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#### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL RECOMMENDATION on operational law enforcement  
cooperation

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**COUNCIL RECOMMENDATION (EU) 2022/...**

**of ...**

**on operational law enforcement cooperation**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 87(3) and Article 89, in conjunction with Article 292, thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Cross-border law enforcement cooperation is essential to address security threats in and ensure the proper functioning of the Schengen area. It is essential that persons be prevented from escaping law enforcement authorities simply by moving from one Member State to another. Enhanced cross-border law enforcement cooperation between all law enforcement authorities of the Member States will help to improve the prevention, detection and investigation of criminal offences in the Union. Such enhanced cooperation covers cross-border actions between two or more Member States, such as cross-border hot pursuits and cross-border surveillance, and trans-national actions, such as joint operations, which involve the deployment of law enforcement officers in other Member States.
- (2) Cross-border hot pursuits and cross-border surveillance are indispensable operational law enforcement cooperation instruments without which persons can escape law enforcement authorities by crossing the border to take advantage of the change of jurisdiction and the absence of continuity of law enforcement action. It should be recommended that the Member States address the existing limitations that some Member States have put in place, as they create obstacles which hinder the carrying out of such actions on their territory. It is also necessary, while respecting the competences of judicial authorities of each Member State, to adjust certain rules of engagement in cross-border law enforcement operations to monitor and detain persons under cross-border surveillance, in cross-border hot pursuits and during joint operations.

- (3) Setting up permanent joint patrols and other joint operation capabilities is necessary to address criminal activities and the challenges for operational law enforcement cooperation that the permanent and growing mobility of people, goods and services inside the Union entails. By exchanging information, existing structures, such as the Police and Customs Cooperation Centres (PCCCs), play a major role in the fight against cross-border criminality. Where relevant, the PCCCs should be able to support joint patrols and other joint operations based on shared risk analysis and needs assessment, in accordance with the applicable legal requirements, in order to prevent and detect cross-border crimes conducted in internal Union border areas, and support investigations into those cross-border crimes.
- (4) In order for the Member States, the Council and the Commission to acquire an accurate quantitative picture of the state of play of the implementation of cross-border law enforcement cooperation activities in the Union, it should be recommended that Member States, on an annual basis, collect data and compile statistics on their operational law enforcement cooperation and report those statistics. Those statistics could provide detailed knowledge and a more thorough understanding of the needs of the Member States and of any potential issues that need to be addressed at Union level.

- (5) Criminal networks take advantage of the absence of controls at internal borders of the Union to pursue their criminal activities. Joint patrols and other joint operations are valuable tools to counter all types of cross-border crime.
- (6) Where relevant and appropriate, it should be possible for Member States to implement the recommendations on cross-border operational law enforcement cooperation in the context of the European Multidisciplinary Platform Against Criminal Threats (EMPACT) to tackle identified and prioritised threats posed by serious and organised international crime. For instance, targeted joint patrols are a flexible instrument based on intelligence-led policing that can be initiated by the relevant law enforcement authorities. Targeted joint patrols could also be used by Member States alongside other operational actions in the operational action plans (OAPs) of EMPACT to tackle specific priority crime areas.

- (7) The limited availability of law enforcement officers that Member States can deploy abroad and the lack of coordinated deployment based on prior joint analysis can render law enforcement deployment in other Member States ineffective. To simplify the administrative and logistical management of joint patrols and other joint operations, it should be recommended that a support platform with pan-European dimension be set up. Through such a support platform, Member States could exchange information regarding their needs and facilitate the efficient and effective deployment of joint patrols and other joint operations, in order to maintain and enhance public order and safety, to prevent criminal offences and to help address specific crime waves in key locations, at specific times and in specific situations. Where appropriate, the support platform could benefit from Union funding, and administrative and logistical support from the European Union Agency for Law Enforcement Cooperation (Europol) established by Regulation (EU) 2016/794 of the European Parliament and of the Council<sup>1</sup>.

