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COMMISSION STAFF WORKING DOCUMENT

**Assessment of the effect given by the Member States to
COUNCIL RECOMMENDATION (EU) 2022/915 of 9 June 2022
on operational law enforcement cooperation**

1. INTRODUCTION

1.1. Background

One of the European Union's objectives is to provide its citizens with a high level of security in the areas of freedom, security, and justice. Achieving a genuine Security Union remains a complex challenge, particularly in ensuring that all existing barriers hindering cross-border operational law enforcement cooperation are effectively removed.

The Schengen area represents a cornerstone of European integration, enabling the free movement of people, goods, and services across Member States. The area without controls at the internal borders is designed to enhance mobility and foster economic integration.

While the benefits of the absence of controls at the internal borders are clear in terms of economic growth, cultural exchange, and EU integration, maintaining security requires a continuous commitment to collaboration and innovation in law enforcement practices to provide for effective tools to address security challenges such as increased transnational crime, migrant smuggling, and terrorism.

A pivotal part of the Union's legal framework for operational law enforcement cooperation was established 30 years ago through the Convention implementing the Schengen Agreement (CISA) ⁽¹⁾. The CISA sets out obligations for the Contracting Parties on law enforcement cooperation, aiming to effectively address any security risks resulting from the abolition of checks at the internal borders. Notably, the CISA sets out baseline rules on the conduct of cross-border hot pursuits and cross-border surveillance operations, thereby enhancing collaborative efforts to maintain security within the Schengen area. In addition, the so-called 'Prüm Decisions' ⁽²⁾ represent another significant legal framework underpinning operational law enforcement cooperation within the EU. These Decisions, while not formally part of the Schengen architecture, lay down baseline rules giving Member States the possibility to organise joint patrols and other types of joint operations. The Prüm Decisions also facilitate data exchange and operational cooperation among Member States.

Member States have systematically complemented, and built upon, this *acquis* through bi- and multilateral police cooperation agreements. These agreements reflect a commitment to fostering deeper cooperation and interoperability between national law enforcement agencies, addressing specific regional security challenges, and ensuring a cohesive approach to cross-border crime prevention and enforcement.

In December 2021, the Commission proposed an EU Police cooperation package to enhance law enforcement cooperation across Member States and give EU police officers more modern tools for information exchange and operational cooperation within the Union. As part of this package, on 9 June 2022, Council Recommendation (EU) 2022/915

⁽¹⁾ The Schengen acquis - 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 (OJ L 239, 22.9.2000, p. 19, ELI: <http://data.europa.eu/eli/convention/2000/922/oj>).

⁽²⁾ 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 (OJ L 210, 6.8.2008, p. 1, ELI: <http://data.europa.eu/eli/dec/2008/615/oj>), and Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 12, ELI: <http://data.europa.eu/eli/dec/2008/616/oj>).

on operational law enforcement cooperation ⁽³⁾(the ‘2022 Council Recommendation’) was adopted.

The 2022 Council Recommendation *inter alia* (i) aims to address obstacles to actions of law enforcement officers operating in other Member States when having to conduct cross-border hot pursuits, surveillance, joint patrols and other joint operations and to extend the list of offences in relation to which operational activities can be carried out across internal borders; (ii) recommends setting up a support platform to match the offers and needs of Member States and support the effective deployment of joint patrols and other joint operations notably in the context of major public events or serious accidents; (iii) recommends providing law enforcement officers operating in other Member States with communication equipment that functions across-borders, and (iv) seeks to promote a common EU law enforcement culture through joint training.

In November 2023, in the context of the ongoing dialogue on the situation at the internal borders between the Schengen Coordinator ⁽⁴⁾ and Member States, the Commission adopted a set of recommendations for increased cooperation between Member States within the Schengen area. Commission Recommendation (EU) 2024/268⁵ builds on the 2022 Council Recommendation, emphasising the importance of continuing and further reinforcing close cooperation between Member States at strategic, administrative, and operational levels in combatting serious threats to public policy or internal security and further developing capacity to carry out cross-border joint operational police cooperation initiatives as complementary measures to the absence of internal border controls.

The importance of operational law enforcement cooperation for ensuring the security of the Schengen area was further emphasised by the recent revision of the Schengen Borders Code ⁽⁶⁾, that entered into force on 10 July 2024. Notably, Article 23 of the amended Schengen Borders Code outlines the different categories of checks that can be conducted in the absence of internal border controls, providing a clearer framework for cross-border law enforcement cooperation in border regions.

