



Council of the
European Union

Brussels, 22 April 2021
(OR. en)

8085/21
ADD 1

COSI 65
ENFOPOL 143
CRIMORG 31
CYBER 105
ENFOCUSTOM 55
IXIM 71
CORDROGUE 17
CT 51
FRONT 149
CATS 29
COPEN 190
DROIPEN 78
JAIEX 46
JAI 422

COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 19 April 2021

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: SWD(2021) 74 final

Subject: COMMISSION STAFF WORKING DOCUMENT EMPACT, the flagship EU instrument for cooperation to fight organised and serious international crime Accompanying the document COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS on the EU Strategy to tackle Organised Crime 2021-2025

Delegations will find attached document SWD(2021) 74 final.

Encl.: SWD(2021) 74 final



Brussels, 14.4.2021
SWD(2021) 74 final

COMMISSION STAFF WORKING DOCUMENT

EMPACT, the flagship EU instrument for cooperation to fight organised and serious international crime

Accompanying the document

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE
AND THE COMMITTEE OF THE REGIONS**

on the EU Strategy to tackle Organised Crime 2021-2025

{COM(2021) 170 final}

1. EMPACT, a collective step towards protecting citizens and the society

The “EU Policy Cycle for organised and serious international crime”, more commonly known as EMPACT (the *European Multidisciplinary Platform Against Criminal Threats*)¹, was adopted by the EU in 2010². Its conception was the result of the “Harmony” project – “A generic European Crime Intelligence Model”³, aiming at bringing the gap between European and national crime strategies and between political decisions and the way law enforcement agencies convert them into operational actions. It was initiated by Belgium with the support of the European Commission’s Framework Partnership Agreement “Prevention of and fight against crime”.

EMPACT aims to tackle the most important serious and organised criminal threats affecting the EU and the safety of its citizens, by creating the conditions for cooperation between the relevant services of the EU Member States, EU Institutions and EU Agencies as well as third countries and organisations, including the private sector where relevant⁴.

EMPACT works in 4 years cycles. Every 4 years, Europol first produces the so-called European Union Serious and Organised Crime Threat Assessment (EU SOCTA), on the basis of extensive input provided by Member States and other relevant stakeholders. The EU SOCTA identifies the major criminal threats affecting the EU and possible EU crime priorities. The EU SOCTA is then used by the European Commission and the Presidency of the Council of the EU to advise Home Affairs ministers so that they adopt EU crime priorities, which EMPACT will fight in the next 4 years. On this basis, Member States, supported by EU Agencies and other relevant stakeholders, design joint operational action plans to address the selected EU crime priorities, and organise joint actions. The process is constantly monitored and fully evaluated at the end of each cycle. EMPACT is currently mainly funded by the Europol budget (around EUR 4 million per year) and this Agency hosts the EMPACT support team, which provides administrative and logistical support.

EU Member States retain the overall drivership of EMPACT⁵ and organise on average more than 200 joint operational actions on a yearly basis, with the support of EU institutions, agencies and bodies, and together with a wide variety of partners – police units, gendarmeries, customs, tax authorities, magistrates, international organizations, NGOs, third parties, etc. These actions cover a wide variety of topics and aim at achieving pre-defined common

¹ The “EU Policy Cycle for organised and serious international crime” used to define the cooperation framework for setting common priorities, “EMPACT” being the operational platform enabling cooperation between practitioners. “EMPACT” has now become the sole name to designate the two concepts.

² https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/117583.pdf.

³ <https://data.consilium.europa.eu/doc/document/ST-14851-2010-INIT/en/pdf>.

⁴ https://ec.europa.eu/home-affairs/what-we-do/policies/police-cooperation/operational-cooperation/empact_en.

⁵ According to the EMPACT terms of reference (Council document 14884/1/18/REV 1), beyond the supervising role of the Standing Committee on Operational Cooperation on Internal Security (COSI), only EU Member States can be appointed as “driver” of an Operational Action Plan. EU Member States or an EU Agency can be appointed as “co-driver(s)”. The European Commission as well as third countries/parties can be appointed as “action leader(s)”, under the responsibility of the “Driver”.

horizontal strategic goals⁶ (for instance gathering an up to date intelligence picture on certain crimes, conducting investigations and trainings, organising cyber-patrolling weeks against child sexual exploitation, organising joint actions against criminal itinerant groups active in organised property crimes, against drugs trafficking, etc.)

