



Council of the European Union
General Secretariat

Brussels, 14 December 2020

CM 5289/1/20
REV 1

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COMMUNICATION

WRITTEN PROCEDURE

Contact: cosi@consilium.europa.eu

Tel./Fax: +32.2-281.89.03

Subject: END OF WRITTEN PROCEDURE

Council Conclusions on Internal Security and European Police Partnership
– Approval

Delegations are informed that the written procedure, opened by CM 5223/20 of 9 December 2020 was completed on 14 December 2020 at 9:00 and that all delegations agreed with the approval of the Council Conclusions on Internal Security and European Police Partnership, as set out in ST 13083/1/20 REV 1.

Therefore, the above Council Conclusions are approved.

The statements by the Czech Republic and Italy are set out in the annex to this communication and will be included in the summary of acts adopted by the written procedure as statements to be entered in the Council minutes, in accordance with the third subparagraph of Article 12(1) of the Council's Rules of Procedure.

Declaration by the Czech Republic

The Czech Republic generally supports the Council Conclusions on enhancing cross-border law enforcement cooperation, Annex 1 to the Council Conclusions on Internal Security and European Police Partnership (hereinafter as “Council Conclusions”). However, it would like to share its view on cross-border surveillance mentioned in point 36 of the Council Conclusions.

Under point 36, the Council calls on the Commission to consider consolidating the EU legal framework to further strengthen cross-border law enforcement cooperation while, inter alia, cross-border surveillance is specifically mentioned in the text.

The Czech Republic would like to point out that cross-border surveillance is considered an investigative measure implying the gathering of evidence in real time, continuously and over a certain period of time and as such an instrument of judicial cooperation in some Member States (see also the analysis of legal framework of cross-border surveillance in EU Member States elaborated by the European Judicial Network in 2009) and, therefore, the relevant legal framework should be taken into account in this respect, i.e. Article 28 of the Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters.

In the Czech Republic, surveillance of persons and items, including cross-border surveillance, is a procedural act of evidence in criminal proceedings that, as such, falls within the field of judicial cooperation and the public prosecutor of the Czech Republic has to issue the European Investigation Order according to national law implementing the mentioned Directive on European Investigation Order. No police authority of the Czech Republic is entitled to independently request this act to be carried out in another Member State. For the purposes of criminal proceedings conducted in another Member State, cross-border surveillance in the Czech Republic is granted by a single authority, the Regional Public Prosecutor's Office in Prague.

Declaration by Italy

The Italian delegation welcomes the text of the Council Conclusions on Internal Security and the European Police Partnership set out in document 13083/1/20 REV 1 of 24 November 2020. However, the Italian delegation believes that the text does not adequately highlight the poly-criminal nature of the most dangerous organizations. For an effective fight against these organizations, which threaten the fundamental rights of our citizens and undermine the legal economy, it is not enough to act on the individual criminal areas in which they are engaged from time to time, but it is necessary to provide action plans that can at the same time affect the organization as a whole, in its structural characteristics and in its connections. From an operational perspective, the Italian delegation considers it necessary to promote all useful activities so that the fight against mafia-style criminal organizations is a priority within the European Union platforms dedicated to criminal threats.
