.

Information sharing

The measures developed in this regard are set out in the Roadmap on information exchange. Implementation of these measures was mainly discussed in the relevant working parties (SIS/SIRENE Working Party, the Terrorism Working Party, DAPIX, SCIFA) and monitored by COSI. The Commission's High Level Expert Group held three meetings and an interim report is expected in December 2016. Following the findings of this Expert Group, the Commission would in 2017 present specific ideas to the Council and the European Parliament on ways forward.

Special attention was given to the implementation of Chapter III of the Roadmap which was discussed by the JHA Council on 18 November 2016.

Further reporting by the EU CTC on the state of play on the implementation of the statement of the Members of the European Council of 12 February 2015 and the Conclusions of the European Council of 18 December 2015, particularly on feeding and using of databases (SIS II, Europol FP Travellers, FP Hydra, FP Firearms, Interpol SLTD database and iFADO, EIS) and the use of the Terrorist Financing Tracking programme and Prüm took place at the Council (JHA) on 18 November 2016. The EU CTC also presented a discussion paper to the Council on 9 December 2016 on Foreign Terrorist Fighter returnees, following the discussions at the Council on 18 November 2016 and the G15 discussions.

The Chair of the Counter Terrorism Group attended the JHA Council when terrorism-related issues were discussed.

Financing of terrorism

On 2 February 2016, the Commission presented a Communication on an Action Plan for strengthening the fight against terrorist financing. Actions proposed by the Commission, while geared primarily against terrorist financing, will also strengthen the general EU anti-money laundering framework.

The Action Plan proposes twenty actions in various areas, most of which are to be completed by the end of this year. A number of these actions commenced during the second half of 2016, including:

- a) A proposal to amend the Anti Money Laundering Directive, which the Commission issued on 5 July 2016;
- b) The first Delegated Act establishing the EU list of high risk third countries with strategic deficiencies in their anti-money laundering/countering terrorism financing, as foreseen in the AMLD, was adopted by the Commission in July 2016. The Delegated Act is to be regularly updated;
- c) Exploring the possibility of a self-standing legislative instrument to allow for a broader consultation of bank and payment account registers for other investigations and by other authorities, beyond the scope of the AMLD;
- d) A legislative proposal for harmonising money laundering criminal offences and sanctions;
- e) (...);
- f) Assessing the possibility for an EU regime for the freezing of assets of terrorists under Article 75 TFEU;
- g) A legislative proposal to strengthening the mutual recognition of criminal assets' freezing and confiscation orders;

- h) Exploring the possibility of creating a European system which would complement the existing EU-US Terrorist Finance Tracking Programme agreement by tracing transactions excluded under the mentioned agreement; and
- i) (...).

Apart from the measures listed under d), g) and h), these measures were/will, however, not be discussed in JHA Working Parties.

Criminal justice response

The Presidency led successful negotiations with the European Parliament and reached a political agreement on the Draft Terrorism Directive.

Countering radicalisation and violent extremism

As a follow-up to the Commission Communication supporting the prevention of radicalisation leading to violent extremism, the Terrorism Working Party and COSI provided input to the Conclusions on prevention of radicalisation leading to violent extremism that were eventually adopted by the Council (EYCS) at its meeting on 21-22 November 2016.

Member States were updated on the functioning of the EU Internet Forum, the EU IRU, the RAN Centre of Excellence, including RAN's external engagement. Regular updates were also provided from the European Strategic Communications Network (former SSCAT).

A report on CVE strategies and networks was discussed in TWP and served as input for the RAN High Level Conference on 9 November 2016. Moreover, reflections on how to organise controlled returns, rehabilitation and re-integration measures for returnees addressing the potential threat posed by an increasing number of returnees, were discussed by the relevant working parties and the Council.

Strengthening of controls at the external borders

The Presidency worked on the following files aimed at strengthening of controls at the external borders.

- Revision of the Schengen Borders Code: the Council discussed with the European Parliament the amendment of Art. 8(2) Schengen Borders Code to introduce systematic checks of Union citizens. Political agreement with the European Parliament has been reached on 5 December 2016 and has been endorsed by COREPER on 7 December 2016. A letter has been sent to LIBE which held a voting on 8 December 2016. The confirmation by the European Parliament is awaited at the plenary meeting in January or February 2017.
- The European Border and Coast Guard Regulation was adopted on 14 September 2016 and entered into force on 6 October 2016. It will better enable Frontex to contribute to fight against terrorism and organised crime. The discussions on the setting up of the entry - exit system (EES) are ongoing.
- Implementation of the security aspects of the hotspots.

Strengthening cooperation with third countries

The Presidency monitored the following files:

- Follow-up to the Global Strategy for the EU's Foreign and Security Policy.
- CT packages with a number of priority countries in the MENA region and Turkey.
- Western Balkans CT (WBCTi) Initiative: implementation of the Integrative Plan of Action (iPA) for 2015-2017, particularly focussing on the implementation of RAN for the Western Balkans. Council conclusions on strengthening the EU internal security's external dimension via the Integrative Internal Security Governance (IISG) were adopted by Council on 9 December 2016.

COSI

COSI, as established by Article 71 TFEU and laid down in the Council Decision of 25 February 2010, has a central role in ensuring that operational cooperation on internal security is promoted and strengthened within the Union as well as in developing, implementing and monitoring the renewed EU Internal Security Strategy 2015-2020. The progress in the implementation of the renewed EU Internal Security Strategy will therefore be closely monitored by COSI, which will discuss a number of operational issues related to the priorities identified in the renewed ISS. For some of the items listed below, this will be done on the basis of work carried out by other Working Parties.

(1) Implementation of the EU Policy Cycle [Measure 35]

In this regard COSI will in particular examine the following items:

- preparing of the next Policy Cycle taking into account the outcome of the independent evaluation, which was launched at the end of March 2016. An interim report is expected in the second half of 2016 and the final report will be presented to Council in March 2017;
- increasing the involvement of Customs authorities in the Policy Cycle, notably to ensure coordination with the 8th Customs Action Plan in line with the coordination measures set out in 6015/2/16 REV 2;
- monitoring emerging threats, in particular environmental crime by using an intelligence-led approach;
- monitoring the development of the 2016 Joint Action Days and strategic debate on the 2017 JADs;
- monitoring the funding of the OAPs, notably the implementation of the mini call and discussion of future funding;

- monitoring progress reports and final reports OAPs 2016 and discussion – adoption of OAP's 2017 (end of 2016);
- extending the Policy Cycle to neighbouring countries and strengthening the involvement of third countries in the Operational Action Plans;
- development of fact sheets on the results of the OAPs 2015;

Objectives which are being/ were implemented:

- *COSI was informed about the state of play of the independent evaluation of the EU Policy Cycle and took note of its interim report at its meeting on 8 November 2016;*
- *At its meeting on 8 November COSI took note of the state of play of the mini-call launched by Europol on 20 September 2016 and agreed on the strategic guidance for future funding of the EU Policy Cycle as set out in 13922/16;*
- *The coordination measures and their implementation between the EU Policy Cycle and the 8th CCWP Action Plan were discussed at the NEC meeting on 22-23 November 2016. The document detailing those coordination measures (6015/2/16 REV 2) has been updated for 2017 (14782/16) and was be discussed at the CCWP meeting on 7 December 2016 and was discussed at the COSI Support Group on 12 December 2016;*
- *COSI provided strategic guidance on the JADs 2017 at its meeting on 8 November 2016 as set out in 13555/16 and took note of the overall results and evaluation of the JADs 2016 (13857/16). The Council took note of these results on 18 November 2016;*
- *The model fact sheet on the results of the Policy Cycle was approved by COSI on 28 September 2016 as proposed by Europol in DS 1442/1/16 REV 1. The fact sheet was discussed by the COSI Support Group on 12 December 2016.*

- *COSI discussed on 28 September 2016 draft Council conclusions on organised domestic burglary contained in 12098/2/16 REV 2 which were agreed by the Council on 13 October 2016. These conclusions are building upon the Operational Action Plans (OAP) on Organised Property Crime (OPC) under the EU Policy Cycle with a more extensive and holistic approach.*

Objectives still to be implemented:

- *COSI will discuss under Maltese Presidency the involvement of third countries in the EU Policy Cycle, in particular the possible attendance to NEC meetings, following discussions that have taken place at the NEC meeting on 22-23 November 2016 and the COSI Support Group on 12 December 2016.*
- *Following the strategic guidance on future funding, COSI will discuss on 19 December which Operational Action Plans would be prioritised in 2017;*
- *The 2017 OAPs will be adopted by COSI on 19 December and the second progress report on the 2016 OAPs will be discussed at the same meeting;*
- *Following the adoption of the fact sheet, Europol was invited to fill in the relevant data in order to have these results ready for the COSI meeting on 19 December;*
- *The final report of the independent evaluation of the EU Policy Cycle will be presented in COSI early 2017;*
- *In the first semester of 2017, COSI will discuss draft Council conclusions on the new EU Policy Cycle 2017-2021 and on the new EU crime priorities for that cycle;*
- *COSI will be regularly updated by Europol on the state of play of the planning and the implementation of JADs 2017.*

(2) European Agenda on Migration [Measure 33]

In line with the "Roadmap on the follow-up to the EC conclusions" (8497/15), COSI will ensure that the actions undertaken in the framework of the EU Policy Cycle are integrated with the European Agenda on Migration in particular with regard to THB and smuggling of migrants.