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<sup>1</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

- (8) Communication and access to available information are critical for successful cross-border operational law enforcement cooperation. It should be recommended that Member States allow law enforcement officers acting in another Member State to have real-time access to information held in Union information systems by means of the European Search Portal (ESP) and to their relevant national databases through mobile solutions, such as portable devices or in-car mounted law enforcement computers, in accordance with applicable access rights and applicable Union and national law. It should be recommended that the information provided to the law enforcement authorities of another Member State be limited to that required by the law enforcement officers for the performance of their duties during cross-border law enforcement cooperation. It should also be recommended that law enforcement officers acting in another Member State be equipped with reliable and secure, real-time inter-connectable mobile means of communication, such as instant messaging tools, that function across borders in order to communicate directly with their authorities and the authorities of the host Member State. It is necessary to ensure the interconnectivity of secure means of communication across borders that, as a minimum, enable the secure use of real-time mobile means of communication, as well as the geolocation of law enforcement vehicles used by the law enforcement officers, for example through GPS tracking or drones, during a cross-border law enforcement operation.

Therefore, it should be recommended that the Member States, according to their specific needs, make use of the technical solutions to be provided, for instance, by Europol on the advice in particular of its innovation lab as well as drawing from the relevant work and projects of the European Innovation hub for internal security, by dedicated expert groups such as the Core Group on Secure Communications and European Network of Law Enforcement Technology Services (ENLETS), as well as by projects such as the BroadWay project. Member States can also ensure such interconnectivity by interlinking legacy systems with neighbouring Member States.



- (9) Effective cross-border operational law enforcement cooperation necessitates moving towards a common Union law enforcement culture. Setting up of joint initial training courses, such as those set up by Spain and France in Valdemoro, exchange programmes between law enforcement cadets on matters relating to that cooperation and continuous development courses on those matters for law enforcement officers and crime investigators is instrumental in building skills, knowledge and confidence. It is important that Member States include, within their national initial training courses for law enforcement cadets, the possibility of a course on cross-border operational law enforcement cooperation. It is also important that Member States seek to design or adjust, in cooperation with the European Union Agency for Law Enforcement Training (CEPOL) established by Regulation (EU) 2015/2219 of the European Parliament and of the Council<sup>1</sup>, courses on cross-border operational law enforcement cooperation, and that Member States provide language training to be used for national continuous training of officers.

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<sup>1</sup> Regulation (EU) 2015/2219 of the European Parliament and of the Council of 25 November 2015 on the European Union Agency for Law Enforcement Training (CEPOL) and replacing and repealing Council Decision 2005/681/JHA (OJ L 319, 4.12.2015, p. 1).

Career paths could be envisaged for law enforcement cadets and officers who complete such training courses. It should be recommended that Member States continue to make best use of CEPOL by informing CEPOL of their training needs, supporting CEPOL's activities and contributing to the alignment of their training portfolio to the priorities related to cross-border law enforcement cooperation set in the EU Strategic Training Needs Assessments (EU-STNAs). It should be recommended that Member States reflect on the possibility of creating large-scale and long-term pan-European joint training and exchange programmes for law enforcement cadets and officers in the field of cross-border operational law enforcement cooperation.

- (10) Given the importance of coordination and cooperation in relation to the issues addressed in this Recommendation, and in particular its implementation, there should be a standing discussion point on cross-border operational law enforcement cooperation in the relevant working party of the Council. That working party could serve as a permanent forum for Member States to discuss those issues, including the convergence of their rules and agreements, other measures to address obstacles to the effectiveness and efficiency of cross-border law enforcement cooperation operations, reporting on the progress made, as well as issues relating to necessary guidance and good practices.

