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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
No. prev. doc.:	12214/3/14 REV 3
Subject:	Draft Council Resolution on the creation of an operational network - @ON - to counter mafia-style serious and organised crime groups

1. The proposal to set up an informal operational network, called @ON, to act as an operational instrument to counter mafia-style serious and organised crime groups within the EU was first presented to the LEWP by then the incoming Italian Presidency on 25 March 2014.
2. The draft Council Resolution on the creation of such a network was discussed by the LEWP at its meetings on 12 September and 16 October 2014, and was presented during the CATS meetings on 15 September and 22 October 2014.
3. The draft Council Resolution was agreed by the LEWP through the subsequent written procedure, which ended on 29 October 2014. In the course of the silence procedure two technical drafting suggestions were made as regards the wording on the funding of the activities of the network and on the reference to SIENA, which are reflected in the text set out in the Annex.
4. On this basis, COREPER is requested to invite the Council to approve the draft Council Resolution on the creation of an operational network - @ON - to counter mafia-style serious and organised crime groups as set out in the Annex.

Draft Council Resolution**on the creation of an operational network - @ON - to counter mafia- style serious and organised crime groups**

THE COUNCIL OF THE EUROPEAN UNION,

CONSIDERING that the major threats to our society are linked to serious and organised crime groups that in time have diversified their activities, showing in some cases a capacity for illegal “governance” over their territories of origin, and becoming highly entrepreneurial in terms of business and trading activities when abroad;

TAKING INTO ACCOUNT the Stockholm Programme – An open and secure Europe serving and protecting citizens¹, – that aims to make Europe safer and to protect its citizens, as well as enhance and foster law enforcement cooperation in order to better combat cross-border crime;

TAKING INTO ACCOUNT the **European Council** conclusions adopted on 26-27 June 2014² that defined the strategic guidelines for legislative and operational planning for the coming years within the area of freedom, security and justice, and stated that in its fight against crime and terrorism the Union should back national authorities by mobilising all instruments of judicial and police cooperation, with a reinforced coordination role for Europol and Eurojust, also through the improvement of cross-border information exchanges, including on criminal records;

TAKING INTO ACCOUNT Europol's Serious and Organised Crime Threat Assessment (SOCTA) of March 2013, which estimates that 3600 international criminal organisations are operating in the EU;

¹ OJ C 115, 4.5.2010, p. 3.

² EUCO 79/14.

BEARING IN MIND the Council conclusions adopted on 6 and 7 June 2013 on setting the EU's priorities for the fight against organised crime between 2014 and 2017³, by encouraging Member States to consider, where relevant and in drafting the MASPs and OAPs, the opportunity to focus on network-based OCGs, such as mafia-style OCGs or outlaw motorcycle gangs, when tackling all forms of serious and organised crime, within the framework of the EU Policy Cycle;

NOTING that on 23 October 2013 the European Parliament approved Resolution 2013/0444 calling on the Member States to create national bodies for investigating and combating criminal and mafia-style organisations, with the possibility of developing – with Europol coordination and support from the Commission – a streamlined and informal "anti-mafia operational network" for exchanging information on the structural aspects of mafia activities, on criminal and financial projects, on the location of assets and on attempted infiltration of public procurement procedures;

HAVING REGARD TO:

- the Commission Communication of 11 March 2014, "An open and secure Europe: making it happen"⁴, which highlighted in particular that penetration of the EU's economy by organised criminal groups is a risk to security, that serious crimes with a cross-border dimension cause serious harm to victims and to society as a whole, and that organised crime is increasingly flexible and is developing its activities within and beyond Europe's borders;
- the Commission Communication of 20 June 2014, "The final implementation report of the EU Internal Security Strategy 2010-2014"⁵, which stated that the five strategic objectives chosen for the ISS 2010-2014, the first of which focused on the disruption of international crime networks, remain valid and should therefore be confirmed for the renewed ISS;

TAKING INTO ACCOUNT Directive 2014/42/EU of the European Parliament and the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union⁶;

³ 12095/13.

⁴ 7844/14.

⁵ 11260/14.