Objectives still to be implemented:

- *Ensure coordination between the relevant OAPs and the European Agenda on Migration as well as with recent developments in the migratory field.*

(3) Integrated Border Management [Measures 13 and 14]

In this regard COSI will in particular examine:

- the implementation of the operational measures taken to strengthen the controls at external borders as foreseen in the Conclusions on Counter-Terrorism (14406/15 + COR 1) and the Roadmap to enhance information exchange and information management, notably:
 - the use of the different databases, in particular the SIS II and Interpol databases,
 - the connection of all external border crossing points to the relevant databases,
 - the implementation of the common risk indicators.
- COSI should be informed about the legislative negotiations regarding the European Border and Coast Guard and the amendment of Art. 8(2) Schengen Borders Code;
- Frontex Risk Analysis.

Objectives which are being/ were implemented:

- COSI took note on 8 November of the state of play presented by the EU Counter-Terrorism Coordinator of the implementation of the operational measures foreseen in the EC Declaration of 12 February 2015, the Council Conclusions of 20 November 2015 and the Conclusions of the European Council of 18 December 2015. The Committee also debated the recommendations presented by the CTC in 13627/16.

(4) Terrorism [Measures 21, 22 and 25] (see also Chapter 1)

In accordance with the Council conclusions of 20 November 2015, COSI will liaise with competent Working Parties of the Council and with the Commission and EU agencies to ensure effective implementation of operational measures on Counter-Terrorism.

- COSI in particular will monitor the implementation of the operational measures of the Council conclusions on Counter-Terrorism of 20 November 2015 (14406/15 + COR 1) and the EC Conclusions of 17-18 December 2015⁸ in particular the exchange of information and monitor the progress in the work of the European Counter-Terrorism Centre and the Internet Referral Unit within the ECTC at Europol;
- COSI will also monitor the implementation of the EC Declaration of 12 February 2015, the Riga Declaration, the EC Conclusions of 17-18 December 2015 and the Joint statement of EU Ministers for Justice and Home Affairs and representatives of EU institutions on the terrorist attacks in Brussels on 22 March 2016.

⁸ EUCO 28/15

COSI will in particular deal with the following items:

- Presentation of a coordinated, comprehensive and future-oriented threat assessment picture and discussion of a set of conclusions and policy recommendations prepared in the Terrorism Working Party;
- Presentation of Europol and INTCEN future oriented threat assessment;
- the implementation of the Council Conclusions of 3-4 December 2015 on the Western Balkan Counter Terrorism Initiative, incl. Action plan covering 2016-2017;
- possible discussion on Aviation security;
- possible discussion on the impact of the Court's opinion on the EU's PNR strategy in relation to third countries⁹.

Objectives which are being/were implemented:

- *COSI took note on 8 November 2016 of the state of play presented by the EU Counter-Terrorism Coordinator of the implementation of the operational measures foreseen in the EC Declaration of 12 February 2015, the Council Conclusions of 20 November 2015 and the Conclusions of the European Council of 18 December 2015. The Committee also debated the recommendations presented by the CTC in 13627/16;*
- *The Council took note of the report on 18 November 2016 of the EU Counter-Terrorism Coordinator on the implementation of measures on counter-terrorism (14260/16+COR 1 + COR 1 REV 1 + ADD 1);*

⁹ Depending on the date of deliverance of the Opinion of the European Court of Justice on the envisaged PNR agreement between Canada and the EU.

- *At the COSI meeting of 28 September 2016 and the TWP meeting of 13 September 2016, EU IntCen and EUROPOL presented their future-oriented threat assessments on terrorism. In line with 8409/2/16, the Presidency prepared a set of conclusions and policy recommendation (14555/16) which were presented at the TWP on 24 November 2016;*
- *COSI took note on 28 September 2016 of the executive summary of the threat assessment on internet-facilitated organised crime (iOCTA) 2016 (12526/16) and invited Member States, Europol and participants of the relevant 2017 Operational Action Plans to take into account its findings where appropriate when drafting the next OAPs for 2017;*
- *Europol published the TE-SAT 2016 on 20 July 2016.*

Objectives still to be implemented:

- *Following discussions in TWP on 24 November and subsequent written comments, conclusions and policy recommendation were submitted to COSI for discussion on 19 December 2016.*

(5) EU Internet Forum [Measure 23]

The Commission will be invited to update COSI on the activities of the EU Internet Forum, which was launched on 3 December 2015. COSI will be invited to provide guidance, as appropriate, whilst keeping the link with FoP on Cyber Issues and the Digital Single Market initiatives.

Objectives which are being/were implemented:

- *COSI was informed by the Commission on 8 November on the state of play of the EU Internet Forum. The Council was also informed about the ministerial meeting which was held on 8 December 2016.*

(6) Firearms [*Measure 29*]

COSI will in particular deal with the following items:

- the implementation of the measures contained in the Council conclusions of 8 October 2015 on strengthening the use of means of fighting trafficking of firearms, in particular the feeding of the relevant databases, MS' participation in OAP Firearms;
- the interoperability of iARMS/SIS as well as the development of a Manual for combating the sale of illegal commodities on the Internet. The coordination of measures contained in the EU Action Plan against illicit trafficking in and use of Firearms with OAP Firearms, the Customs 8th Action Plan as well as other initiatives;
- follow-up on the implementation of the Action Plan on illicit trafficking in firearms between the EU and the South East European region for the period 2015-2019¹⁰;
- the final report by FI on the evaluation of operational coordination with regard to trafficking in firearms (discover gaps).

Objectives which are being/were implemented:

- *At the JHA Senior Officials EU - OIPC Interpol meeting held on 28 November 2016, Europol mentioned good progress in realising access to iARMS (some outstanding technical issues are still to be solved). Good progress was also made in the SIS II/iARMS interoperability project;*
- *COSI will discuss on 19 December 2016 the second progress report of the 2016 OAP Firearms and will adopt the 2017 OAP Firearms;*

Europol presented in the COSI Support Group on 12 December 2016 the Firearms matrix as agreed by COSI on 17 May 2016.

Objectives still to be implemented:

- *The Finnish Police University project on firearms that focuses on the evaluation of the operational cooperation for the prevention of illicit trafficking, supply and use of firearms in Europe is foreseen to be completed in early 2017.*

¹⁰ 15516/14

(7) Administrative approach [Measure 32]

- Update on the implementation of the multi annual Work Programme (2015-2017) of the Informal Network of contact points on the Administrative Approach (16407/14);

Objectives still to be implemented:

- *monitor the progress in the Informal Network for the Administrative Approach.*

(8) Links internal - external security [Measure 36]

The COSI SG and CIVCOM will discuss the way forward regarding the Road Map "Strengthening Ties between CSDP and FSJ", in particular the CMPD Food For Thought Paper "From strengthening ties between CSDP/FSJ actors towards more security in EUROPE". The Global Strategy for the European Union's Foreign and Security Policy can be also addressed.

COSI should also discuss how to contribute to existing policy dialogues on security with key third countries.

In this regard COSI will in particular deal with the following items:

- examine the EEAS' Progress reports: follow-up;
- contribute to policy dialogues with third countries;
- final report of the informal experts group led by PL.

