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**NOTE**

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From:	Presidency
To:	Delegations
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Subject:	Council Conclusions on Internal Security and European Police Partnership

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Delegations will find attached in the Annex the Council Conclusions on Internal Security and European Police Partnership.

**COUNCIL CONCLUSIONS**  
**on Internal Security and European Police Partnership**

## THE COUNCIL

1. RECALLS the Renewed Internal Security Strategy (2015-2020) and BUILDS on its achievements, WELCOMES the Commission's communication on the EU Security Union Strategy<sup>1</sup> setting out specific actions which aim to address strategic priorities in both the digital and the physical worlds and in the internal and external dimension in an integrated manner for the period 2021 – 2025, while building on the previous work of the Council<sup>2</sup>, and UNDERLINES the importance of Security Union reports as a tool to monitor progress and assess gaps and emerging threats.
2. POINTS OUT that significant progress on cooperation in the field of internal security across the Union has been achieved in recent decades and that the principle of availability of information for data exchange as already laid down in the Hague Programme, the improvement of legislation and tools for sharing information, and the setting of a common standard of data protection have been major steps in fostering cooperation between European law enforcement authorities.
3. WELCOMES the trio Presidency (DE-PT-SI) program and coordination regarding new initiatives enhancing the internal security and related to the new EU Security Union Strategy.
4. RECALLS that the previous trio presidency substantially advanced the discussion on the future of EU internal security policy, with an emphasis on the need to consolidate resources, share experience and expertise, and enhance the coordination of policing throughout the European Union to respond to evolving security challenges and harness the potential of technological developments.

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<sup>1</sup> 10010/20.

<sup>2</sup> Future of internal security debates (Presidency report on outcome of discussions, 14297/19)

5. ACKNOWLEDGES the recent discussions in the JHA Council<sup>3</sup>, which bring a new impetus to developing a European Police Partnership to reinforce the existing cooperation.
6. AGREES in particular that in a strengthened European partnership for internal security, information, necessary to perform his or her duties, should be made available to any law enforcement officer in every Member State, from any other Member State, in accordance with applicable law.
7. REITERATES the principle of availability of information and REAFFIRMS that even though the common European data protection framework and various legal and technical instruments have already made it easier to connect existing information, there is still room for improvement.
8. AGREES that a strengthened European Partnership for internal security needs continuous improvement of information management and optimisation of the use of existing instruments and agreements for information exchange.
9. UNDERLINES, with regard to enhancing internal security, that technical progress and digital transformation call for appropriate new solutions and approaches for the security authorities.
10. UNDERLINES the need to continue to ensure full respect for fundamental rights and the rule of law in all actions relating to these Conclusions, online as well as offline.
11. ACKNOWLEDGES the significance of Member States' sole responsibility in the area of national security, in accordance with Article 4(2) TEU.
12. CONDEMNS the heinous terrorist attacks that recently took place in Austria, Germany and France. These attacks were an assault on the European values, fundamental rights and, eventually, our way of life. Our European partnership for internal security will ensure effective operational cooperation and cross-border investigation, also regarding preventing and tackling violent extremism and terrorism, irrespective of its origin.

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<sup>3</sup> WK 10468/2020

***I. Milestones for the establishment of an effective European partnership for internal security (2020 – 2025)***

Against this background, THE COUNCIL:

13. REITERATES the following political priorities for the coming years and STRESSES in particular that these milestones should be achieved by joint action by Parliament, Commission, Member States and the relevant JHA agencies between now and 2025 to support the functioning of the area of freedom, security and justice and to establish an effective European partnership for internal security:

- information, necessary to perform his or her duties, should be made available to any law enforcement officer in every Member State, from any other Member State, in accordance with applicable law.
- The EU and the Member States have implemented technical solutions for law enforcement authorities to communicate with each other securely and confidentially.
- Full use of the instruments for EU-wide alerts for criminal acts is standard practice, e.g. the Schengen Information System alerts for persons or objects.
- Our common data protection framework and numerous legal and technical instruments allow us to better connect the information we already have. The EU's information architecture follows the principle of availability even more closely. The Prüm framework is reviewed and updated, where appropriate.
- A modern and upgraded acquis on cross-border police cooperation is established in order, for example, to provide adequate powers for cross-border surveillance and hot pursuit.
- Law enforcement authorities are able to use artificial intelligence technologies in their daily work, subject to clear safeguards.
- Law enforcement authorities of the Member States and Europol are equipped to work more intensively and share information with third countries.

- Law enforcement agencies are able to work with public and private partners worldwide, subject to a clear safeguards framework, and in particular have access to the necessary information to counter serious crime and violent extremism and terrorism exploiting the internet.