EMPACT consists of four steps:

- Step 1: policy development based on a European Union Serious and Organised Crime Threat Assessment (EU SOCTA) prepared by Europol, which must provide for a complete and thorough picture of criminal threats affecting the European Union.
- Step 2: policy setting and decision-making through the identification by the Council of a limited number of priorities, based on a Policy Advisory Document drafted by the Presidency and the European Commission services.
- Step 3: implementation and monitoring of annual Operational Action Plans (OAPs) based on the Multi-Annual Strategic Plan (MASP). The relevant EU Member States integrate the actions developed in the OAPs into their national planning and allocate appropriate resources to support a common EU approach. The relevant EU agencies commit in their annual work programmes to implement the actions developed within EMPACT and make the specific budgetary provisions.
- Step 4: at the end of each cycle, an independent evaluation is conducted by the European Commission and serves as an input for the next cycle.

The key features of EMPACT are⁷:

- The intelligence-led approach⁸ based on a future-oriented and targeted approach to crime control, focusing upon the identification, analysis and ‘management’ of persisting and developing ‘problems’ or ‘risks’ of crime;
- The integrated character, best using and aligning the complementary contributions of all multidisciplinary and multi-agency actors from Member States (e.g. police, gendarmerie, customs, tax authorities, administrative bodies, magistrates, networks of law enforcement professionals, etc.), EU institutions and agencies, relevant third countries and organisations (public and private), *i.e.* developing and establishing optimal partnerships; and

⁶ In the current EMPACT cycle (2018-2021), there are 7 common strategic goals applying to all crime priorities: 1. intelligence picture / 2. operational activities / 3. prevention and capacity building / 4. cooperation with non-EU partners (third countries, international organisations) / 5. document fraud / 6. financial investigations / 7. online trade in illicit goods & services.

⁷ Document 14884/1/18 REV 1 – EU Policy Cycle Terms of Reference.

⁸ The EU formally endorsed “Intelligence-Led Policing” (ILP) in 2005. Since then, common EU strategic planning and operational action plans to tackle organized crime have been developed with the ILP approach. The EU Policy Cycle for Serious and Organized Crime, adopted in 2010, is considered an example of good practice for addressing transnational organized crime in line with the principles of ILP. Source: ‘OSCE guidebook on intelligence-led policing’ (<https://www.osce.org/secretariat/455563>).

- The multi-disciplinary, integrated and integral approach to target the multiple ‘levers’ of serious and organised crime, *i.e.* addressing all levels by which a phenomenon can be influenced. This means using measures and actions both of a preventive and a repressive nature, as well as proactive and reactive measures, both of a strategic (trying to impact the threat) and operational (trying to impact the organised crime groups/networks and criminals) nature.

The current EMPACT Cycle started in January 2018 and will last until December 2021. The next EMPACT Cycle will start in January 2022 and last until December 2025.

2. The conclusions and recommendations of the independent evaluation of EMPACT

The latest independent evaluation of EMPACT, entrusted to the European Commission, concluded in 2020 that this EU instrument is relevant, effective and increasingly efficient, and that it proves to be internally and externally coherent. It also brings EU added value by providing a sound platform for co-operation that enables EU Member States to achieve better operational results against serious and organised crime, than if they had tackled them alone⁹.

Over the years, EMPACT has consistently been delivering significant results in every EU crime priorities¹⁰. In 2019, EMPACT led to 8,000 arrests, more than 1,400 victims of trafficking in human beings and child sexual abuse safeguarded, EUR 400 million in fraud affecting the interests of the EU prevented, 6,000 weapons seized, EUR 77 million worth of criminal assets frozen and seized, and many more achievements in various fields such as intelligence picture, training and capacity building, prevention, cooperation with non-EU partners, fighting online crime and arresting high-value targets¹¹. EMPACT keeps delivering very tangible operational results against organized crime across Europe and in priority third countries, including during “Joint Action Days” supported by EU Agencies, such as Europol and Frontex¹².