Objectives which are being/were implemented:

- *COSI took note of the Slovenian initiative on Integrative Internal Security Governance on 28 September 2016. Following subsequent discussions in COSI Support Group and JAIEX, Council conclusions on strengthening the EU internal security's external dimension in the Western Balkans including via the Integrative Internal Security Governance (IISG) (14795/16 and 14796/16) were adopted by Council on 8-9 December 2016.*

Objectives still to be implemented:

- *discuss the CMPD Food For Thought Paper and contribute to policy dialogues.*

(9) Cooperation between JHA Agencies [Measure 15]

COSI will look at deepening the cooperation between JHA Agencies. Ways of improving information exchange between JHA agencies, including ways to improve Member States' contributions to the JHA Agencies, as described in the Roadmap, will be discussed. COSI will be informed of the outcome of the next meeting of the Heads of JHA Agencies, to be hosted by FRA in November 2016.

Objectives which are being/were implemented:

- *At its meeting on 8 November 2016 COSI was briefed on the agenda of the Heads of JHA Agencies meeting which was hosted by FRA on 14 November 2016. The report of that meeting together with the scorecard will be presented to COSI on 19 December 2016.*

(10) Information exchange [Measure 5]

COSI will monitor the progress implementation of the Roadmap on Information Exchange and accompanying action plans, and identify key obstacles and propose a way forward. This monitoring will be included in a separate implementation paper. Special attention will be given to the work of the High Level Expert Group and the Commission will be invited to regularly report to COSI.

Objective which are being/were implemented:

- *COSI discussed the state of play of the implementation of the Roadmap on 8 November 2016. Taking into account delegations' comments, a revised report (13554/1/16 REV 1) was submitted to the Council on 18 November 2016;*
- *The Commission updated COSI on 8 November 2016 on the state of play of the HLEG and announced an interim report in December 2016 and a final report by June 2017.*

Objectives still to be implemented:

- *Progress is to be strategically monitored by COSI in coordination with other relevant preparatory bodies of the Council, the Commission and the EU Counter Terrorism Coordinator (CTC), on the basis of progress reports prepared by COSI in cooperation with the CTC, the Presidency and the Commission. The Council will be regularly informed on progress made and in any case when political decisions are necessary. COSI will report to the JHA Council;*
- *Publication by the Commission of the interim report in December 2016 and a final report by June 2017 of the HLEG.*

CATS

CATS is a senior level committee of the Directors and Directors General at the Ministries of Justice and Home Affairs in the Member States. It assists Coreper in relation to legal, horizontal and strategic matters in the field of police and judicial cooperation in criminal matters. It works in collaboration with other relevant Council Committees, in particular COSI and SCIFA, and relevant working parties, providing the latter where appropriate with strategic guidance and support.

(1) (Additional protocol to) the Council of Europe Convention on the Prevention of terrorism [Measure 24]

The ongoing update of the FD 2002/475/JHA on combating terrorism takes into account the Additional Protocol to the Council of Europe Convention on the Prevention of terrorism. The adoption of the new Directive on combating terrorism will pave the way for the conclusion of the CoE Additional Protocol on behalf of the EU. The signing on behalf of the EU, of the CoE Convention on the prevention of Terrorism and its Additional protocol was approved by Council Decision (EU) 2015/1913 and Council Decision (EU) 2015/1914 of 18 September 2015.

Objective still to be implemented:

When the Commission presents the respective proposals, work with a view to the adoption of the Council Decisions on the conclusion on behalf of the EU of the CoE Convention the Prevention of Terrorism and its Additional Protocol will be carried further.

(2) Data Retention Directive [Measure 9]

On the basis of Member States' contributions CATS will examine the various ways in which the ruling of the ECJ and of some national Courts invalidating the Data Retention Directive have been taken into account in national legislation. Once the decision on Tele 2 case¹¹ will be published/adopted by ECJ, the Presidency will organise a policy debate.

¹¹ Case C-203/15, lodged on 4 May 2015, Tele2 Sverige AB v. Post-och telestyrelsen

The Presidency will continue the activity of the informal policy group on data retention within the EU, which was established after the meeting of the Ministers of Justice of December 2015. The first meeting of the group took place in April 2016 under the Netherlands Presidency.

Objectives which are being/were implemented:

- *The second meeting of the informal policy group is under preparation.*

Objectives still to be implemented:

- *Provide follow up on this topic, including in light of the ECJ ruling on the Tele 2 case expected further to the Advocate General opinion of 19 July 2016.*

(3) E-evidence [Measures 17 and 38]

On 9 June 2016 the Council adopted 2 sets of conclusions: (i) on improving criminal justice in cyberspace and (ii) on the European Judicial Cybercrime Network. The first set of conclusions envisage specific measures aiming to streamline mutual legal assistance in cyber-related criminal proceedings and to improve cooperation with private parties in order to secure and obtain e-evidence more effectively, as well as the development of a common EU approach on enforcement jurisdiction in cyberspace for situations where existing frameworks are not sufficient. In implementation of those Conclusions the Commission launched an expert process and has created a special Taskforce including representatives of DG HOME and DG JUST. Information on its working programme and the steps envisaged was presented to the JHA Counsellors in July. Further updates on the state-of-play were presented to the Horizontal Working Party on Cyber Issues on 28 October and to CATS on 18 November 2016. At the latter the Commission confirmed that a progress report will be presented to the Council in December, as envisaged in the conclusions. It explained that at the moment work focuses on defining practical solutions for improving channels and technical platforms for cooperation, streamlining the dialogue with service providers, including in the context of the Internet forum, as well as identifying strands of work with the US.

Objectives which are being/were implemented:

- *Implementation process launched and ongoing; the first progress report as envisaged was presented to the December Council.*

Objectives still to be implemented:

- *Ensure the follow-up of the Council Conclusions implementations in close cooperation with the Commission in view of the expected concrete deliverables and e-platform prototype in the course of 2017.*
- *Facilitate further the ongoing policy discussions on the obstacles to criminal investigations in cyberspace to improve the criminal justice in the digital age.*

TERRORISM WORKING PARTY (TWP)

The TWP discusses the [internal] operational aspects of Counter Terrorism (CT) (as opposed to COSI, which discusses CT issues at strategic and policy shaping level). It is within its remit to assess the terrorist threat; manage and improve cooperation instruments, define new cooperation instruments (e.g. the role and responsibilities of Europol in the field of terrorism) and continue cooperation with COTER (dealing with external aspects of CT) via a joint meeting during each Presidency. The joint half-yearly TWP/COTER session is a regular dialogue on cross-cutting issues, with a view to reinforcing links between external and internal aspects of CT (such as in aviation security, cyber security, data issues, radicalisation, terrorist financing, terrorist movement, diaspora engagement and tackling the terrorist threat at its source).

Apart from the regular information updates on incidents of significant interest (incl. Member States informing on Foreign Terrorist Fighters), INTCEN reports and presentations comprising an important element of TWP and COTER discussions and CTC, COM, EEAS and Europol informing on CT-activities, the following items were discussed during the second half of 2016 in the context of the implementation of the ISS:

(1) EU Internet Forum [*Measure 23*]

The TWP received regular updates concerning the work of the EU Internet Forum and contributed to the guidance to be provided by COSI.

Objective which is being implemented: monitor the work of the EU Internet Forum.

(2) Prevention of radicalisation [Measures 21, 22, 25 and 28]

The TWP dealt in particular with the following items:

- On the basis of input from INTCEN and Europol, a set of conclusions and policy recommendations were prepared to serve as a basis for a coordinated, comprehensive and future-oriented threat assessment;
- The TWP received regular updates on the work of the RAN and the RAN Centre of Excellence and the ESCN (European Strategic Communications Network) (until 1 October 2016 "SSCAT" - Syria Strategic Communication Advisory Team);
- TWP analysed MS's replies to the questionnaire on CVE strategies and networks (CM 3082/16), and the report drafted was subsequently served as input for the RAN High Level Conference that took place on 9 November 2016;
- As a follow-up to the Commission Communication on supporting the prevention of radicalisation leading to violent extremism TWP prepared input to the Council conclusions on prevention of radicalisation leading to violent extremism that were adopted by the Council (EYCS) at its meeting on 21-22 November 2016.

Objective which is being implemented: monitor ongoing initiatives, including by receiving IRU and ECTC updates.