## ***II. Way forward***

### **1. Strengthening European law enforcement cooperation**

14. ACKNOWLEDGES that the European dimension of law enforcement cooperation needs to be strengthened. In general, more awareness of the information needs of European partners is required in daily work routines. Whenever there is a national alert, EU-wide alerts in the Schengen Information System (SIS) should become a standard practice in compliance with the applicable legal framework.
15. UNDERLINES that the COVID-19 pandemic has shown the importance of secure communication channels. Thus, the Council urges Member States, EU JHA agencies and the Commission, while building on already existing mechanisms and networks (such as SIENA), to further develop technical solutions for secure and confidential communication between EU law enforcement authorities.
16. HIGHLIGHTS the fact that the EU JHA agencies, e.g. Europol, Frontex, eu-LISA, Eurojust and CEPOL are cornerstones of the European security architecture, and thus REITERATES that providing appropriate funding and staff to these agencies is indispensable. In addition, international organisations and bodies, such as Interpol are essential partners for EU security.
17. UNDERLINES the key role and the future direction of Europol, as stated in the Council Resolution on the Future of Europol of 9 November 2020<sup>4</sup>.

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<sup>4</sup> 12463/20.

18. RECALLS that the implementation of the new Frontex Regulation in general and the deployment of the Frontex Standing Corps are crucial for further development of law enforcement cooperation within the European security landscape, and thus URGES Frontex and Member States to fulfil their legally binding share.
19. CALLS UPON Member States to make full use of the existing instruments for sharing information, e.g. the SIS, Europol, as well as Interpol databases and to remove obstacles to their efficient implementation.
20. CALLS ON all Member States to make use of the existing instruments to their full potential and to advance the exchange of relevant information of the highest possible quality. Member States, together with the responsible EU agencies, foremost eu-LISA, Europol and Frontex, must swiftly implement the adopted legal framework for the revised JHA information architecture to achieve the interoperability of EU information systems for borders, migration and security.
21. REQUESTS that the Commission present a legislative proposal for the further development of the Prüm framework. The possible extension to/introduction of other information categories, e.g. European Police Records Index System (EPRIS) could be considered in this context.
22. REFERS to the conclusions on enhancing cross-border law enforcement cooperation in Annex 1 and POINTS OUT the importance of establishing more effective law enforcement cooperation between Member States and their respective agencies, in particular along the cross-border areas.
23. EMPHASISES the need to take all necessary steps to further strengthen operational cross-border cooperation by effectively implementing existing instruments and, where appropriate, by enhancing, consolidating and simplifying the legal foundations in order to keep the European Union safe, and HIGHLIGHTS the value and success of local, regional and bi- or trilateral law enforcement cooperation.

## 2. **Shaping the future and keeping pace with technological progress**

24. RECOGNISES that while digital transformation and the use of new technologies, in particular artificial intelligence (AI) is having a profound impact on all spheres of people's lives, it enhances our capabilities to protect the common values in our societies. The use of AI by law enforcement authorities can potentially facilitate and improve the provision of security and the prevention, investigation and prosecution of crime throughout the EU. Digital tools can facilitate the gathering of evidence by better structuring datasets and information, discern patterns, detect links, identify victims and perpetrators as well as the location of the offence, automate and accelerate the handling of standardised and uniform tasks, and help to analyse trends and risks and threats in order to prevent criminal activities thereby increasing the speed and effectiveness of law enforcement. At the same time, the use of these tools will reduce costs and can limit the negative psychological impact that stressful material such as images of sexual abuse or hate crime may have on law enforcement personnel.
25. STRESSES that using AI is likely to aid in the identification of new, previously unknown patterns and modi operandi, especially in the fields of terrorism, cybercrime, sexual abuse of children, trafficking in human beings, drug-related crime and economic crime. Therefore, law enforcement in the Member States should use AI to enhance prevention and facilitate investigation, as well as to protect the victims of such crimes.
26. REAFFIRMS that the design, development, deployment and evaluation of AI for internal security must be guided by and aligned with fundamental rights and data protection. For AI used by law enforcement, specific fundamental rights requirements arise for the development and the conditions of deployment. To the extent that these systems are to be used, appropriate safeguards are needed to ensure responsible, trustworthy, public-interest-oriented and human-centric development and use of AI applications in the law enforcement sector. Users must adequately understand how AI tools were developed and how they operate, they must be able to explain and demonstrate the results and must have clear knowledge about their impact on individuals, on minorities and on the society as a whole.

