



**Brussels, 28 September 2015
(OR. en)**

12293/15

**GENVAL 41
COPEN 246
CYBER 87**

OUTCOME OF PROCEEDINGS

From: Working Party on General Matters, including Evaluations (GENVAL)
On: 15 September 2015
To: Delegations

Subject: Summary of discussions

1. Adoption of the agenda

The agenda was adopted as set out in doc. **CM 3617/1/15 REV 1**.

2. Seventh round of mutual evaluations

- Adoption of the Report of Slovakia

The draft report of Slovakia, as set out in doc. **9761/1/15 REV 1 RESTREINT UE**, was adopted by the Working Party, following the discussion held at last GENVAL meeting on 24 June 2015.

3. Seventh round of mutual evaluations

- Discussion of the Report of the United Kingdom

The evaluation team presented the content of the draft report of the United Kingdom and the ensuing conclusions and recommendations, as set out in doc. 10952/1/15 REV 1 RESTREINT UE, expressing appreciation for the national strategy on cybercrime and the good level of cooperation of relevant national authorities both with the private sector and at international level. The evaluation team also suggested some procedural and legislative improvements to the UK, such as enhanced training for prosecutors and judges, appointment of specialist prosecutors for cybercrime cases and better handling of incoming MLA requests.

UK expressed its comments on the findings of the evaluation team and replied to the questions asked by other delegations.

The draft report of the United Kingdom will be presented at next GENVAL meeting for adoption.

4. The European Agenda on security

The representative of the Commission presented the European Agenda on Security (EAS), as set out in doc. 8293/15 JAI 249, adopted on 28 April 2015 following the call from the European Parliament and the Council in December 2014 regarding the main principles of a renewed European Union Internal Security Strategy, with a view to addressing the increasing security threats for the Union and its Member States.

The representative of the Commission illustrated the main principles of the EAS, namely full compliance with Fundamental Rights, ensuring citizens' confidence, consolidating and implementing existing legal instruments, comprehensive - interagency and cross sectorial - approach, coherence between internal and external dimension. The main pillars of the EAS include better information exchange between law enforcement authorities, including through the adoption of relevant legal instruments (PNR, Europol, Data Protection package), increased operational cooperation and other measures to support an increased level of security in the Union.

The representative of the Commission underlined the importance, in the framework of the implementing activities of the EAS, both of COSI's role in the context of the Policy Cycle for

serious and organized crime, and of the GENVAL Working Party activities, in particular in relation to the ongoing discussions on the draft Passenger Name Record (PNR) Directive and on the administrative approach to prevent and tackle crime.

5. Administrative approach to organized crime

a) EUCPN toolbox

The representative of EUCPN presented the EUCPN toolbox on the administrative approach to tackle crime, produced in 2014 as a project in the framework of the Programme "Prevention of and Fight against Crime" (ISEC).

The toolbox outlines the complementarity of the latter to criminal law, and the important role of the local administrative authorities in using for this purpose existing administrative instruments, both of a preventive and of a repressive nature. It also underlines the importance of a collaborative approach for mutual information exchange between local and law enforcement authorities, of developing a legal framework in particular, as well as of awareness raising initiatives, and illustrates some best practices in this respect.

b) Toolbox and manual (ISEC project)

The representative of the City of Genk presented the Toolbox and Manual on the administrative approach to organized crime, carried out as a project in the framework of the above ISEC Programme. She underlined the role of local governments in the context of an integrated approach, involving maximizing the use of administrative, fiscal and criminal law measures within the existing legal framework, and the importance of the coordination with the police and judicial authorities in this respect.