There is a common understanding among law enforcement authorities that the fight against organised crime requires a common partnership approach at EU level, because of the scale of the crime threats, of their significance and consequences on the safety of EU citizen, of the risk of criminal infiltration in the legal economy, and of the behaviour of criminal structures. It is also clear, after two independent evaluations of the instrument conducted in 2016 and 2020 that, over the years, EMPACT has led to an ever-improving EU cooperation to address collectively priority criminal issues, combining in a structured methodology all the necessary steps such as detection, prevention, investigation, prosecution and seizure of forfeited

⁹ Independent evaluation – documents 11992/20 (EU LIMITE) + ADD1 (EU-RESTRICTED) & 11993/20 (EU LIMITE).

¹⁰ For the period 2018-2021: Cybercrime, Drugs trafficking, Facilitation of illegal immigration, Organised property crime, Trafficking in human beings (for all forms of exploitation, including sexual and labour exploitation as well as all forms of child trafficking), Excise and MTIC fraud, Illicit firearms trafficking, Environmental crime, Criminal finances and money laundering & Document fraud.

¹¹ <https://data.consilium.europa.eu/doc/document/ST-7623-2020-INIT/en/pdf>.

¹² Joint Action Days (JADs) are cross-border joint operations organised during a limited period of time and focusing on key crime hotspots and criminal networks across the European Union. The operations are carried out within the EMPACT framework. Example: <https://www.europol.europa.eu/newsroom/news/352-stolen-vehicles-seized-in-jad-mobile-3-operation-spanning-across-22-countries>.

criminal assets, and capacity building. EMPACT brings coherence in the fight against crime at EU level, as recognised by the recent Council Conclusions on Internal Security and European Police Partnership¹³.

Nevertheless, as it currently stands, EMPACT is not used to its full potential and its impact on organised crime, though very tangible, remains relatively small. In particular, its perceived administrative complexity, significant variance in terms of participation, and its underfunding does not always ensure the ownership and active involvement of Member States, result in high staff turnover, and is not always suitable for the development of more complex operational actions. Additionally, existing national and EU strategies still do not always embed EMPACT.

3. Making EMPACT the EU flagship instrument to fight organised and serious international crime.

The Commission services consider that EMPACT has the potential to become the key EU flagship instrument for cooperation at EU level to fight organised crime. In order to remedy its identified shortcomings, the Commission services will seek to implement the following actions:

First, the Commission services will investigate the feasibility, through a dedicated study, to **cast the EMPACT mechanism and framework into EU legislation**, based on evidence and backed up by the views of all relevant stakeholders. The Commission services welcome the February 2021 Council Conclusions establishing EMPACT as a permanent instrument¹⁴, as a first step in the right direction to improve the sustainability of EMPACT, while maintaining its flexibility with the periodic review of EU crime priorities. However, more will be needed in order to establish truly EMPACT as a key operational cooperation instrument to fight organised and serious international crime at EU level.

An EMPACT legislation would allow EMPACT to become a fully recognised EU cooperation instrument to fight organised and serious international crime, attracting the necessary funding and human resources to implement it in a more efficient way. Moreover, making EMPACT a permanent well-established cooperation framework would support a better alignment and embedment of national and EU strategies and action plans (for instance on drugs, firearms, trafficking in human being, migrant smuggling). This should also help improve the level of ownership and active involvement of Member States in EMPACT.

Second, the Commission services will seek to **significantly reinforce the funding of EMPACT**. On top of preserving the yearly EUR 4 million EMPACT envelope in Europol's budget, the Commission services will earmark an envelope dedicated to EMPACT activities via a Specific Action within the new "Thematic Facility", a flexible instrument created under

¹³ The Council Conclusions 13083/1/20 on Internal Security and European Police Partnership, in their annex 1 'Council Conclusions on enhancing cross-border law enforcement cooperation', stresses the relevance and underlying added value of EMPACT. <https://data.consilium.europa.eu/doc/document/ST-13083-2020-REV-1/en/pdf>.