Objectives still to be implemented: Raise awareness among CT officials regarding R&D dimension in this field - SAFIRE.

(3) Foreign terrorist fighters [Measure 24]

The TWP in particular looked at:

- Follow-up to the Commission Communication on delivering on the European Agenda on Security to fight against terrorism and pave the way towards an effective and genuine Security Union (8128/16 + ADD 1), which highlighted among others the threat posed by returning terrorist fighters.

Objective which is being implemented: examine possibilities for measures against foreign terrorist fighters.

(4) Information exchange [Measures 5 and 12]

On the basis of the work done by the Netherlands Presidency endorsed at the JHA Council on 9/10 June 2016 and of the discussions that took place in that framework, the TWP looked at the following actions:

- Implementation of the relevant actions contained in the Roadmap to enhance information exchange and information management including interoperability solutions in the Justice and Home Affairs area (9368/1/16 REV 1 + COR 1), especially Chapter III thereof;

Objectives which are being implemented:

- *examine possibilities of improving intelligence cooperation within Member States between Security Services and Law Enforcement;*
- *coordination of different initiatives in this field;*
- *support the work of the new Europol CT Centre (ECTC).*

(5) CBRN-E Progress report on the implementation of Action Plans [Measure 26]

The TWP awaits the communication which the Commission is expected to propose in implementing the CBRN-E (explosives) agenda in the first quarter of 2017, after review of the implementation of the EU CBRN Action Plan, to start discussions. When issued, the TWP will also discuss the follow-up to the broader Commission Communication incorporating CBRN-E related aspects.

Objective still to be implemented: identify ideas for the way forward.

(6) Explosives – revision of the Precursors Regulation [Measure 26]

The TWP will deal with the follow up of the implementation of the explosives part of the Action Plan on illicit trafficking in and use of firearms and explosives, which was adopted on 2 December 2015. The specific actions related to explosives include activities to better use existing tools, to develop better training and innovative detection tools, as well as to ensure the full implementation by Member States of the Precursors Regulation 98/2013, which aim to restrict access to dangerous substances that can be used for making explosives. The Action Plan also foresees to bring forward the revision of the Regulation to 2016 in order to propose further controls around precursors as threats evolve.

Objectives which are being implemented:

The three Commission delegated acts adding further substance to the Annex of the Regulation were updated on 30 November 2016.

Objective: follow-up on the implementation of the explosives part of the Action Plan.

LAW ENFORCEMENT WORKING PARTY (LEWP)

The main goal of LEWP is to contribute to ensuring security in the Union by enabling police and other law enforcement agencies to better combat cross-border crime. In line with the principles set out in the renewed ISS, this is done, inter alia, by increasing cross-border cooperation, including operational cooperation, and mutual trust, as well as ensuring a cross-sectorial approach.

Where relevant, better steering of the networks and a top-down approach will be encouraged, in the LEWP relationship by better guiding their action, which would help contributing to the implementation of the renewed ISS. The following actions could be undertaken in the second half of 2016 in the context of the implementation of the ISS:

(1) Assessing strategic training needs [Measure 19]

The Commission should present the new methodology for the strategic training needs assessment by the end of 2016 (according to Article 4.1 of the new CEPOL Regulation) in which case LEWP will be able to invite CEPOL to discuss it.

Objectives which are being/were implemented:

After a kick-off meeting with the external contractor on 21 September 2016, the Commission launched the study on the new methodology for the strategic training needs assessment. The intermediate report in this context is expected in the beginning of December 2016, and the final report in March 2017.

Objectives still to be implemented:

LEWP to discuss the methodology for assessing strategic training needs and supply CEPOL with advice on this matter.

(2) Financial investigation [Measure 36]

LEWP will monitor the implementation of the Council Conclusions and Action Plan on the way forward with regard to financial investigation, adopted at the JHA Council on 9/10 June 2016 (8777/16).

Objectives that are being/were implemented:

At the LEWP meeting on 29 September 2016 the Presidency presented the state of play of the implementation of the Action Plan on financial investigations (12295/16). In order to take action 5 forward, an expert meeting will be organised on 13-15 December 2016 in Brussels by the action leader Belgium together with the Presidency and the Netherlands.

(3) Development of the European Forensic Science Area [Measure 10]

LEWP will monitor the implementation of the Council Conclusions and Action Plan on the way forward in view of the creation of an European Forensic Science Area, adopted at the JHA Council 9/10 June 2016 (8770/16).

Objectives which are being/were implemented:

- ENFSI established a task force which will be in charge of the implementation of Actions 1, 2 and 3 of the Action Plan (for which ENFSI is the coordinator). Questionnaires were drafted with the aim of a stocktaking exercise in the areas covered by the three actions. Further measures will be suggested on the basis of the survey outcomes;*
- CEPOL and EJTN also started the implementation of Action 4 by adapting their training offer in order to include forensic relevant courses, workshops etc.;*
- Commission and DAPIX are currently assessing the best ways to implement Actions 5 and 6;*
- A progress report detailing the activities undertaken for the implementation of the EFSA 2020 Action Plan was drafted and presented to the LEWP (13636/16).*

(4) Cooperation between customs and law enforcement agencies [Measure 15]

During the Netherlands Presidency, a joint LEWP/CCWP Experts meeting took place to discuss the Joint Police Customs Operation ARES. LEWP will continue to receive regular updates on the state of play of the operation and discuss possible challenges posed by the JPCO (e.g. in the area of information exchange).

Objectives which are being/were implemented:

A joint LEWP-CCWP meeting took place on 7 November 2016 (14407/16), focusing in particular on combatting environmental crime by both police and customs authorities, on customs risk management and on the outcome of joint operations CARS (on vehicle crime) and ARES (on firearms). The aim of the meeting was to encourage better coordination and stimulate cooperation between customs and police.

(5) Relations between the LEWP and its related expert groups and networks [Measure 15]

During the Netherlands Presidency, an overview document was drafted containing the strategic objectives of networks (6883/3/16 REV 3). On this basis, according to the guidelines adopted in December 2015, the LEWP will have to discuss and approve the annual work programmes of the networks.

Objectives which are being/were implemented:

In line with the strategic revised guidelines for the LEWP-related expert groups and networks (12915/2/15 REV 2), the latter were invited to present their work programmes for 2017 to the LEWP. At the LEWP meetings on 7 November and 6 December 2016 the work programmes of most of the networks were presented. Some of them were approved immediately, for some others the approval is pending. The work programmes of ATLAS, EnviCrimeNet, liaison officers' management services network and TISPOL have not yet been submitted to the LEWP.

(6) Environmental crime [Measure 34]

The Slovak Presidency aims at drafting an Action Plan on environmental crime. Depending on its scope, coordination with other relevant networks undertaking similar activities will need to be ensured (EnviCrimeNet, TRAFFIC etc.).

Objectives which are being/were implemented:

The Presidency proposed a set of measures to tackle different aspects of environmental crime, set out in the draft Council Conclusions on countering environmental crime (15412/16), which were adopted by the Council on 8-9 December 2016.

(7) Vehicle crime [Measure 15]

In close cooperation with CARPOL network, the Slovak Presidency aims at drafting a handbook containing best practices in the area of recovering stolen cars.

Objectives that are being/were implemented:

- *The Presidency prepared an overview of the best practices in the area of recovering stolen vehicles and on calling off their search (13793/16), which was presented at the LEWP meeting on 7 November 2016;*
- *Joint Police Operation (JPO) CARS focusing on combatting vehicle crime was initiated by the Presidency on 6-7 September 2016 with the participation of 25 Member States and Switzerland, supported by Europol and Interpol. The final report with the results of the operation was presented to the LEWP on 6 December 2016 (14689/16).*

CUSTOMS COOPERATION WORKING PARTY (CCWP)

The CCWP deals with the cooperation between customs authorities from Member States and between customs authorities and other law enforcement authorities, at experts and plenary level. Customs is the lead authority for control of and the fight against illegal trade in goods crossing the external borders of the EU and contributes within its competencies to the fight against the illegal trade in goods within the EU customs territory. In this sense, the outcomes and conclusions of debates, actions, Joint Customs Operations etc. organised under the auspices of this Working Party feed into the work related to the renewed ISS, bringing on board the customs perspective on aspects like firearms, drug trafficking and NPS, cash movements, counterfeit goods, the use of Internet for criminal activities etc. The following actions will be undertaken in the second half of 2016 in the context of the implementation of the renewed ISS.