The representative of the City of Genk also informed the Working Party about the creation of a Belgian version of a database similar to the RIEC database in the Netherlands, and, stressing the importance of gathering and sharing relevant information with the other competent authorities, referred to certain difficulties encountered in this respect in relation to privacy requirements and to the secrecy of criminal investigations.

c) Study on the administrative measures to prevent and tackle crime (ISEC project)

The representative of Tilburg University (NL) presented the study carried out in 10 Member States in the framework of the above ISEC Programme. He referred to the crucial role of information exchange between the administrative bodies and the traditional law enforcement authorities, both at national level and among Member States' competent authorities for cross-border cases, and to the importance of optimising the use of existing instruments for this purpose.

According to the study, the way ahead in order to maximise the potential of the administrative approach should include promoting its concept in all relevant contexts, strengthening the current institutional framework at Union's level, establishing regional contact points in each Member State, removing obstacles to cross-border information exchange, improving the coordination of initiatives to tackle crime in the field of the administrative approach and in the area of law enforcement.

Following the three presentations under a), b) and c) above, **the representative of the Commission** expressed its support to the administrative approach to prevent and tackle crime, underlining in particular the importance of the exchange of information and cooperation between administrative and law enforcement authorities, as well as of a coherent approach in dealing with this issue at all relevant Council instances.

6. EUCPN Presidency in the second semester of 2017

The Presidency informed the Working Party that, as indicated in doc. DS 1489/15, EUCPN cannot be chaired during the second semester of 2017 according to the usual Presidency calendar, and invited Member States which would be interested to chair EUCPN activities during this period or which have further questions on the issue, to inform the Presidency (luc.reding@mj.etat.lu) and the General Secretariat of the Council (giovanna.giglio@consilium.europa.eu) within the shortest possible delay.

7. Situation in the Member States following the "Data Retention Judgement"

The Presidency presented its initiative aimed at having a comprehensive overview of the current Data Retention framework throughout the Union following the Data Retention Judgement, which invalidated Directive 2002/58/EC, with a view to preparing a discussion on this topic at the December 2015 JHA Council.

The Working Party had a preliminary exchange of views on the issue of Data Retention, some delegations referring i.a. to the need of a coordinated approach, and/or of a new legal framework at Union's level, and generally supporting a more politically oriented debate at Council level.

The representative of Eurojust informed about its ongoing internal reflection and proceedings regarding the topic of Data Retention, and generally referred to a recent questionnaire, which highlighted a situation of uncertainty and lack of predictability for practitioners in the Member States following the Data Retention Judgement, as well as difficulties regarding the admissibility and reliability of evidence based on the collection of electronic communication data. The outcome of the questionnaire is foreseen to be submitted to the Eurojust College for discussions and conclusions and a seminar on the issue of Data Retention being organized by Eurojust is scheduled to take place in December 2015.

The representative of the Commission pointed out that the Commission will continue to monitor the developments in the Member States, but its current legislative planning does not foresee the presentation of any specific proposals for a new legal instrument on Data Retention.

The Presidency intends to continue the discussion on Data Retention at the next GENVAL meeting in the end of October 2015, in the context of the preparatory activities of the December 2015 Council (JHA).

8. Improvement of the follow-up to mutual evaluation reports

The Presidency presented its initiative aimed at optimizing the evaluation mechanism established by Joint Action 97/827/JHA, in particular by improving the follow-up to the mutual evaluations.

The Working Party had a preliminary exchange of views on this topic, based on the questions set out in the Annex to doc. 11748/15. Several delegations expressed support for the Presidency's initiative, some of them underlining the importance of maintaining the “peer approach”, but available to consider certain adjustments to the current follow-up mechanism.

The Presidency invited delegations to send their written answers to the questionnaire set out in the Annex to doc. 11748/15 to the Presidency (luc.reding@mj.etat.lu) and to the General Secretariat of the Council (giovanna.giglio@consilium.europa.eu) **at the latest by 2 October 2015.**

Based on the outcome of the questionnaire, the Presidency intends to continue the discussion on the improvement of the follow-up mechanism to the mutual evaluations at next GENVAL meeting in the end of October 2015.

9. A.O.B.

No issues were raised under this point.