¹⁴ Council conclusions 6481/21 on the permanent continuation of the EU Policy Cycle for organised and serious international crime: EMPACT 2022+ of 26 February 2021 (<https://data.consilium.europa.eu/doc/document/ST-6481-2021-INIT/en/pdf>).

the new Internal Security Fund (ISF). Moreover, the Commission services strongly encourage EU Member States to include EMPACT-related initiatives in their ISF National Programmes for the period 2021-2027.

Third, the current description of the four steps¹⁵ of the EMPACT methodology remain too technocratic and process-oriented to attract the attention of investigators, magistrates and organised crime experts in Member States. The Commission services will therefore explore, together with all relevant EMPACT stakeholders the possibility to **modernise and upgrade the current EMPACT four steps** with a more understandable four-pillar sequence, complemented by a series of eight key specific guiding principles against organised crime¹⁶:

1. OBSERVE, DETECT & ORIENT (*instead of “policy development”*)

- Guiding principle: Security/Safety (1)

Criminal threats, including new and emerging threats, should be detected, analysed and understood by law enforcement authorities in order to respond to them effectively. The comprehensive knowledge of the crime threats and of the criminal groups active in the EU, via an intelligence-based approach with the EU SOCTA prepared by Europol, a solid planning, and the implementation of the next steps of EMPACT should increase the overall “security” of the EU and the “safety” of its citizens.

2. DECIDE & PLAN TOGETHER (*instead of “policy setting and decision-making”*)

- Guiding principles: Common and clear objectives (2) – Mass effect (3) – Economy of force (4)

EU political decision makers need to agree on “common and clear objectives”, *i.e.* EU crime priorities and horizontal strategic goals. Then, EU Member States competent authorities, and partners, combine forces to create a “mass effect”, which increase their chances of success in all areas. They design together operational action plans (OAPs), jointly employing all available means in the most effective and judicious way possible (“economy of force”).

3. FIGHT, (PREVENT) & DISRUPT (*instead of “implementation”*)

- Guiding principles: Unity of direction (5) – Freedom of action (6) – Surprise (7)

Member States must seek “unity of direction” under the leadership of an appointed single entity. They agree to appoint only one ‘Driver’ responsible for each EU crime priority,

¹⁵ I) Policy development based on a European Union Serious and Organised Crime Threat Assessment (EU SOCTA). II) Policy setting and decision-making through the identification by the Council of a limited number of priorities and a General Multi-Annual Strategic Plan (MASP) with Common Horizontal Strategic Goals (CHSGs). IV) Implementation and monitoring of annual Operational Action Plans (OAPs). IV) Independent evaluation.

<https://www.consilium.europa.eu/media/30232/qc0114638enn.pdf>.

¹⁶ This approach builds on the multi-disciplinary, multi-level, and holistic approach, already developed and implemented by Member States in EMPACT. The four pillars encompass the permanent EMPACT mechanism as a whole – “EMPACT reloaded” – and aims at underpinning the interdependence of EU Member States – and their essential cooperation thereof, including with third partners – when addressing common criminal threats and uprooting organized crime structures.

supported by ‘co-Drivers’, and a ‘supervisor’ for each horizontal strategic goal. Member States – supported by EU Agencies, institutions and bodies – maintain their “freedom of action” through the autonomous implementation of their Operational Action Plans. Coordinated activities and investigations, as well as carefully planned Joint Action Days (JADs) should ensure a “surprise” effect by striking the criminals at a time, place, and manner for which they are unprepared.

4. HOLD, LEARN & REPEAT (*instead of “monitoring and evaluation”*)

- Guiding principle: Continuity (8)

Fighting serious and organised crime requires “continuity”, which takes shape through actions repeatedly designed and implemented until the rule of law prevails and the legal economy is secured. EMPACT stakeholders must hold the advantages they have gained, learn from their possible mistakes, improve, and repeat their actions. The operational and strategic information exchanged through Europol¹⁷ – “the EU criminal information hub” – should improve the understanding of EU crime threats and the effective operational support and expertise that the Agency provides to investigations. A constant evaluation and feedback should feed the overall process. The network of National EMPACT Coordinators (NECs) should offer coherence of strategy and actions both at national and at EU level.