(1) Monitor the implementation of the 8th Action Plan (2016 – 2017) and the link with the Operational Action Plans from the EU Policy Cycle for serious and organised crime
[Measures 29, 30 and 37]

During the Netherlands Presidency the CCWP adopted its 8th Action Plan (2016-2017) as set out in 13749/2/15 REV 2 + COR 1. The following actions will be part of CCWP activity for the next two years: illegal trade via Internet/small consignments, customs against internet crime (extension of Action 7.3), cash movements, illicit trafficking in firearms, export of strategic goods, regional occurrence of excise fraud (cigarettes and mineral oils) and Central Coordination Units (extension of Action 7.8). The action leaders will have to seek coordination with the relevant EMPACT/OAPs in order to avoid duplication. The mandates for all the actions have been adopted and regular updates on their state of play will be presented during the CCWP meetings.

Objectives which are being/were implemented:

- *The implementation of the different actions of the 8th Action Plan is a recurrent item on the agenda of every CCWP meeting. A document detailing the synergies and the opportunities for coordination with the European Policy cycle and the OAPs has been drafted together with COSI SG (6015/2/16 REV 2). An updated version for 2017 (14782/16) has been issued;*

- *Finding ways improve information exchange between Europol and customs authorities as part of a more structured and systematic multi-agency engagement is also a recurrent item during CCWP meetings;*
- *A joint CCWP/LEWP meeting took place as part of the approach aiming to find better ways to coordinate and stimulate cooperation between customs and police.*

Objectives still to be implemented:

The joint CCWP/LEWP discussion of the possible challenges in the area of information exchange brought forward by the JPCO ARES will take place once the operation is finalised.

(2) Put into practice the mandate given by the Directors General of Customs in April 2016 in the area of excise fraud [Measure 35]

With respect to the mandate given to the CCWP by the Directors General of Customs in April 2016 in the area of excise fraud (reflect on strategic conclusions), the Presidency and the Member States agreed on the following: on the basis of the activities undertaken in the framework of Actions 8.6.1 and 8.6.2 of the 8th Action Plan (Regional occurrence of excise fraud in relation to cigarettes and mineral oils) and on the basis of the relevant OAPs in the context of the Policy Cycle against organised and serious crime, an interim report will be presented to the Directors General of Customs (meeting is expected to take place at the end of October 2016). On the basis of this report, the DGs will have to decide on the follow-up; a possible way to further action would be to set-up a new action in this regard in the 8th Action Plan.

Objectives still to be implemented:

The drafting of a mandate for a new action aiming at developing strategic conclusions in the area of excise fraud on the basis of the decision of the Directors General of Customs in April and October 2016 will take place once Actions 8.6.1 and 8.6.2 come closer to an end, in order to use their outcomes. Most probably this will be postponed for MT and EE Presidencies.

(3) Strengthen the EU's' capacity for the detection of illicit trade in goods at the external border, in line with the EU Strategy and Action Plan for customs risk management.
[Measures 15, 29, 34, 35]

The EU Strategy and Action Plan for customs risk management¹² aims for a multi-layered approach to strengthen the capacity of the customs authorities in the fight against illicit trade. An important objective is to strengthen the cooperation between Customs and other law enforcement agencies mainly at the border for this purpose. The Presidency prepared draft Council Conclusions on the implementation of the EU Strategy and Action Plan on Customs Risk Management.

Objectives which are being/were implemented:

- *Council Conclusions on the Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management were drafted and adopted during the ECOFIN Council of 6 December 2016 (14288/16);*
- *In relation to the topic of risk management, a Common non-paper on the value of PNR for Customs law enforcement and risk management in light of the new PNR Directive (14785/16) was drafted. It should be updated in the future to include relevant national experiences with the aim to catalogue best practices in this area for the use of customs authorities.*

Objective still to be implemented:

Enhancing the cooperation and exchange of information between customs and other law enforcement agencies in order to achieve more intelligence-led controls on goods mainly at the external border of the EU is a long term objective which will need the involvement of different stakeholders (including Europol, Commission etc) and which will be dealt with by the future Presidencies as well.

¹² 12644/14 + ADD 1, 15403/14

(4) (poss.) Council Conclusions on OLAF's report in the area of cigarette smuggling and other forms of illicit trade in tobacco products [Measure 35]

By the end of 2016, OLAF should draft and publish a report (probably in December) that should detail the lessons learnt in the implementation of the Council Conclusions on 10 December 2013 on stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products, with an emphasis on the policy side and the loopholes that make such activities attractive. On the basis of the report, the Presidency should start drafting Council Conclusions on the way forward in this area.

Objectives still to be implemented:

The drafting of Council Conclusions on the way forward in the area of combatting cigarette smuggling and other forms of illicit trade in tobacco products on the basis of lessons learnt from the implementation of the Council Conclusions of December 2013 will start only after the publication of the progress report by OLAF (during MT Presidency).

WORKING PARTY ON INFORMATION EXCHANGE AND DATA PROTECTION (DAPIX)

With regard to information exchange, the Working Party on Information Exchange and Data Protection (DAPIX) is mandated to improve cross-border law enforcement exchange while taking due account of the protection of personal data, in particular by examining the implementation of Council Framework Decision 2006/960/JHA ("Swedish Framework Decision" (SFD) and the "Prüm Council Decisions" 2008/615/JHA and 2008/616/JHA. DAPIX is, furthermore, implementing the Council's Information Management Strategy (IMS) aiming at solutions to current information exchange issues. When establishing the current 5th IMS action list¹³, DAPIX took on board the DAPIX relevant actions from the Roadmap on JHA information exchange and information management and is seeking to define their drivers.

In the second half of 2016, the Working Party will continue to deal with:

(1) Prüm Decisions [Measure 6]

- Monitoring and furthering the implementation of the Prüm Decisions, particularly through finalising, after EP consultation, the Council Decisions for the launch of DNA and FP exchange with DK, and preparing the Council Decisions concerning the launch of VRD exchange with CZ, DK and HR.
- Bringing on board Member States lagging behind.

Objectives which are being/were implemented:

- *strive for full interconnectivity of operational Member States;*
- *reply to FP questionnaire by EL and PT, reply to VRD questionnaire by EL;*
- *Council Implementing Decisions for:*

¹³ 10824/16

- *DNA: DK ((EU)2016/2047 OJ L 318/8), EL (EP consultation); FP: DK (EU)2016/2048 OJ L 318/10),*
- *VRD: DK (EP consultation); HR (Implementing Decision drafted), CZ (evaluation visit on 1 November),*
- *Furthermore, subsequent to the judgment of the Court of Justice of 22 September in Joined Cases C-14/15 and C 116/15, new Council Implementing Decisions were drafted,*
- *Draft Council Implementing Decision on the automated data exchange with regard to Vehicle Registration Data (VRD) in Malta, Cyprus and Estonia, and replacing Council Decisions 2014/731/EU, 2014/743/EU and 2014/744/EU [13000/16],*
- *Draft Council Implementing Decision on the automated data exchange with regard to dactyloscopic data in Latvia, and replacing Council Decision 2014/911/EU [13005/16],*
- *Draft Council Implementing Decision on the automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium and replacing Council Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU [13007/16],*
- *Draft Council Implementing Decision on the automated data exchange with regard to dactyloscopic data in Slovakia, Bulgaria, France, Czech Republic, Lithuania, the Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland and replacing Council Decisions 2010/682/EU, 2010/758/EU, 2011/355/EU, 2011/434/EU, 2011/888/EU, 2012/46/EU, 2012/446/EU, 2012/672/EU, 2012/710/EU, 2013/153/EU, 2013/229/EU and 2013/792/EU [13013/16],*

- *Draft Council Implementing Decision on the automated data exchange with regard to Vehicle Registration Data (VRD) in Finland, Slovenia, Romania, Poland, Sweden, Lithuania, Bulgaria, Slovakia and Hungary and replacing Council Decisions 2010/559/EU, 2011/387/EU, 2011/547/EU, 2012/236/EU, 2012/664/EU, 2012/713/EU, 2013/230/EU, 2013/692/EU and 2014/264/EU [13014/16]),*

These draft Council Implementing Decisions have been submitted to the European Parliament for consultation.