27. STRESSES that the availability of extensive, high-quality datasets is conducive to developing AI-based tools for internal security in compliance with fundamental rights, safeguards and data protection rules. This is essential to guarantee non-biased, explainable outcomes, which should always be subject of a human oversight throughout the lifecycle of AI and the outcome must be submitted to a human decision.
28. EMPHASISES that it is especially necessary for law enforcement to receive comprehensive training to be able to reap the benefits of using digital technologies, including AI.
29. CALLS UPON Europol to pool and share the experiences and assessments collected by law enforcement in the Member States in order to facilitate an exchange of relevant practices.
30. CALLS on the Commission to remove legal barriers to share and pool data amongst Member States for innovation purposes, in particular to train, test and validate algorithms and UNDERLINES the role of the EU Innovation Hub on Internal security at Europol in this context.
31. CALLS ON the Commission to promote the creation of an AI talent pool and facilitate the development of training opportunities in digital literacy and skills for law enforcement, e.g. through funding targeted CEPOL training.
32. RECOGNISES that hybrid threats touch almost all policy sectors and go beyond the traditional elements of security policy. Therefore, comprehensive coordination between EU institutions and Member States and a proactive approach to countering hybrid threats is necessary.



33. REITERATES the need to ensure lawful access to data and evidence in electronic communications and digital systems for law enforcement and judicial purposes as referred to in the Security Union Strategy and as pointed out by the European Council<sup>5</sup> and UNDERLINES that independently of the technological environment of the day, it is essential to preserve the ability of law enforcement and judicial authorities to exercise their powers, as prescribed and authorised by law, both online and offline.
34. UNDERLINES that encryption is an anchor of confidence in digitalisation and should be promoted and developed. Encryption is a means of protecting privacy as well as the digital security of governments, industry and society. At the same time, and in conformity with the fundamental rights and freedoms, the ability of law enforcement and judicial authorities to exercise their lawful powers, both online and offline protecting our societies and citizens, must be ensured. As stated in the Council Resolution on encryption<sup>6</sup>, any action taken has to balance these interests carefully. Technical and operational solutions anchored in a regulatory framework built on the principles of legality, necessity and proportionality should be developed in close consultation with service providers, other relevant stakeholders and all relevant competent authorities, although there should be no single prescribed technical solution to provide access to encrypted data.
35. RECALLS the need for a balanced framework for data retention, which effectively allows access to the information needed to combat serious crime, while fully respecting fundamental rights and freedoms, as well as the swift adoption of legislation on access to cross-border electronic evidence.

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<sup>5</sup> EUCO 13/12, 1-2 October 2020

<sup>6</sup> 13084/1/20 REV 1

### **3. Global challenges and international cooperation in the area of security**

36. CONFIRMS the importance of the internal and external security nexus and the role of external and JHA actors, including relevant JHA agencies in this context.
37. UNDERLINES the need to deepen cooperation and sharing of information with third countries under appropriate safeguards, in the field of law enforcement, as such cooperation is closely linked to the wider security interests of the Union.
38. EMPHASISES the need to further promote the EU's security and border management partnership in the form of more operational cooperation between Frontex and third countries and SUPPORTS bi- and multilateral initiatives of Member States to enhance operational coordination with third countries.
39. RECALLS that existing status agreements need to be adapted to the new Frontex Regulation. Pending status agreements, in particular with the Western Balkan partners, should be signed and enter into force as soon as possible. The reinforcement of operational cooperation in the area of internal security with other third countries, whether neighbouring the EU or not, should be assessed by the Commission in close cooperation with all actors involved.
40. POINTS OUT that European law enforcement agencies are an integral part of the international community and must be able to work together more closely with key partners from third countries.
41. RECOGNISES that efficient information exchange with third countries and parties is needed to maximise EU internal security, while ensuring necessary safeguards.
42. UNDERLINES the need for more effective and efficient coordination of measures taken by EU institutions bodies and relevant actors engaged in third countries through common action in the field of security analysis, pilot projects and related activities.

43. EMPHASISES the importance of further developing the cooperation of JHA actors and CSDP Operations, as outlined in Civilian CSDP Compact, and URGES to move ahead with the implementation of the so-called mini-concepts defining this cooperation, and thereby provide added value for the third countries and for the European Union and its Member States.

#### 4. **Fighting transnational organised crime**

44. RECALLS that organised crime causes enormous economic and personal damage. Since organised crime groups increasingly operate across borders, maximising operational cooperation, use of available EU information systems and information exchange across the EU and third countries and international partners is essential. The Council TAKES NOTE of the Commission's intention to present a communication on an EU Agenda to tackle organised crime (2021-2025).

45. UNDERLINES that the EU policy cycle for organised and serious international crime /EMPACT, provides a criminal intelligence-led methodology for authorities to jointly tackle the most serious criminal threats affecting the EU. The EU policy cycle/EMPACT will continue to be the key instrument in fighting serious international and organised crime. The extensive digitalisation of procedures in the EU policy cycle/EMPACT holds great potential, in particular with regard to the development of a joint platform for EMPACT stakeholders (EMPACT Exchange & Report (XR)).

46. UNDERLINES the need to strengthen efforts against environmental crime, building on the results of the Envicrime priority within EMPACT (2018 - 2021) and in light of the outcome of the 8th round of mutual evaluations on environmental crime<sup>7</sup>.