- (11) It should be recommended that effect is given to this Recommendation within a reasonable timeframe. It should also be recommended that Member States, as soon as reasonably possible, initiate a process to review, where relevant and appropriate, the national rules and bilateral and multilateral agreements with other Member States in order to give effect to this Recommendation.
- (12) This Recommendation does not affect rules on the carrying and use of service weapons, including in situations of defence of others, the use of road traffic privileges, the use of technical means for conducting cross-border surveillance or the performance of identity checks and detention of persons trying to avoid such checks. Similarly, rules on the determination of what falls within the scope of judicial cooperation or what requires authorisation by a judicial authority should also remain unaffected.

- (13) In order to ensure consistency, the definitions and the guarantees contained in this Recommendation should, where relevant, be based on and be interpreted in line with applicable Union law, in particular the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders<sup>1</sup> (CISA), in particular Articles 39 to 46 thereof, and Council Decisions 2008/615/JHA<sup>2</sup> and 2008/616/JHA<sup>3</sup> (the ‘Prüm Decisions’), in particular Articles 17 to 19 of Decision 2008/615/JHA. The same applies for references to the need to respect national law where Union law already refers to national standards.
- (14) The progress made in giving effect to this Recommendation should be reviewed after a certain time period. Therefore, at the latest two years after the adoption of this Recommendation, the Commission should assess the progress made and present a report after having consulted the Member States. That report should be discussed within the Council with a view *inter alia* to the Commission proposing legally binding acts of Union law if such acts are needed in the area of operational law enforcement cooperation.

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<sup>1</sup> OJ L 239, 22.09.2000, p. 19.

<sup>2</sup> Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combatting terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 1).

<sup>3</sup> Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combatting terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 12).

- (15) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), Denmark is not taking part in the adoption of this Recommendation and is not bound by it or subject to its application. Given that this Recommendation builds upon the Schengen *acquis*, Denmark should, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Recommendation whether it will implement it in its national law.
- (16) This Recommendation, with the exception of sections 2.1, 2.2 and 2.3, constitutes a development of the provisions of the Schengen *acquis* in which Ireland takes part, in accordance with Article 5(1) of Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union, annexed to the TEU and to the TFEU, and Article 6(2) of Council Decision 2002/192/EC<sup>1</sup>; Ireland is therefore taking part in the adoption of this Recommendation.

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<sup>1</sup> Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

- (17) As regards Iceland and Norway, this Recommendation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*<sup>1</sup> which fall within the area referred to in Article 1, point H of Council Decision 1999/437/EC<sup>2</sup>.
- (18) As regards Switzerland, this Recommendation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*<sup>3</sup> which fall within the area referred to in Article 1, point H of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC<sup>4</sup> and with Article 3 of Council Decision 2008/149/JHA<sup>5</sup>.

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<sup>1</sup> OJ L 176, 10.7.1999, p. 36.

<sup>2</sup> Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

<sup>3</sup> OJ L 53, 27.2.2008, p. 52.

<sup>4</sup> Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

<sup>5</sup> Council Decision 2008/149/JHA of 28 January 2008 on the conclusion on behalf of the European Union of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 50).

- (19) As regards Liechtenstein, this Recommendation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*<sup>1</sup> which fall within the area referred to in Article 1, point H of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>2</sup> and with Article 3 of Council Decision 2011/349/EU<sup>3</sup>.

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<sup>1</sup> OJ L 160, 18.6.2011, p. 21.

<sup>2</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

<sup>3</sup> Council Decision 2011/349/EU of 7 March 2011 on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1).

- (20) As regards Cyprus, sections 2.1 and 2.2 of this Recommendation, constitute an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 3(2) of the 2003 Act of Accession.
- (21) As regards Bulgaria and Romania, sections 2.1 and 2.2 of this Recommendation, constitute an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 4(2) of the 2005 Act of Accession.
- (22) As regards Croatia, sections 2.1 and 2.2 of this Recommendation, constitute an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 4(2) of the 2011 Act of Accession,

HEREBY RECOMMENDS:



## GENERAL FRAMEWORK

- (a) Taking into account that this Recommendation does not have legally binding force, it is recommended that Member States give effect to the measures set out therein in accordance with the applicable Union law, especially that which has legally binding force;
- (b) This Recommendation should not be understood as seeking to affect the national rules providing for powers, roles, competences, limitations, safeguards or conditions that are not specifically addressed in this Recommendation and that apply to the relevant cross-border operational law enforcement cooperation activities pursuant to acts of Union law with legally binding force, including the CISA and the Prüm Decisions, and national law in accordance with Union law;

- (c) This Recommendation is in line with the obligation to respect the fundamental rights and legal principles as enshrined in Article 6 TEU, including the right to an effective remedy and the right to a fair trial, as well as the high data protection standards laid down in Union law, especially in Directive (EU) 2016/680 of the European Parliament and of the Council<sup>1</sup>;
- (d) The Member States may maintain in force or adopt rules and conclude agreements providing for closer cooperation than the measures set out in this Recommendation;
- (e) It is recommended that Member States give effect to this Recommendation without prejudice to the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations<sup>2</sup> (Naples II).

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<sup>1</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

<sup>2</sup> OJ C 24, 23.1.1998, p. 2.

## PURPOSE AND SCOPE

The purpose of this Recommendation is to strengthen operational law enforcement cooperation between law enforcement authorities.

Operational law enforcement cooperation covers situations where law enforcement authorities of a Member State operate in the territory of another Member State in the context of cross-border and other trans-national actions between two or more Member States, for example during a cross-border hot pursuit, cross-border surveillance, joint patrols or other joint operations, or in connection with the touristic season or a mass-event.

### 1. DEFINITIONS

For the purposes of this Recommendation, the following definitions apply:

- (a) ‘law enforcement authority’ means the competent authority within the meaning of Article 87(1) TFEU;
- (b) ‘cross-border hot pursuit’ means a law enforcement operation whereby officers of a law enforcement authority of a Member State pursue, in that Member State, one or more persons and, in the course of that pursuit, cross the border to another Member State and continue that pursuit on the territory of one or more other Member States after the person or persons crossed the border;

- (c) ‘cross-border surveillance’ means a law enforcement operation whereby officers of a law enforcement authority of a Member State keep one or more persons under surveillance, as part of a criminal investigation in that Member State, and continue that surveillance on the territory of one or more other Member States, after the person or persons crossed the border;
- (d) ‘joint operations’ means law enforcement operations, including joint patrols and other joint operations, in the field of public order, public security and crime prevention, carried out jointly by officers of the law enforcement authorities of two or more Member States, whereby officers from one Member State operate on the territory of another Member State;
- (e) ‘single point of contact’ means the national central body designated for the international law enforcement cooperation in accordance with the section “General Framework” of this Recommendation;
- (f) ‘Police and Customs Cooperation Centre’ or ‘PCCC’ means a joint law enforcement structure aimed at exchanging information and providing support to other law enforcement activities in internal Union border areas, which has been established by a Member State on the basis of a on bilateral or multilateral agreement with one or more neighbouring Member States and which is located in the immediate vicinity of the borders between the Member States concerned;

- (g) ‘statistics’ refer to the non-personal data collected by Member States and reported to the Council and the Commission in relation to cross-border law enforcement cooperation operations as set out in the section 2.

## 2. ADDRESSING OBSTACLES TO OPERATIONAL LAW ENFORCEMENT COOPERATION WHEN LAW ENFORCEMENT OFFICERS OPERATE IN ANOTHER MEMBER STATE

### 2.1. Cross-border hot pursuit

- (a) It is recommended that Member States:
  - (i) ensure that the forms of crimes in relation to which a cross-border hot pursuit can be carried out on their territory cover the criminal offences listed in the Annex as well as all other criminal offences which may give rise to extradition or surrender and, where compliant with national law, also evading checks from law enforcement authorities;
  - (ii) allow cross-border hot pursuits to be carried out on their territory across land, river, lake and air borders;