Since the adoption of the amended Schengen Border Code, the Commission has been monitoring the implementation of the measures sustaining an effective cross-border cooperation in the annual State of Schengen report ⁽⁷⁾, considering, in particular the Schengen evaluation and monitoring activities ⁽⁸⁾. While some positive developments have been reported and best practices identified, the main conclusion was that the level of implementation of the Schengen acquis in the field of police cooperation was fragmented

⁽³⁾ Council Recommendation (EU) 2022/915 of 9 June 2022 on operational law enforcement cooperation (OJ L 158, 13.6.2022, p. 53, ELI: <http://data.europa.eu/eli/reco/2022/915/oj>).

⁽⁴⁾ A Commission Schengen Coordinator was appointed in June 2022 to support the new governance framework for the Schengen area. The Schengen Coordinator will use tools such as the Schengen Barometer, stronger Schengen evaluations, and the upcoming Schengen Scoreboard to enable a common situational awareness of the functioning of the Schengen area.

⁽⁵⁾ Commission Recommendation (EU) 2024/268 of 23 November 2023 on cooperation between the Member States with regard to serious threats to internal security and public policy in the area without internal border controls (OJ L, 2024/268, 17.1.2024, ELI: <http://data.europa.eu/eli/reco/2024/268/oj>).

⁽⁶⁾ Regulation (EU) 2024/1717 of the European Parliament and of the Council of 13 June 2024 amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders (OJ L, 2024/1717, 20.6.2024, <http://data.europa.eu/eli/reg/2024/1717/oj>).

⁽⁷⁾ COM(2023) 274 final and COM(2024) 173 final.

⁽⁸⁾ In accordance with Article 25 of Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) No 1053/2013 (OJ L 160, 15/06/2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/922/oj>).

and bi- and multilateral agreements were not adequately updated to meet the operational requirements. Therefore, one of the core priorities identified in the 2024 State of Schengen report is to establish and strategically reinforce the necessary police cooperation measures considering the related tools in the broader Schengen toolkit to better address existing and emerging migration and security risks, in close cooperation with the neighbouring Member States in the region, by fully implementing 2022 Council Recommendation and in line with Commission Recommendation (EU) 2024/268.

On 17 February 2023, to implement the 2022 Council Recommendation, the Commission launched a call for expression of interest for the so-called Specific Action “Council Recommendation on operational law enforcement cooperation – Turning recommendations into joint action (ROLEC)” under the Internal Security Fund (ISF) ⁽⁹⁾, with a budget of EUR 9 million. Thirteen applications from nine Member States requested a total of EUR 19 million, exceeding the allocated amount. Six projects were selected, and one was placed on the reserve list. The successful projects include initiatives led by Poland, Belgium, Germany, Lithuania, and Romania, focusing on cross-border operational law enforcement cooperation and Police and Customs Cooperation Centres, with a budget of EUR 9 million.

Under point 7(d) of the 2022 Council Recommendation, the Council recommends that, at the latest two years after the date of adoption of that Recommendation, the Commission assesses the effect given to it by the Member States and, after having consulted the Member States, publishes a report and presents it to the Council.

The present Commission staff working document provides this assessment. This assessment takes stock of the progress made by Member States in implementing the 2022 Council Recommendation. The document examines how these efforts have strengthened the capacity of Member States to cooperate more effectively with each other in the field of operational law enforcement cooperation. In particular, the assessment identifies several key areas:

- progress in implementation: the assessment takes stock of the measures adopted by Member States to give effect to the provisions of the 2022 Council Recommendation;
- capacity enhancement: the assessment evaluates how the implementation of the 2022 Council Recommendation has impacted the operational capacities of Member States;
- identified gaps and shortcomings: the assessment highlights areas where Member States have either not taken actions, or have only partially implemented the provisions of the 2022 Council Recommendation;
- best practices: the assessment showcases best practices put in place by Member States in the field of operational law enforcement cooperation;
- possible avenues for improvement: based on the findings, the assessment identifies for further consideration several ideas to further enhance operational law enforcement cooperation, including options to address the identified gaps and promote the adoption of best practices across all Member States.