47. TAKES NOTE of the worrying development of European drug markets in recent years. The situation is characterised by a high availability of various types of drugs, ever larger seizures, increasing use of violence and intimidation and huge profits. Drug markets and the associated organised crime groups have long proven to be very resilient – even during the global COVID-19 pandemic.

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<sup>7</sup> 14065/19

48. EMPHASISES the need for a reinforced EU Drugs Strategy for 2021-2025 to provide sustainable answers to these developments. The new EU Drugs Strategy should continue following a balanced, evidence-based, integrated, and multidisciplinary approach to tackling all aspects of the drugs phenomenon at national, EU and international level. The role of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and Europol is underlined in this context.
49. RECALLS that the COVID-19 pandemic also highlights the importance of the fight against counterfeit medicines or protective devices and their inherent danger.
50. WELCOMES the Commission's strategy for a more effective fight against sexual abuse of children, both online and offline. UNDERLINES that preventing and combating the sexual abuse and sexual exploitation of children, especially considering the increased online dimension of criminality during the COVID-19 pandemic, is a shared challenge that requires a joint, coordinated and multi-stakeholder approach at European and global level.
51. INVITES the Member States to implement all the work strands of the strategy. In line with the Council conclusions of 8 October 2019 on combatting the sexual abuse of children, the Council REAFFIRMS the commitment of the EU and the Member States to protect the fundamental rights of children and the rights of victims of crime, and to combat the sexual abuse and sexual exploitation of children regardless of the physical location or nationality of the children.
52. UNDERLINES that the fight against firearms trafficking remains a high priority and WELCOMES the 2020-2025 EU action plan on firearms trafficking. Recent progress should be noted in this area, including the work done under the EMPACT Firearms and the action plan on the illicit trafficking of firearms between the EU and the Southeast European region for 2015-2019. The fight against the illicit trafficking of firearms requires improved transnational information exchange, e.g. by systematically feeding the Schengen Information System (SIS) with information on lost and stolen weapons.

53. RECALLS its Conclusions of 5 June 2020 on enhancing cooperation with Western Balkans partners, which requested the Commission to integrate the Roadmap<sup>8</sup> adopted at the Western Balkans Summit in London on 10 July 2018 in the new EU action plan on firearms trafficking and WELCOMES the fact that its goals are consistent with the efforts undertaken within the Union and the United Nations (UN) to combat the trafficking of Small Arms and Light Weapons (SALW) and their ammunition.
54. CALLS ON the Member States together with Western Balkan partners to continue the implementation of the Roadmap as integrated in with the 2020-2025 EU action plan on firearms trafficking and in accordance with the relevant Council decisions. This includes proven procedures and the successful cooperation with the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC).
55. CALLS ON the Commission to convene, together with the High Representative, a steering committee of key implementing partners and donors with the goal of ensuring the strategic global coordination of donors.
56. Due to diverse legal frameworks and needs, the systematic collection of crime and criminal justice data should be tailored according to the realities of each Member State. The Council CALLS UPON the Commission to discuss in further detail national implementation of the new key performance indicators regarding the firearms action plan.
57. UNDERLINES that combating serious crime efficiently also requires a common commitment to strengthening our efforts in seizing and confiscating criminal assets, and that the efficiency of the European legislation in that respect should be assessed.

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<sup>8</sup> Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of Small Arms and Light Weapons (SALW) and their ammunition in the Western Balkans by 2024.

58. UNDERLINES the importance of the fight against trafficking in human beings and smuggling of migrants and therefore WELCOMES the Commission's intention to develop a new EU strategy towards the eradication of trafficking in human beings and to revise the current EU action plan on migrant smuggling within the framework of the Security Union Strategy. The trafficking in human beings strategy should address all forms of exploitation, in particular measures to prevent and combat trafficking in human beings for the purpose of labour or sexual exploitation, as well as the identification and protection of and support for victims. Combating trafficking in children should remain a priority in the strategy. The strategy should provide for the analysis of current technological developments and their effects on human trafficking, improved data collection and evaluation within the existing mechanisms, and closer cooperation with the Council of Europe and GRETA.

## **5. Preventing and combating terrorism and violent extremism**

59. RECALLS that much has been achieved in recent years to strengthen EU cooperation in the fight against violent extremism and terrorism. Nevertheless, the terrorist threat to the European Union and its Member States remains high demonstrated also by the recent attacks in Austria, France and Germany. This threat emanates from all types of violent extremism, including religious and politically motivated violent extremism, and targets our free and open societies.

60. URGES the swift adoption of the proposal for a Regulation on the prevention of dissemination of terrorist content online and CALLS ON all parties to negotiate in a spirit of compromise to maintain a high level of ambition in that respect.