- (iii) allow cross-border hot pursuits to continue on their territory without any geographical or temporal limitation, until the arrival of the officers from their law enforcement authority;
  - (iv) on an annual basis, collect data and compile statistics on the cross-border hot pursuits carried out by their law enforcement authorities and report those statistics to the Council and the Commission; those annual statistics include:
    - the number of cross-border hot pursuits which were carried out;
    - the Member States on whose territories the cross-border hot pursuits were carried out;
- (b) It is recommended that Member States allow officers from the law enforcement authority of another Member State who conduct a cross-border hot pursuit on their territory to do the following:
- (i) carry their service weapons and ammunition and other service equipment;
  - (ii) use their service weapons in legitimate self-defence, and in the defence of others in accordance with the national law of the host Member State;

- (iii) use road traffic privileges applicable in the Member States where the cross-border hot pursuit takes place;
  - (iv) in accordance with the national law of the host Member State, use their GPS systems to have vehicles of officers conducting cross-border hot pursuits tracked by the law enforcement authority of that other Member State;
  - (v) operate secure real-time means of communication across borders;
- (c) It is recommended that Member States consider allowing officers from the law enforcement authority of another Member State, who carry out a cross-border hot pursuit on their territory to stop and provisionally detain a pursued person in accordance with the procedures under the national law of the host Member State, including through means of coercion and physical force, and with the right to conduct a security search, pending the arrival of officers of the law enforcement authority of the host Member State.

## 2.2. Cross-border surveillance

- (a) It is recommended Member States:

- (i) allow cross-border surveillance to be carried out on their territory in relation to persons suspected of preparing for, or having committed or participated in one or more of the criminal offences listed in the Annex as well as all other criminal offences which may give rise to extradition or surrender, but also in relation to persons that can lead to the identification or the tracing of such suspected persons;
- (ii) ensure that cross-border surveillance may be carried out for the purpose of establishing whether concrete criminal offences have been committed or are being prepared;
- (iii) allow the conduct of cross-border surveillance on their territory across land, sea, river, lake and air borders;
- (iv) based on jointly agreed procedures, allow and facilitate the pooling of material, for the purpose of carrying out cross-border surveillance more efficiently;
- (v) designate a central authority or authorities to coordinate inbound and outbound cross-border surveillance, to be part of or work in close cooperation with the single point of contact, and to be able to process and provide requests for authorisation 24 hours a day, 7 days a week;



- (b) It is recommended that Member States allow officers from the law enforcement authority of another Member State conducting cross-border surveillance on their territory to do the following:
- (i) carry their service weapons and ammunitions and other service equipment;
  - (ii) use their service weapons in legitimate self-defence, and in the defence of others in accordance with national law of the host Member State;
  - (iii) in accordance with the national law of the host Member State, use any technical means necessary to conduct the cross-border surveillance, including GPS trackers, drones, audio and video equipment;
  - (iv) operate secure real-time means of communication across borders.

### 2.3. Joint operations

- (a) It is recommended that Member States allow officers from the law enforcement authority of another Member State involved in joint operations conducted on their territory, provided that similar powers are granted and similar equipment, including uniforms, is provided to the officers of their own law enforcement authorities, to do at least the following:
- (i) perform identity checks and provisionally detain any person who tries to avoid an identity check;

- (ii) to wear their uniform and carry their service weapons and ammunition and other service equipment;
  - (iii) use their service weapons in legitimate self-defence, and in the defence of others;
  - (iv) operate secure real-time means of communication across borders or provide other possibilities for cross-border communication; for that purpose, the necessary technical preconditions for secure real-time communication should be provided for;
- (b) It is recommended that Member States coordinate joint operations in cases where multiple operations are carried out by their law enforcement authorities;
- (c) It is recommended that Member States, on an annual basis, collect data and compile statistics on joint patrols and other joint operations carried out by their law enforcement authorities on the territory of other Member States and report those statistics to the Council and the Commission; those annual statistics include:
  - (i) the number of joint patrols and other joint operations which were carried out;
  - (ii) the Member States on whose territories the joint patrols or other joint operations were carried out.