(2) IMS (Information Management Strategy) [Measure 5] concerning the improvement the data provision and use of national and international systems (both on an organisational and technical level) by steering, in particular:

- development of SPOC training schemes within the ATHENA action;
- the further deployment of the UMF 3 project (Universal Message Format, on-going project under DE lead);
- further development of the ADEP project (Automation of Data Exchange Procedures, on-going project under FR/FI lead), by organising expert meetings on technical details;
- further strengthening the European dimension of PCCCs;
- further improving of Prüm post-hit procedures.

Objectives which are being/were implemented:

- *ATHENA: design of a project plan under (IT lead), kick off meeting in Rome, February 2017;*
- *PNRDEP: comparative study has been updated, outcome further discussed at the expert meeting in December 2016;*

- *ADEP: progress made on a number of technical details during expert meetings;*
- *Enhancing information quality: action plan on steps to improve existing large-scale IT systems by increasing their access, use and quality of data, designed by eu-LISA and under scrutiny of WP;*
- *UMF3: progress made, in particular, on development of UMF weapons module;*
- *Prüm post-hit procedures: final report submitted by FI and discussions on-going on a default information exchange channel;*
- *PCCCs: progress on enhanced cooperation discussed at several PCCC expert meetings;*
- *Further strengthening of SPOCs: action plan being prepared by MT;*
- *Europol's involvement in Prüm: discussions ongoing within Europol.*

(3) Information exchange developments, strengthening implementation and use of different systems [Measures 12 and 13]

Information exchange has been highlighted as a pivotal pillar of European security. The renewed Internal Security Strategy stressed the need of full implementation of rules already in place – such as the Prüm framework.

The European approach to strengthen law enforcement information exchange should be primarily based on the strategic guidelines of the European Council in 2014. With the European Information Management Strategy and the accompanying action lists, Council Conclusions and follow-up discussion on the European Information Exchange Model, the Law Enforcement Information Exchange Manual and continuous efforts to support the implementation of Prüm and the Swedish Framework Decision, DAPIX will continue to fulfill its role.

Objectives which are being/were implemented:

- *Outcome as to the implementation of the Prüm Decisions: see above*
- *Revised version of the Law Enforcement Exchange Manual (11800/16), taking on board information on new legislation (PNR Directive, Data Protection Directive) and organisational changes at national level.*

(4) Implementation of the PNR Directive

At its meeting of 18 November 2016, the Council exchanged views on the EU-Passenger Name Record (PNR) Directive, adopted on 21 April 2016. The Council took note of the implementation challenges which require further coordination. Ministers tasked experts to monitor closely the implementation of the directive and to revert to this issue on a regular basis.

In view of informing the Council on a regular basis on progress made on the PNR implementation, DAPIX started discussions both on the state of play of on-going implementation projects, and on the method to monitor the implementation throughout 2017/2018 with particular regard to the setting up of PIUs and information exchange issues.

HORIZONTAL WORKING PARTY HWP ON CYBER ISSUES

The HWP on Cyber issues has been created with the main objective of ensuring a horizontal coordination of cyber policy issues primarily in the areas of cybersecurity, cybercrime, cyberdiplomacy and cyberdefence within the Council by providing a platform for information exchange and priorities. HWP is contributing to the implementation of the EU Cyber Security Strategy through a specifically dedicated Roadmap.

The following actions shall be undertaken in the second half of 2016 in the context of the implementation of the ISS:

(1) Monitor the implementation of the EU Cybersecurity strategy [Measures 37 and 38]

The HWP continued to work towards the implementation of the Strategy in its five distinct work strands with a special focus on the cybersecurity resilience of European industry and the setup of the NIS Directive bodies together with regular follow-up of the international developments.

Objectives still to be implemented:

- *Monitor and contribute to the implementation of the Strategy by Member States.*

(2) Ratification of the Budapest Convention [Measure 37]

The HWP continued to encourage the remaining three Member States to complete the already started ratification procedures as well as to uphold the Budapest Convention as a model for cybercrime legislation when engaging internationally, including in cyber capacity building activities. The work ongoing within the Council of Europe Cloud Evidence Working Group was closely followed in view of its final report and the draft Guidance Note on Article 18 of the Budapest Convention as well as the possible start of negotiations on a new Additional Protocol to it.

Objectives still to be implemented:

- *Encourage the ratification of the Budapest Convention by the remaining three Member States.*

(3) EU positions in international fora [Measure 39]

The HWP continued, through dedicated discussions, to seek consolidating the MS positions and/or to provide political guidance in respect to ongoing external discussions related to the adoption of a Guidance Note on domestic production order within the framework of the Council of Europe and initiatives for new international legal instruments on cyber issues in the auspices of UN.

The FOP followed the preparations for the upcoming EU cyber dialogues.

Objectives still to be implemented:

- *Monitor respective response as well as form/consolidate an EU position in international fora on cyber related issues.*

(4) Discuss (legal) gaps in the fight against cybercrime and practical responses [Measure 37]

The HWP continued to follow-up the ongoing expert process on e-evidence (cross-border access to data) and launched a discussion on the challenges for criminal justice related to the use of encryption, in order to seek global approaches aiming at overcoming obstacles to criminal investigations with cyber component.

Objectives which are being/were implemented:

- *Raised awareness on the problems faced by LEA in relation to the use of encryption, shared some good practices in that regard, encourage a multidisciplinary experts' exchange of views in order to find solutions. Developed a four-step approach to tackle the matter further.*

Objectives still to be implemented:

- *Implement the approach to tackle the issues related to the use of encryption which is expected to be endorsed by the December Council.*

(5) Regular updates of the work of the EU Internet Forum and IRU [Measure 23]

The HWP was updated regarding the state of play of the EU Internet Forum and the IRU.

Objectives still to be implemented:

- *Monitor the ongoing process and provide contribution, where necessary.*

(6) Communication from the Commission on Strengthening Europe's Cyber Resilience System and Fostering a Competitive and Innovative Cybersecurity Industry [Measure 20]

The HWP discussed the key messages of the Communication which defined the scope of the Council conclusions on it which were negotiated in the working party and adopted in November 2016.

Objectives which are being/were implemented:

- *Adopt the Council conclusions on the Communication.*

(7) Public-Private Partnership (PPP) in particular the contractual PPP on cybersecurity provided in the Digital Single Market Strategy [Measure 39]

The HWP observed closely the developments related to the functioning and respective results of the recently launched contractual PPP on cybersecurity given its specific scope and the involvement of Member States.

Objectives still to be implemented:

- *Monitor the ongoing initiative, provide guidance, where necessary.*

(8) Cyber capacity building, including the Global Forum on Cyber Expertise (GFCE)
[Measure 39]

The HWP continued the examination of different cyber capacity building initiatives and discussed the possibilities to increase the cybersecurity awareness and preparedness.

Objectives still to be implemented:

- *Define the notion and map the cyber capacity building initiatives to ensure better distribution of recourses (including geographically) and to avoid overlaps; identify successful policies and exchange good practices scalable across the EU.*

WORKING PARTY FOR SCHENGEN MATTERS ("SIS/SIRENE" configuration)

This Working Party, which meets in different configurations (Evaluation, Acquis, SIS/SIRENE) deals with all aspects regarding the correct implementation of the Schengen acquis by Member States. The SIS/SIRENE configuration examines in particular issues related to the Schengen Information System and the SIRENE cooperation. The following actions could be undertaken in the second half of 2016 in the context of the implementation of the ISS:

(1) SIS/SIRENE cooperation in the Fight against Foreign Terrorist Fighters [Measures 13 and 14]

The Working Party will contribute to the exercise to determine ways forward to remove remaining obstacles for information exchange on foreign terrorist fighters by maintaining an up-to-date overview and ensure an adequate follow-up of the implementation of the actions of the Roadmap to enhance information exchange and information management including interoperability solutions in the Justice and Home Affairs area (doc. 13554/1/16 REV 1) which fall within the scope of the Working Party for Schengen Matters (SIS/SIRENE).