61. EMPHASISES the importance of the fight against hatred, violent extremism and terrorism on the Internet, in particular in the framework of Europol's IRU activities.
62. Mindful of the historic responsibility of Europe to safeguard the fundamental rights and security of its Jewish citizens and communities, the Council UNDERLINES the importance of the fight against antisemitism as a cross-cutting issue (with reference to Council Declaration on mainstreaming the fight against antisemitism across policy areas)<sup>9</sup> and POINTS OUT that security remains a major concern for Jewish citizens and communities. The Council URGES the Member States to focus on the security of Jewish institutions, in close collaboration with Jewish communities and to facilitate the exchange of best practices and cross-border cooperation in this area.
63. EXPRESSES ITS CONCERNS about violent extremist groups of any ideology trying to use the COVID-19 pandemic for their own purposes, agitating and recruiting both on- and offline. The Council CONDEMNS all attempts to undermine social cohesion and promote violence and EMPHASISES that, within a comprehensive whole-of-society approach, all efforts must be taken to prevent further radicalisation and counter all forms of violent extremism and terrorism. The Council CONDEMNS all forms of racism, xenophobia and other forms of intolerance.
64. The Council therefore CALLS ON Europol to continue to monitor the developments in that regard and support Member States' efforts to counter violent extremism and terrorism emanating from or amplified by the pandemic.
65. CALLS UPON Member States to continue to strengthen their efforts to prevent radicalisation leading to violent extremism online and offline, in particular by extending their prevention and deradicalisation programmes to all phenomenon areas where this is not yet the case.
66. UNDERLINES that particular attention in this regard should continue to be paid to returnees from conflict zones as well as to prisons and released prisoners.

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<sup>9</sup> 12893/20

67. ENCOURAGES Member States to pay special attention to persons assessed by Member States to be a terrorist or violent extremist threat, and UNDERLINES that in a Europe without internal borders it must be ensured that information is shared reliably and fast when such persons travel or connect with individuals or networks in other Member States, within the existing national and European regulatory frameworks.
68. STRESSES that, apart from the specific category of Foreign Terrorist Fighters, so far, there are not any common standards or criteria establishing which of those persons should be inserted in European databases and information systems. While there is a legal framework in place on which information may be entered into these databases, this does not yet guarantee that at least persons who are assessed by Member States to pose a serious terrorist or violent extremist threat can be found there. Therefore, the Council DEEMS IT IMPORTANT to, in principle, enter persons who are assessed by individual Member States to pose a serious terrorist or violent extremist threat in the relevant European databases and information systems, unless legal or operational concerns demand otherwise. UNDERLINES the respect of fundamental rights and appropriate protection of personal data in this context.
69. WELCOMES that the responsible working party is currently addressing the need for information exchange on persons who are assessed to pose a terrorist or violent extremist threat; WELCOMES in this regard further work to have a shared understanding of which persons are assessed by the individual Member States as persons regarded a terrorist or violent extremist threat without affecting the different national legislations in this regard, and CALLS UPON Member States, with support of the Commission and Europol, to engage in a continued strategic dialogue on this issue.
70. STRESSES that the rise of violent extremism poses a threat to security in Europe. TAKES NOTE that social media fuel the dissemination of violent extremist ideology and contribute to radicalisation. Violent extremism has an increasing international dimension and the international and cross-border links between violent extremist groups via internet have to be tackled.



71. CALLS UPON the Member States to continue developing and sharing good practices on strengthening the prevention, detection and addressing of violent extremism and terrorism and to address the spread of violent extremist content online and offline, including through cooperation with key third countries.

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**COUNCIL CONCLUSIONS**  
**ON ENHANCING CROSS-BORDER LAW ENFORCEMENT COOPERATION**

THE COUNCIL OF THE EUROPEAN UNION,

1. RECOGNISING the fundamental role of further improving cross-border law enforcement cooperation in promoting the shared goal of strengthening the area of freedom, security and justice, as emerging threats highlight the need for further synergies and closer cooperation at all levels to ensure an effective and coordinated response by competent authorities,
2. HAVING REGARD to the Convention implementing the Schengen Agreement (CISA), to Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, to Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA and to Council Decision 2008/617/JHA of 23 June 2008 on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations (Prüm decisions), as well as to other EU law enforcement instruments and bi- and multilateral police cooperation treaties between Member States,