Fourth, for the implementation of the above steps 2 and 3 of the EMPACT sequence, the Commission services will explore, together with all relevant EMPACT stakeholders the possibility to **extend the use of the “EMPACT Matrix”** started in the present EMPACT cycle, in order to (a) answer the call from Member States to disrupt the criminal structures in addition to already existing efforts to fight individual crime areas and (b) to allow for a better alignment, consistency and coherence between the operational activities dedicated to each EU crime priority, and to improve the cross-sectorial knowledge between them. All EU crime priorities (for instance: drugs trafficking, trafficking in human beings, high-risk criminal structures, etc.) should have one or more operational action plans, containing activities which are tied together by common horizontal strategic goals (for instance: gathering of an intelligence picture, operational activities targeting high-value targets, targeting crime enablers such as criminal finance, or document fraud, training, joint investigations, cooperation with non-EU partners, etc.)¹⁸.

The graph below shows an example of the EMPACT Matrix encouraged by the Commission services:

¹⁷ Mainly using the information exchange tools provided by Europol, such as the Secure Information Exchange Network Application (SIENA), the Europol Platform for Experts (EPE), the Europol Information System (EIS), etc.

¹⁸ After the political choice of EU crime priorities for the next EMPACT cycle (2022-2025), Member States, EU Agencies and relevant EMPACT stakeholders will design Common Horizontal Strategic Goals during a workshop organised by the European Commission in June 2021. These strategic goals will be included in a single Multi-Annual Strategic Plan (MASP).

EMPACT MATRIX		VERTICAL			
		EU CRIME PRIORITY 'A' <i>(ex: Drugs trafficking)</i>	EU CRIME PRIORITY 'B' <i>(ex: Trafficking in Human Beings)</i>	EU CRIME PRIORITY 'C' <i>(ex: High-risk criminal structures)</i>	ETC.
		Operational Action Plan(s) <i>One or more</i>	Operational Action Plan(s) <i>One or more</i>	Operational Action Plan(s) <i>One or more</i>	OAP(s)
HORIZONTAL	COMMON STRATEGIC GOAL N°1 <i>(ex: operational activities – investigations – arresting HVTs)</i>	↓	↓	↓	↓
	COMMON STRATEGIC GOAL N°2 <i>(ex: intelligence picture)</i>	↓	↓	↓	↓
	COMMON STRATEGIC GOAL N°3 <i>(ex: training, capacity building & innovation)</i>	↓	↓	↓	↓
	COMMON STRATEGIC GOAL N°4 <i>(ex: external dimension, cooperation with non-EU partners)</i>	↓	↓	↓	↓
	ETC.	↓	↓	↓	↓

Fifth, in order to reinforce the pan-European security network and the multidisciplinary approach of EMPACT, the Commission services will seek to **increasingly rely on European law enforcement networks and expert groups** to implement the operational action plans set out per EU crime priority in EMPACT. Those networks working on organised crime and financially supported by the Commission, will be required to commit in their work programmes to support the EMPACT stakeholders in implementing joint activities.

Sixth and last, in order to **expand the external dimension of EMPACT and the cooperation both with third countries and at global level to address common challenges** – an approach which is central to an effective and comprehensive response to organised crime – the Commission services, together with the European External Action Service (EEAS) through the Political High Level Dialogues and the Counter-Terrorism/Security Experts Network, will promote the increased association of third countries to EMPACT activities and the development of the EMPACT methodology outside the EU. Conscious of the need to adapt to national and regional realities, needs and constraints, this development of the external dimension of EMPACT will materialise through the establishment of “SOCTA”-type threat assessments in neighbouring countries, regional cooperation and activities with the Western Balkans¹⁹, with Eastern Partnership (EaP) countries and the Southern neighbourhood, with all relevant international cooperation programmes funded by the EU, such as the Europe Latin America Technical Assistance Programme against Transnational Organized Crime (ELPACTO) and EUROMED Justice and Police programmes.

¹⁹ [Joint press statement EU - Western Balkans Ministerial forum on Justice and Home Affairs](#) (23 October 2020).