⁶ OJ L 127, 29.4.2014, p. 39.

REAFFIRMING the important competencies of Europol, Eurojust and Interpol in the fight against serious and organised crime;

AFFIRMING that serious and organised crime groups cannot be successfully countered with isolated measures;

WELCOMES the creation of an informal and streamlined operational network, called @ON, to counter mafia-style serious and organised crime groups;

SUGGESTS that the network fulfil the following objectives:

- to strengthen and further develop the cooperation and communication between law enforcement authorities of Member States to counter mafia-style serious and organised crime groups through:
 - (a) making available on-site specialised investigators with a consulting capacity regarding the specific investigated OCG;
 - (b) improving information exchange, through the SIENA channel, to develop a more accurate intelligence picture of organised crime, in cooperation with Europol;
- to support the existing initiatives to improve the administrative approach in the fight against mafia-style serious and organised crime groups, in coordination with the Network on Administrative Approach to Prevent and Fight Organised Crime, including the recovery of the assets illegally acquired by criminal organisations;
- to make efforts to strengthen cooperation to prevent criminal infiltration into public procurement procedures;
- to cooperate with CEPOL as regards training on specific investigative methods in the fight against such crime, and the European Network of Law Enforcement Technology Services (ENLETS) in identifying the necessary improvements regarding the technological equipment used by specialised units.

SUGGESTS that the activities of the network be organised as follows:

- All Member States should be invited to take part in the network. Participation in the @ON network will be strictly voluntary for Member States, and those Member States participating may withdraw their participation at any time.
- The work of the @ON network will be focused on EU organised crime priorities as outlined in the EU Policy Cycle⁷ and updated periodically as EU crime priorities are updated in accordance with the Council Conclusions creating the EU Policy Cycle⁸.
- The core group of the @ON network should prepare its work programme. For those parts of the work programme that are adopted as actions within EMPACT projects, funding will be available upon application on the basis of the delegation agreement to be concluded between Europol and the Commission. The core group will also regularly report to the Law Enforcement Working Party. Furthermore the @ON network should ensure its complete work programme complements the work of the EU Policy Cycle.
- The core group of the @ON network will foster short and long-term secondment of Member States' specialised investigators as on-site advisers to the requesting Member States, based on shared operational needs, in order to counter mafia-style serious and organised crime groups. Such investigators will provide know-how, expertise in the investigations and good practices of law enforcement cooperation, thus representing an added value in terms of indirect training for the network's officers and investigators as well as facilitating a better, faster and more efficient use of the existing Europol cooperation instruments. Moreover it will be at the discretion of each Member State that is participating in the @ON network to decide when and where to deploy their own investigators. Neither the European Commission nor other Member States can override the decision of a participating Member State.

⁷ 12095/13.
⁸ 15358/10.

- Europol should support the network by making the SIENA channel available as a valuable instrument for information exchange, and possibly by enabling the network to use the Europol Platform for Experts (EPE).
- The activities of the network should neither duplicate the work of existing groups or interfere with ongoing law enforcement procedures and instruments, nor overlap with the existing international cooperation tools. The network should exclusively use the existing instruments and legal frameworks for cooperation and information exchange, thus representing their natural operational evolution to the benefit of all the interested countries.
- The network coordinator will consult Europol and the drivers of the EMPACT-projects on a regular basis in order to be informed about the ongoing activities and avoid overlapping.
- At least in the initial phase, Italy should coordinate the activities of the network and be ready to deploy its investigators to the requesting Member States in order to take part, whenever necessary, in the on-going operational activities with the financial support of the Internal Security Fund (ISF Police), via shared management and/or through a delegation agreement to be concluded between the Commission and Europol for the support of the EU Policy Cycle activities under centralised management (Union Actions).
- After two years of the @ON network activity, the competent Council bodies will evaluate the network's activities and objectives, and assess whether it is still needed.

NOTES that the Internal Security Fund (ISF Police) for police cooperation (2014-2020), Union Actions, could be used to finance the network;

INVITES the Commission to consider the possibility of providing financial support, within the limits of the existing resources, for requesting Member States to participate in the operational activities of the network.