3. BUILDING ON the strategic priorities and guiding principles of cross-border law enforcement cooperation contained in the EU Strategic Agenda 2019-2024 on improving cooperation and information-sharing to fight terrorism and cross-border crime<sup>10</sup>, the EU Security Union Strategy<sup>11</sup>, the Council Conclusions on the renewed EU Internal Security Strategy (ISS) 2015-2020<sup>12</sup>, and the European Parliament resolution of 17 December 2014 on Renewing the EU Internal Security Strategy<sup>13</sup>, reflecting a shared agenda for the Council, the Commission and the European Parliament, and the Council conclusions on certain aspects of European preventive policing of 6 June 2019<sup>14</sup>,
4. TAKING NOTE of non-binding Council documents such as good practices (Schengen Catalogue<sup>15</sup>) and guidelines (SPOC Guidelines<sup>16</sup>, PCCC Guidelines<sup>17</sup>, manuals on law enforcement information exchange<sup>18</sup> and on cross-border operations<sup>19</sup>) and the findings of the Schengen Evaluations,
5. TAKING NOTE of the Communication from the Commission on the New EU Security Union Strategy 2021-2025<sup>20</sup>, emphasising that *‘the level of cooperation could still be improved through streamlining and upgrading the available instruments’* and *‘The Commission will look at how a Police Cooperation Code might support this’*, and the Inception Impact Assessment on the initiative of an EU Police Cooperation Code (PCC), published by the Commission on 28 September 2020<sup>21</sup>,

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<sup>10</sup> EUCO 9/19

<sup>11</sup> COM(2020) 605 final

<sup>12</sup> 15670/14

<sup>13</sup> 2014/2918

<sup>14</sup> 10062/19

<sup>15</sup> 15785/3/10.

<sup>16</sup> 10492/14.

<sup>17</sup> PCCC: Police Customs Cooperation Centre (9105/11).

<sup>18</sup> 6727/18.

<sup>19</sup> 10505/09.

<sup>20</sup> COM(2020) 605 final, p. 22

<sup>21</sup> Ref. Ares(2020)5077685

6. STRESSING the relevance and underlying added value of the EU Policy Cycle / EMPACT<sup>22</sup>, also mentioned in the EU Security Union Strategy 2021-2025, which involves the Member States' competent law enforcement authorities, EU institutions and agencies and improves cross-border cooperation in the fight against organised and serious international crime,
7. RECOGNISING the important role played by Europol, as the EU's criminal information hub, in supporting Member States and their competent authorities in operations and investigations and in promoting cooperation,
8. MINDFUL of the contribution of Frontex to safeguarding the internal security of the Union, through the effective implementation of integrated border management measures at the EU external borders, including the fight against cross-border crime and terrorism at the EU external borders,
9. ACKNOWLEDGING the significance of Member States' sole responsibility in the area of national security, in accordance with Article 4(2) TEU, and their activities in this field and APPRECIATING the progress achieved so far by Member States in continuously improving the operational cooperation between law enforcement authorities,
10. EMPHASIZING that all our actions are fully in accordance with fundamental rights and freedoms and RECALLING the importance of applying the principle of subsidiarity and proportionality,

THE COUNCIL:

11. UNDERLINES that cross-border law enforcement cooperation rests on the principle of national sovereignty, establishing the exclusive prerogative of Member States to carry out law enforcement activities within their national territories,

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<sup>22</sup> Council Conclusions set out in 7704/17.

12. EMPHASISES that the EU's area of freedom, security and justice requires efficient, lawful law enforcement cooperation, based on mutual trust, in dealing with cross-border and organised crime, violent extremism, terrorism and illegal migration,
13. HIGHLIGHTS that the COVID-19 pandemic and the common aim of preventing the spread of infection have underlined the need for closer cross-border cooperation including in the field of law enforcement along the shared internal borders,
14. UNDERLINES that the emergence of new criminal phenomena and the evolution of technological tools available to both law enforcement authorities and offenders require an evaluation of the need to adapt the mechanisms of law enforcement cooperation,
15. CONSIDERS the multi-layered framework of law enforcement cooperation to be a foundation of an adequate combination of concerted solutions to common challenges, with diverse forms of cooperation adjusted to specific needs,
16. HIGHLIGHTS the necessity to better align cross-border cooperation with the objectives of the EU policy cycle for organised and serious international crime where relevant,
17. RECALLS that improvements to the current instruments should adequately balance consolidated EU-wide provisions and allow for tailored, small-scale forms of cooperation, reflecting regional and local circumstances and take into account differences in legal systems and regional, local operational and organisational requirements, while respecting fundamental rights and taking into account the principles of subsidiarity and proportionality,
18. EMPHASISES that it is preferable to improve instruments that are already available, rather than creating new forms of cooperation, and RECALLS THEREFORE the need for consistent and effective implementation of existing instruments,