This assessment underscores the importance of continued efforts to strengthen the capacity of Member States in operational law enforcement cooperation. It emphasizes the need for

⁽⁹⁾ Regulation (EU) 2021/1149 of the European Parliament and of the Council of 7 July 2021 establishing the Internal Security Fund (OJ L 251, 15.7.2021, p. 94, ELI: <http://data.europa.eu/eli/reg/2021/1149/oj>).

a coordinated and comprehensive approach to ensure that the objectives of the 2022 Council Recommendation are fully realised, thereby enhancing the security and safety of citizens across the Union.

1.2. Methodology and source of information

The present Commission assessment is based on input provided by Member States' competent authorities since the adoption of the 2022 Council Recommendation. Three main sources of information have been used.

First, as a follow-up to the adoption of the 2022 Council Recommendation, the Swedish Presidency of the Council prepared, during the first half of 2023, an Implementation Roadmap which gathered input from Member States on how they are meeting the recommendations of the Council. The Roadmap was subsequently updated by the following Presidencies of the Council, Spain and Belgium, and discussed during the meetings of the Council's Law Enforcement Working Party Police (LEWP-P) ⁽¹⁰⁾.

The updated Implementation Roadmap ⁽¹¹⁾ comprised twenty-six questions (four on cross-border hot pursuits, three on cross-border surveillance, two on joint patrols and other joint operations, two on Police and Customs Cooperation Centres, three on a support platform for joint patrols and other joint operations, three on access to information and communication, and nine questions on training). The overall engagement with the Roadmap was low, as only thirteen Member States and Europol have provided input. Only eight Member States responded to more than 50% of the questions, with one (100%), one (92.3%), one (92.3%), one (84.6%), and one (73.1%), exhibiting the highest engagement rates by the number of answered questions. The Roadmap mentions specific activities and practices shared among Member States, but lacks in-depth information on the exact implementation status or progress for each Member State. This is expected, as it serves as a high-level strategic document rather than a detailed report on implementation progress. While the document addresses ongoing efforts and mentions cooperation frameworks, it does not delve into individual Member State actions in great detail. The most answered questions pertain to the objectives, purpose, and non-binding nature of this Roadmap, while the least answered questions concern specific operational practices, legal commitments, and monitoring/evaluation of the Roadmap's impact.

Second, to complement the Implementation Roadmap, the Commission issued in November 2023 a targeted questionnaire to Member States and Schengen Associated Countries (SACs) to collect further detailed information on the types of measures they have put in place to give effect to the recommendations of the Council.

The Commission questionnaire contained thirty-nine questions. In total, all twenty-seven Member States and all four SACs submitted their completed questionnaires to the Commission. Based on the received questionnaires, the response rate to individual questions was 96.4% among EU Member States and 91.7% among SACs respectively. Fifteen Member States and two SACs have responded to all questions. When solely looking at the unanswered questions, the most common theme was cross-border surveillance/cross-border hot pursuits (31.1% of unanswered questions), followed by questions related to CISA/Prüm updates (22.2%), and joint patrols/operations (13.3%).

⁽¹⁰⁾ Council Recommendation on Operational Law Enforcement Cooperation. Implementation roadmap. 15759/1/22 REV1.

⁽¹¹⁾ Council Recommendation on law enforcement operational cooperation. Implementation roadmap. ST14303 2023 REV 2.

The difference in the number of responses and responding Member States/SACs between the Implementation Roadmap and the Commission questionnaire should be considered when reading this assessment.

Third, and finally, the Commission co-organised a series of workshops together with each respective Presidency of the Council on specific topics covered by the 2022 Council Recommendation:

- on 12 December 2022, the Commission co-organised with the Czech Presidency of the Council an expert workshop dedicated to joint police stations, joint patrols in internal border areas and the deployment of police officers across the EU;
- on 17 May 2023, the Commission co-organised with the Swedish Presidency of the Council an expert workshop dedicated to cross-border communication and other technologies to facilitate operational cooperation;
- on 9 October 2023, the Commission co-organised with the Spanish Presidency of the Council an expert workshop dedicated to cross-border surveillance;
- on 12 February 2024, the Commission co-organised with the Belgian Presidency of the Council an expert workshop dedicated to cross-border hot pursuits and training on operational law enforcement cooperation.

An additional public consultation was not foreseen as it was considered that it would have had limited added value due to the technical and specialist nature of the subject-matter concerning a targeted audience (law enforcement authorities engaged in operational cooperation).

1.3. Main findings

From the discussions held in the workshops and the responses recorded in the Commission questionnaire and the Implementation Roadmap, the following key findings are to be highlighted.