### 3. POLICE AND CUSTOMS COOPERATION CENTRES

- (a) It is recommended that Member States, which host or participate in a PCCC, ensure that, in addition to their existing focus on information exchange, PCCCs carry out the following tasks:
- (i) facilitating, supporting and, where relevant, coordinating joint patrols and other joint operations in internal Union border areas;
  - (ii) contributing to or producing joint analysis of cross-border crimes specific to their internal Union border area and, where appropriate, sharing such analysis through the national single point of contact with relevant national authorities, other Member States and competent Union agencies and bodies, such as Europol, the European Border and Coast Guard established by Regulation (EU) 2019/1896 of the European Parliament and of the Council<sup>1</sup> and the European Anti-Fraud Office (OLAF) established by Commission Decision 1999/352/EC, ECSC, Euratom<sup>2</sup>;
  - (iii) supporting investigations into cross-border crimes occurring in the internal Union border areas;

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<sup>1</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

<sup>2</sup> Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 20).

- (b) It is recommended that Member States strengthen cross-border law enforcement cooperation and adopt best practices regarding such cooperation with their neighbouring States, on a bilateral or multilateral basis, including through joint police stations and PCCCs.

#### 4. A SUPPORT PLATFORM FOR JOINT PATROLS AND OTHER JOINT OPERATIONS

- (a) It is recommended that Member States set up a support platform which would enable the needs of each Member State to be identified and recorded centrally without any personal data being transmitted as regards the organisation of joint patrols or other joint operations:
  - (i) in locations that are of particular importance to prevent and counter crime, such as key criminal hubs or touristic areas visited by tourists from other Member States;
  - (ii) during mass gatherings and major events likely to attract visitors from other Member States such as large sport events or international summits;

- (iii) in the case of disaster or serious accident, in coordination with the Union Civil Protection Mechanism (UCPM), and in particular the Emergency Response Coordination Centre (ERCC);<sup>1</sup>
- (b) It is recommended that Member States:
  - (i) provide the support platform with information on their needs and the circumstances of the request to maintain public order and security and prevent criminal offences;
  - (ii) designate, depending on the nature of the joint operations, an appropriate point of contact as a national contact point for such joint patrols and other joint operations and the transmission of relevant information.

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<sup>1</sup> During crises and emergencies (mostly linked to disasters or large accidents), any affected Member State or third country may call for civil protection or humanitarian assistance through the UCPM. ERCC then coordinates, facilitates and co-finances Member States' response to the request for assistance.

5. ENSURING EFFECTIVE ACCESS TO INFORMATION AND COMMUNICATION

- (a) It is recommended that Member States ensure that the officers from their law enforcement authorities involved in the cross-border operational law enforcement cooperation covered by this Recommendation and acting in the territory of another Member State:
- (i) have secure remote access to their own national databases and to Union and international databases through the ESP, as permitted under Union law and their national law, allowing them to carry out their law enforcement functions in the territory of another Member State as part of cross-border operational law enforcement cooperation, such as performing identity checks;
  - (ii) can use secure real-time means of communication that are capable of operating in the territory of another Member State, allowing them to communicate directly with the law enforcement authority of their Member State and with the officers of law enforcement authorities of the other Member State or Member States concerned;

- (b) It is recommended that Member States ensure secure real-time direct communication across borders either by making use of the technical solutions to be provided, for instance, by Europol, dedicated expert groups or Union funded projects, or by interlinking legacy systems with neighbouring Member States.