19. OBSERVES growing discrepancies between the Convention implementing the Schengen Agreement and the Prüm decisions on the one side, and the dynamically evolving practice based on bi-, tri- and multilateral treaties and the practical requirements of contemporary law enforcement work on the other, resulting in uncertainty about the applicability and scope of existing forms of cooperation in certain cases,
20. RECOGNISES the fundamental importance of enabling (...) law enforcement officers to act effectively in cross-border cooperation, in particular by equipping the respective police forces with mutually agreed and balanced powers in certain well defined circumstances, while respecting fundamental rights and observing the principle of national sovereignty, in particular the leading and deciding role of the hosting state,
21. APPRECIATES the impact of Police and Custom Cooperation Centres (PCCCs) and/or Single Points of Contact (SPOCs), having emerged as best practices that facilitate and speed-up law enforcement cooperation, in particular with regard to information exchange, and ENCOURAGES the further enhancement of PCCCs in line with regional needs, for instance by promoting their widespread and systematic use of the Secure Information Exchange Network Application (SIENA),
22. STRESSES the need to evaluate the legal requirements of cross border cooperation instruments enabling activities such as cross-border surveillances and cross-border hot pursuits to the necessities of contemporary law enforcement work,
23. UNDERLINES the role of joint police patrols, units and offices, joint operation points, joint action days and joint investigations, as these effectively enhance the maintenance of public order, crime prevention and fight against crime particularly in border regions, increase the subjective sense of security of citizens, and allow for cooperation between law enforcement authorities from different Member States to enable regular joint services, thereby creating the basis for mutual trust,

24. UNDERLINES, at the same time, the need to respect and give full effect to the rights and freedoms of citizens as enshrined in the existing legal framework and in the Charter of Fundamental Rights, recognizing that public trust in law enforcement authorities is essential to maintaining the citizens' subjective sense of security,
25. HIGHLIGHTS the role of constant interaction and adequate information exchange, as well as continuous joint training, work in joint expert groups, seminars, workshops and exchange programmes at different levels, notably with the support of the European Union Agency for Law Enforcement Training (CEPOL), aimed at achieving a shared understanding of European law enforcement.

and therefore CALLS ON THE MEMBER STATES:

26. to take all necessary steps to further strengthen operational cross-border law enforcement cooperation by effectively implementing existing instruments and, where appropriate and necessary, by consolidating, simplifying and extending the legal foundations, including:

Joint patrols, units, offices and operation points: to further increase the use of these instruments and ensure their effectiveness and cost efficiency, regarding joint patrols for instance on the basis of a 1:1 model (one police officer from each Member State involved), depending on the task:

- in that context, to clarify and, where appropriate, in line with regional needs and with the principle of national sovereignty, existing legal systems and the decisive role of the host state, extend in certain clearly defined circumstances the allocation of mutually agreed and balanced executive powers on foreign officers operating outside of the territory of their home state in fulfilment of their duties;
- to enhance the use of cross-border and joint investigations, and to simplify the procedures for the setting up of Joint Investigation Teams (JITs) for instance primarily through practical tools, including an evaluation whether it is necessary to update existing model agreements and to strengthen the work of the JITs network and to involve JIT experts in speedily negotiating JIT agreements;

Cross-border surveillance: to clarify and consider to simplify the legal requirements for conducting such surveillance, while upholding the principle of national sovereignty, the existing standards for the protection of fundamental rights, existing legal systems in Member States and the decisive role of the host state, to assess the standardisation of the measures that may be approved and the technical means that may be deployed, e.g. drones and localisation devices, and to enhance the authorisation procedures, including by redefining the distinction between urgent and non-urgent surveillance, extending the required time frame for obtaining authorisation for urgent surveillance as appropriate, and consider, where necessary and proportionate under strict conditions and without prejudice to the existing instruments, including Mutual Legal Assistance agreements where applicable, to allow for surveillance to be launched in the territory of another country before it continues in the home country of the officers involved,

Hot pursuits: to clarify, while upholding the principle of national sovereignty, the existing standards for the protection of fundamental rights, existing legal systems in the Member States and the decisive role of the host state, legal conditions for hot pursuits<sup>23</sup>, to adapt the legal requirements to the needs of the practitioners by possibly broadening both the scope for hot pursuits and the competences of officers operating across borders, including by improving the sharing of localisation data, enabling hot pursuits whenever a person attempts to evade law enforcement procedures and allowing for hot pursuits to be carried out via land, air, sea and waterways;

Single Points of Contact (SPOCs) and/or Police and Customs Cooperation Centres (PCCCs): where relevant, to strengthen, in different technical and operational ways, the existing PCCCs and/or SPOCs and/or their areas of competence (...) and (...) further structures of this kind;

Joint operational planning and exercises: to increase efforts to foster recourse to cross-border cooperation, in particular in situations of mass gatherings, disasters and serious accidents;

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<sup>23</sup> E.g. common definition of ‘apprehend’ and ‘detain’ – see Article 41 CISA



Special intervention units: to further strengthen the cross-border cooperation between such structures in EU Member States and associated countries, including their competences and the clarification regarding the issue of liability during cross-border actions on the basis of Council Decision 2008/617/JHA of 23 June 2008, to further support the setting up of common training centers / Centers of Excellence, to adapt the legal requirements to enable the cross-border transport and transit of explosives, ammunition and combat materials of special intervention units for common training and operations, to support pooling and sharing of specific materials among Member States wishing to make use of this possibility, to respond to requests for technical assistance from other Member States and to strengthen the role of the Atlas Support Office at Europol as a Single Point of Contact (SPOC) for specialised intervention units, for instance as regards the administration and coordination of ATLAS' activities;

Police-Customs cooperation: to ensure close cooperation and targeted information exchange where legally possible, in particular in the framework of the EU Policy Cycle / EMPACT and in border regions.