Objective:

- *In conjunction with COSI, the Terrorism Working Party and the SIS/VIS Committee ensure strengthened use of the SIS, and efficiency in SIRENE cooperation in the fight against Foreign Terrorist Fighters.*

(2) Coordination mechanism to improve the implementation of certain categories of entry ban alerts [Measure 11]

At its meeting of 30 June 2016, COREPER endorsed the Terms of reference of the coordination mechanism to improve the implementation of certain categories of entry ban alerts, pursuant to the Council Conclusions as set out in 10441/16. A list of all sanctioned individuals is being established with attribution to the Member State holding the Presidency at the time the listings were agreed. These lists will be sent to the relevant Member States as a first step to verify their accuracy. The Coordination Mechanism will function officially from 1 January 2017.

Objective:

- *Supporting the GSC at RELEX level with a view to the implementation of an effective coordination mechanism to introduce alerts on EU and UN sanctions in the SIS.*

(3) SIS II [Measure 12]

Discuss the package of three proposals that COM will submit to the Council in December 2016, regarding the revision of the legislation on SIS II. The future instrument(s) would lisbonise the current legislation still based on ex-I and III pillars.

Objective:

- *Commence discussions of the Commission proposals, when submitted.*

(4) Missing persons [Measure 12]

The Presidency has put forward an initiative in the Working Party for Schengen Matters (SIS/SIRENE) via a questionnaire (11030/16) which was sent to Member States in order to gather national positions to assess current needs concerning strengthening SIRENE cooperation in the field of missing persons - preventive alerts - and which can be taken into consideration in the ongoing revision of SIS II legal instruments. The idea of preventive alerts in SIS II would be useful in cases where an individual is at risk of going missing but where this has not yet happened. This proposal may add value, as it could enable the individual who is the subject of the alert to be located more quickly and could be preferable than to wait for the individual to go missing.

Objective:

- *Provide a more detailed overview of current practical needs in the area of protection missing children, which could be the basis for the inclusion of such category of alert in the SIS II.*

WORKING PARTY ON FRONTIERS

The Working Party on Frontiers is the Council body primarily responsible to examine the EU Borders Policy related issues (be it of legal, or practical nature).

On 15 December 2015 the Commission presented the European Border Package. This package includes a set of measures aimed at securing the EU's external borders, managing migration more effectively and improving the internal security of the European Union, while safeguarding the principles of free movement of persons. In this regard the Working Party has already started the examination of the:

(1) Proposal for an amendment to Article 8(2) of the Schengen Borders Code [Measure 13]

The objective of the proposal is to amend the Schengen Borders Code to provide for systematic controls of persons enjoying the right of free movement under Union law at the external borders against relevant databases, making full use of technical solutions while not hampering the fluidity of cross border movement.

The Council adopted a General Approach on the proposal on 25 February 2016. The LIBE Committee of the European Parliament adopted a report on the proposal on 21 June 2016.

The Presidency has started interinstitutional negotiations with the European Parliament with the aim of reaching agreement as soon as possible.

Objectives which are being/were implemented:

Political agreement with the European Parliament has been reached on 5 December and has been endorsed by COREPER on 7 December 2016. A letter has been sent to LIBE which held a voting on 8 December 2016. The confirmation by the European Parliament is awaited at the plenary meeting in January or February 2017.

(2) Proposal for a Regulation on the European Border and Coast Guard including new definition Integrated Border Management and stronger mandate Agency on terrorism and cross border crimes [Measure 15 bis]

Objectives which are being/were implemented:

- *The European Border and Coast Guard Regulation was adopted on 14 September and entered into force on 6 October 2016.*

(3) Entry/Exit System [measure 15 ter]

On 6 April 2016 the Commission presented the Smart Border Package, currently examined by the Working Party: The package includes a proposal for a Regulation setting up an Entry/Exit System (EES), whose objective is to register the entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and to determine the conditions for access to the EES for law enforcement purposes. It is accompanied by a proposal for a Regulation amending the Schengen Borders Code in order to take into account the existence of the EES. The Working Party has concluded the second examination of the proposals in July 2016.

Objectives still to be implemented:

- *To reach a political agreement.*

WORKING PARTY ON GENERAL MATTERS INCLUDING EVALUATIONS (GENVAL)

The GENVAL Working Party is a horizontal and cross-cutting justice and home affairs Working Party, covering both criminal law and related security aspects. It deals with issues in these areas that are not dealt with by COSI or any other Working Party, in particular relating to organised crime, crime prevention (excluding terrorism), and coordinates the process of mutual evaluations of Member States' practices in the area of law-enforcement (except Schengen evaluations).

The following topics could be discussed in the second half of 2016 in the context of the implementation of the ISS:

(1) Post-2016 Strategy on trafficking in human beings [Measure 33bis]

As stated in the European Agenda on Security, building on the existing THB framework, the Commission is currently working on a Post 2016 Strategy on trafficking in human beings, foreseen to be finalised by the end of 2016, and to replace the "EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016)". In parallel, the Commission is preparing the report foreseen in Article 23.1 of Directive 2011/36/EU assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive.

Objective: provide feedback to the Commission on the Post-2016 Strategy on trafficking in human beings and the reports foreseen in Article 23 par.1 and 2 of Directive 2011/36/EU.

The Commission gave a presentation about the latest developments in the field of THB (15198/16,15199/16) at the GENVAL meeting on 14.12.2016.

(2) Proposal for amending the Firearms Directive 91/477 [Measure 29]

GENVAL is the responsible Working Party for the negotiations of the revision of the Firearms Directive 91/477. Following the general approach reached at the Council on 10 June 2016 and the IMCO vote of the report on 13 July 2016, interinstitutional negotiations are expected to start in September 2016.

Objectives which are being/were implemented:

- Reach a political agreement on the revision of Directive 91/477 by end 2016.

In the last political trilogue on 5 December 2016 a political agreement between the Council and the Parliament was reached. The Presidency hopes to have the agreement confirmed at the COREPER meeting of 20 December 2016.

(3) Seventh Round of Mutual Evaluation on Cybercrime [Measures 37 and 38]

Finalised the round of MS "on the spot" visits' based on Joint Action 97/827/JHA of 5 December 1997 on establishing a mechanism for evaluating the application and implementation at national level of international undertaking in the fight against organised crime. Continued the discussion and the adoption of the experts country reports on cybercrime with a view to proceed to preparation of the final report.

Objectives which are being/were implemented:

- *Organised and realised the MS "on the spot" visits; drafted the country reports.*
- *All mutual evaluations of Member States in the framework of the seventh round took place.*

Objectives still to be implemented:

- *Discuss and adopt the remaining experts country reports and prepare and adopt the final report on the seventh round.*

12 reports have been adopted so far. At the next meeting on 14.12.2016 the adoption of another country report is foreseen as well as the discussion of 5 more country reports.

HORIZONTAL WORKING PARTY ON DRUGS (HDG)

The Horizontal Working Party on Drugs is tasked with leading and managing the Council's work on drugs. It performs both legislative and general policy work and takes a strategic approach, in particular via the EU Drugs Strategy 2013-2020, which is implemented through the EU Action Plan on Drugs 2013-2016. This Action Plan named the fight against drug trafficking as one of the key pillars of the Strategy. It also is in charge of new legislation on drugs.

In practice its work is more focused on horizontal issues, demand reduction side and international cooperation on drugs rather than on operational aspects related to fighting drug trafficking.