6. JOINT TRAINING AND PROFESSIONAL DEVELOPMENT RELATING TO CROSS-BORDER OPERATIONAL LAW ENFORCEMENT COOPERATION

It is recommended that Member States:

- (a) include the possibility of a course on cross-border operational law enforcement cooperation in the initial training courses in order to familiarise law enforcement cadets with the European culture of law enforcement;
- (b) as far as reasonably implementable within national structures, set up, together with neighbouring Member States, joint initial training courses and exchange programmes for their law enforcement cadets on cross-border operational law enforcement cooperation;

- (c) seek to design or adjust, in cooperation with CEPOL at the request of Member States, their national courses on cross-border operational law enforcement cooperation, to be used for national continuous professional development training of law enforcement officers;
- (d) set up joint continuous professional development courses and initiatives for law enforcement officers to develop skills and knowledge on cross-border operational law enforcement cooperation, in particular on relevant law, rules of engagement, tools, techniques, mechanisms, procedures and best practices;
- (e) seek to design and offer career paths for law enforcement officers who complete joint initial training courses, exchange programmes or specific cross-border operational law enforcement cooperation courses;
- (f) provide language training and training for officers from the law enforcement authorities likely to be involved in cross-border operational law enforcement cooperation on operational procedures, administrative and criminal law, criminal procedures of other Member States and the authorities to contact in other Member States;
- (g) with due consideration of the needs of the Member States, seek to align their training portfolio to the priorities related to cross-border operational law enforcement cooperation set in the EU-STNAs;



- (h) inform CEPOL of their training needs in relation to cross-border operational law enforcement cooperation and support relevant CEPOL activities, so that CEPOL can contribute to the training of law enforcement officers;
- (i) consider the possibility of creating large-scale and long-term pan-European joint training and exchange programmes for law enforcement cadets and officers in the field of cross-border operational law enforcement cooperation.

## 7. FINAL PROVISIONS

- (a) It is recommended that Member States discuss and take forward the issues covered by this Recommendation, in particular issues relating to its implementation;
- (b) It is recommended that Member States make full use of the financial support made available through the instrument for financial support for police cooperation, preventing and combating crime, and crisis management established by Regulation (EU) No 513/2014 of the European Parliament and of the Council<sup>1</sup> (Internal Security Fund – Police) to improve and intensify cross-border operational cooperation;

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<sup>1</sup> Regulation (EU) No 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (OJ L 150, 20.5.2014, p. 93).

- (c) It is recommended that, when giving effect to this Recommendation, Member States, as soon as reasonably possible after the date of adoption of this Recommendation and where relevant, initiate a review of their national rules and bilateral and multilateral agreements on operational law enforcement cooperation with other Member States;
- (d) It is recommended that, at the latest two years after the date of adoption of this Recommendation, the Commission assesses the effect given to this Recommendation by the Member States and, after having consulted the Member States, publishes a report and presents it to the Council.

Done at ..., ...

*For the Council*

*The President*

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## ANNEX

### List of criminal offences referred to in subsections 2.1 and 2.2

- Participation in a criminal organisation;
- terrorism;
- trafficking in human beings;
- sexual exploitation of children and child pornography;
- illicit trafficking in narcotic drugs and psychotropic substances;
- illicit trafficking in weapons, munitions and explosives;
- corruption, including bribery;
- fraud, including that affecting Union’s financial interests as defined in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>1</sup>;
- laundering of the proceeds of crime;
- counterfeiting currency, including of the euro;
- computer-related crime;

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<sup>1</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union’s financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
- facilitation of unauthorised entry and residence;
- murder and grievous bodily injury;
- illicit trade in human organs and tissue;
- kidnapping, illegal restraint and hostage taking;
- racism and xenophobia;
- organised or armed robbery;
- illicit trafficking in cultural goods, including antiques and works of art;
- swindling;
- racketeering and extortion;
- counterfeiting and piracy of products;
- forgery of administrative documents and trafficking therein;
- forgery of means of payment;

- illicit trafficking in hormonal substances and other growth promoters;
  - illicit trafficking in nuclear or radioactive materials;
  - trafficking in stolen vehicles;
  - rape;
  - arson;
  - crimes falling within the jurisdiction of the International Criminal Court;
  - unlawful seizure of aircraft/ships, spacecraft;
  - sabotage.
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