27. to swiftly improve means for regular or ad hoc exchange of information and direct communication, including common structures such as intranet platforms, operation control systems or radio communication networks;
28. to closely cooperate, coordinate and communicate in times of crisis, such as during the COVID 19-pandemic, at operational and strategic level, in particular with neighbouring countries' law enforcement authorities, for instance by using established or ad hoc structures;
29. to raise awareness among law enforcement authorities about existing tools and to increase their readiness to cooperate across borders, making full use of available sources of information such as the recently updated Manual on cross-border operations and its national fact sheets;

30. to ensure more readily available information, e.g. by introducing web apps that would inform individual law enforcement officers on the applicable rules for cross-border actions in given areas, ideally compatible with EU information channels, and by increasing use of standardised forms;
31. to further strengthen structures for both regular and ad hoc exchanges, including physical and secure virtual meetings, committee work, workshops and exchange programmes, as well as joint trainings and seminars to improve practical skills for operational cooperation, including language and legal knowledge;
32. to continue the exchange on and implementation of best practices as a valuable tool in improving cooperation;
33. to continue developing a common European culture for law enforcement authorities and, depending on operational and pedagogical adherence observed, (gradually) set up a national mechanism for the recognition of knowledge acquired in other Member States, or even common standard leading to European certification.

#### CALLS ON THE COMMISSION:

34. as a first step to comprehensively assess with the Member States the conclusions it draws from evaluations and other information resources regarding cross border law enforcement cooperation,
35. to duly take into account – when assessing options for a proposal for a European Police Cooperation Code and while upholding the principle of national sovereignty, the existing standards for the protection of fundamental rights, existing legal systems in Member States and the decisive role of the host state, – the value and success of local, regional, bi- and multilateral law enforcement cooperation between Member States, in particular in the regions with shared internal borders, and the added value of European legislation in view of the principles of subsidiarity and proportionality,

36. to consider consolidating the EU legal framework to further strengthen cross-border law enforcement cooperation, while guaranteeing data protection and fundamental rights, addressing current operational needs, reviewing in particular the provisions in Title III, Chapter 1 (Police Cooperation) of the CISA, the Council Framework Decision 2006/960/JHA, and Council Decisions 2008/615/JHA, 2008/616/JHA (Prüm decision) and 2008/617/JHA<sup>24</sup> especially regarding hot pursuit and cross-border surveillance, which should be fully functional across Europe, while respecting the possibility for Member States to elaborate the details of such cooperation and provide for even closer cooperation bilaterally, as mentioned above,
37. to assess, while upholding the principles of national sovereignty and proportionality, the existing standards for the protection of fundamental rights, existing legal systems in Member States and the decisive role of the host state, whether adjustments of the legal framework or common guidelines for cooperation in crises situations, e.g. pandemic crises, are necessary, as well as with regard to new technologies impacting cross-border law enforcement cooperation,
38. to step up support for enhanced regional forms (structures) of cooperation, such as the PCCCs, joint police stations and joint training sessions, while ensuring their efficient cooperation with SPOCs,
39. to contribute to enhancing law enforcement cooperation by supporting the development of smooth and swift information exchange; further development of relevant structures and platforms; joint training, exercises, seminars and workshops; reduction of technical and language barriers, production of updated manuals and working catalogues specifying applicable national requirements, competences and procedures, as well as intensified legal training,

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<sup>24</sup> As well as other instruments of law enforcement/judicial cooperation, where relevant

CALLS ON EUROPOL:

40. to continue to support Member States in their efforts to provide Europol with high quality information and to further enhance the roll-out of SIENA to their national competent authorities,
41. to explore, together with other stakeholders and relevant expert groups, the possibilities for advancing mobile solutions (or for interconnecting existing solutions), in order to allow for swift and secure communication between field officers and investigators.

CALLS ON CEPOL:

42. to continue assisting Member States in law enforcement training in order to enhance officers' capacities, in particular legal knowledge, with regard to cross-border law enforcement cooperation.

CALLS ON FRONTEX:

43. to support, within its mandate, law enforcement authorities of EU Member States and Schengen Associated Countries in managing the external borders to provide a high level of security for all EU citizens.

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