The following topics were discussed in the second half of 2016 in the context of the implementation of the ISS:

(1) International cooperation in the field of drugs [Measure 31]

Objectives which are being/were implemented:

- *The HDG focused on the implementation of the recommendations outlined in the UNGASS outcome document - a list of major priorities for implementation was established and ways to guarantee and promote their global implementation were outlined.*
- *The HDG is also preparing for 2019 global drug policy review, including through preparation of the draft common position on this topic, which will be further discussed at the HDG.*
- *The Slovak Presidency also held a dialogue on drugs with the Russian Federation, where the issues of reducing drug supply and tackling new psychoactive substances as well as situation in Afghanistan and Central Asia, were discussed and an EU - CELAC Technical committee meeting, to follow up on the High Level meeting, held in the Hague on 16 - 17 June 2016, where part of the agenda was devoted to drug supply reduction issues.*

(2) Legislative package (Regulation and Directive) on new psychoactive substances (NPS)
[Measure 4]

Objectives which are being/were implemented:

- *On 30 August 2016 the Commission tabled a proposal on amending Regulation (EC) No 1920/2006 as regards information exchange, early warning system and risk assessment procedure on new psychoactive substances (COM(2016) 547 final), following the new approach agreed by COREPER on 6 April 2016. The HDG examined this proposal and proceeded to examine the draft NPS Directive based on Article 83(1) TFEU.*
- *On 25 October 2016 DROIPEN examined the draft NPS Directive, where a number of important points were agreed.*
- *Discussion on the draft NPS Regulation and the draft NPS Directive was held on 30 November 2016 and a general approach was adopted at the (JHA) Council meeting on 8-9 December 2016.*

(3) Commission proposal for a Council Decision on subjecting the new psychoactive substance MDMA-CHMICA to control measures [Measure 30]

Objectives which are being/were implemented:

- *The HDG endorsed the Commission proposal to subject the new psychoactive substance known as "MDMA-CHMICA" to control measures, which might possibly lead towards scheduling of this substance. Currently the proposal is being consulted with the European Parliament*
- *EMCDDA and Europol issued a joint report on another new psychoactive substance known as acryloylfentanyl. The Commission and Member States were requested to indicate if the further analysis of this substance should be conducted, therefore starting the process leading towards the possible scheduling of this substance.*

(4) Preparation for the mid-term evaluation of the EU Drugs Strategy and Action Plan
[Measure 30]

Objectives which are being/were implemented:

- *The Commission will present the results of the mid-term evaluation of the EU Drugs Strategy and Action Plan as well as the proposal for the EU Action Plan on Drugs (2017-2020) in early 2017 and the HDG will launch the examination of this proposal.*

WORKING PARTY ON COOPERATION IN CRIMINAL MATTERS (COPEN)

COPEN is tasked with preparing legislative activities regarding the cooperation between the Member States in criminal matters, where a core principle is the mutual recognition of judicial decisions. The working party examines initiatives relating to mutual legal assistance in criminal proceedings, the surrender and transfer of sentenced persons, the enforcement of judicial decisions. Eurojust and the European Judicial Network are invited to contribute to the discussions at the COPEN meetings. COPEN is also tasked with providing follow up to the implementation of the EU legislative acts in the field, in particular in relation to the mutual recognition instruments.

(1) Implementation of mutual recognition instruments (e.g. EAW, EIO) [Measure 17]

COPEN will continue evaluating the current state of play and the challenges faced in the implementation and practical application of the mutual recognition instruments by the Member States.

Objectives which are being/were implemented:

- *Continuing the ongoing evaluation of Member States' implementation and discuss possible solutions to difficulties encountered.*

(2) EPPO [Measure 18]

COPEN will continue working on the Commission proposal for a European Public Prosecutor's Office (EPPO) to fight crimes affecting the financial interests of the Union.

Objectives which are being/were implemented:

- *Build on the achievements of the previous presidencies and seek agreement on the remaining chapters of the proposal, with a view to achieve a political agreement on the text in Council by the end of the year.*

(3) Improve ECRIS to cover non-EU nationals (COM proposal issued in January 2016)

[Measure 7bis]

The June JHA Council took stock of the progress of the negotiations on the proposal for ECRIS extension to third country nationals and supported the approach for establishment of a centralised automated system for the exchange of both fingerprints and alphanumeric data of convicted third country nationals. As a consequence the Commission should decide whether to modify the current proposal or to adopt a new proposal for a centralised system. COPEN will continue the examination of the legislative proposal with a view to achieve a maximum progress once such decision is taken.

Objectives still to be implemented:

- *Once the amended proposal is being presented by the Commission advance the negotiations in the Council as far as possible.*

WORKING PARTY ON FUNDAMENTAL RIGHTS, CITIZENS' RIGHTS AND FREE MOVEMENT OF PERSONS (FREMP)

The Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons (FREMP) deals with all matters pertaining to the respect and promotion of fundamental rights in the European Union, citizens' rights and free movement of persons, as enshrined by the Treaties and the Charter of Fundamental Rights. FREMP is tasked with the preparatory work of the negotiations for the accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). It is also responsible for elaborating the legal basis and the multiannual work programme of the Fundamental Rights Agency and works closely with the Agency on different topics related to fundamental rights. Regarding security and respect for fundamental rights, the Council conclusions of 23 June 2015 (prepared by FREMP) on the application of the Charter of Fundamental Rights in 2014 underline so. 2016 Council conclusions on the application of the Charter of Fundamental Rights in 2015, adopted by the Council at its 3473rd meeting held on 9 June 2016, focus on measures to counter hatred and intolerance, in particular hate speech and hate crime.

In addition to this overarching human rights angle, FREMP will:

- discuss coherence between the initiatives in the internal and external dimension on fundamental rights (stressed also in above mentioned 2016 Council conclusions on the application of the Charter of Fundamental Rights in 2015);
- discuss the proposal for multiannual framework of the Fundamental Rights Agency, which is removing the exclusion of judicial cooperation in criminal matters and adding a reference to police cooperation.

Objectives which are being/were implemented:

- *Reach an agreement on the proposal for multiannual framework of the Fundamental Rights Agency. An agreement at the Coreper level was reached on 30 November (to be confirmed by the Council 12/12/2016). Subsequently a letter to the EP for its consent will be sent out (Art. 352TFEU procedure).*
- *Discussion on internal and external dimension of fundamental rights took place on 2 December 2016 on the base of the doc. 14631/16.*

WORKING PARTY ON SUBSTANTIVE CRIMINAL LAW (DROIPEN)

The Working Party on Substantive Criminal Law examines legislative proposals and initiatives which aim at approximating national provisions of substantive criminal law. It also considers new legislation relating to criminal procedure.

Among others the Working Party works on:

- definition of criminal offences and sanctions;
- the rights of suspects and accused persons in criminal proceedings;
- the rights of victims.

This Council Working Party examines the legislative proposals by the European Commission in its field of expertise that are sent to the Council.

(1) Review 2002 Framework Decision on terrorism [Measure 24]

On 2 December 2015, the Commission tabled a proposal for a Directive on combating terrorism updating the existing Framework Decision 2002/475/JHA, in line with the Renewed EU Internal Security Strategy and following the call of the Council for accelerated action in the aftermath of the Paris attacks of 13 November 2015. The proposed Directive introduces an extended criminalisation framework covering criminal behaviour related to the foreign terrorist fighters phenomenon in line with the requirements of the UN Security Council Resolution 2178 (2014) and the Additional Protocol to the Council of Europe (CoE) Convention on the Prevention of Terrorism, signed on behalf of the EU on 22 October 2015.

Objectives which are being/were implemented:

The political agreement on the proposed Directive was confirmed by COREPER on 30 November 2016 and by the EP LIBE Committee on 5 December 2016. Formal adoption of the Directive is expected in early 2017.

	COSI	CATS	TWP	LEWP	CCWP	DAPIX	Cyber FoP	SCHENGEN	FRONTIERS	GENVAL	HDG	OTHER
MEASURES												
<i>Improving information exchange</i>												
1 Adoption PNR Directive												adopted
2 Adoption Europol Regulation												adopted
3 Adoption Data Protection Package												adopted
4 Adoption proposals on new psychoactive substance												
5 Develop/implement information management strategy												
5bis Third Action Plan on Security statistics												
6 Monitor implementation of Poin Decisions "Swedish Framework decision"												
7 Development of an EPRS												
7bis Extension of ECRIS to third country nationals												COPEN
8 Development of a global approach to International PNR												
9 Data Retention Directive												
10 Creation of European Forensic Area												
Monitor effectiveness of the SIS and Schengen Border Code												
11 a) Look into possibilities to help MS to implement travel bans set at national level;												
b) Evaluate SIS in 2015-2016 to assess whether new operational needs require legislative changes, such as introducing additional categories to trigger alerts;												
13 c) Help MS to use automated border controls with checks of SIS and SLTD, monitor compliance by MS to their obligation to provide data to SLTD												
14 Monitor application of common risk indicators (foreign terrorist fighters)												
<i>Improving operational cooperation</i>												
15 Maximise operational cooperation, inter alia by contribution from EU Agencies												agreed
15bis Adoption of the European Border and Coast Guard Regulation												
16 Develop the risk assessments methodology in areas such as critical infrastructures, money laundering, virtual currencies, terrorist financings												
17 Monitor implementation of mutual recognition instruments												COPEN
18 Adoption EFPO Regulation												COPEN