Firstly, the type, level, organisation, and rules of engagement underpinning operational law enforcement cooperation continues to vary greatly between Member States. In some areas, such as joint operations, operational law enforcement cooperation seems to be very well developed, with very regular contacts and even joint permanent structures of cooperation between Member States, whilst in others it is less so. Some Member States have advanced bi- or multilateral cooperation agreements in place that enable them to cooperate more efficiently in a cross-border context, without operational or legal obstacles, while other cooperation agreements are older and more restrictive. All in all, although Member States often emphasise the benefits of strong operational cross-border cooperation, the level of cooperation remains essentially driven nationally (and even regionally) and the contrasting operational realities that law enforcement officers face when cooperating with their counterparts across intra-EU borders reflects this situation.

Secondly, there are examples of good practices of operational cross-border cooperation that some Member States have developed jointly. However, these are not replicated throughout the EU and Schengen area, although they may have the potential and relevance for such replication. For example, certain Member States perform regular cross-border joint risk analysis or share their national risk analysis with neighbouring Member States to better tailor joint operational actions, some have expanded their level of bilateral cooperation from information exchange to fully embedded operational cooperation with

the creation of joint-police stations, some have lifted all restrictions to the conduct of cross-border hot pursuits and cross-border surveillance operations, if they were started with valid grounds in the Member State of origin, some have found technical ways to use communication systems that continue to function when crossing the border - while others do not.

Third, Member States report that there remain significant issues that continue to severely hamper operational cross-border cooperation, many of which relate to the diverse landscape of rules which are currently present across the EU. From the feedback provided by practitioners, the capacity to perform surveillance of suspects across borders, notably when suspects cross several internal borders seems to continue to pose most challenges, whilst it is one of the very important tools that is used by law enforcement authorities to fight serious and international crime.

Lastly, and very importantly, the feedback from practitioners is that law enforcement cross-border cooperation proves to be beneficial. Even though there is a (steep) initial learning curve and cooperation with neighbouring Member States may be more complicated and costly than acting unilaterally, the overall impact of investing into cooperating with other Member States in a systemic and structured manner is felt as being on balance very positive, and Member States could continue to invest in these collaborative relationships, and remove the existing legal obstacles that remain to the performance of smooth and effective operational cooperation.

2. DETAILED FINDINGS

2.1. Cross-border hot pursuits

Cross-border hot pursuits are types of cross-border police cooperation that take place when law enforcement officers cross the national border - during the pursuit of person(s) suspected of or caught in the act of committing a specific type of crime - and continue the pursuit on the territory of the neighbouring Member State. These operations, which due to their very nature do not require prior authorisation, are subject to very strict conditions and precise arrangements between Member States. Some of these conditions and arrangements are of a general nature, whilst others are country specific.

According to the CISA, each Member State can choose between two options (Article 41(4)(a) or (b)) concerning the offences which may result in a pursuit and can restrict the powers of the pursuing officers, notably regarding the officers' ability to stop and apprehend suspects, and the scope and duration of pursuits. Even though the application of the CISA ensures a certain degree of harmonisation, bi- or multi-lateral agreements often add several more specific operational rules for the implementation of cross-border hot pursuits in different regional contexts. As a result, cross-border hot pursuits are regulated differently depending on the agreement under which they are carried out. Some agreements, for instance, grant foreign law enforcement officers the right to apprehend/detain a suspect, whilst other agreements allow foreign law enforcement officers also to perform searches and handcuff suspects. Moreover, Member States have established different territorial and temporal restrictions to operations by foreign law enforcement officers, creating another barrier for conducting cross-border hot pursuits.

To simplify and facilitate cross-border hot pursuits, the 2022 Council Recommendation recommends that Member States address existing obstacles currently hindering cross-border hot pursuits. This aims to:

- ensure that the forms of crimes in relation to which a cross-border hot pursuit can be carried out cover extraditable offences (crimes covered by the European Arrest Warrant ⁽¹²⁾);
- allow cross-border hot pursuits to be carried out across land, river, lake and air borders;
- allow cross-border hot pursuits to continue without any geographical or temporal limitation, until the arrival of the law enforcement officers of the Member State in which the cross-border hot pursuit takes place.

In their replies to the Commission questionnaire, twelve Member States confirmed that following the adoption of the 2022 Council Recommendation, they have taken actions to implement its provisions regarding cross-border hot pursuits. Other Member States, however, indicated that they did not change the way cross-border hot pursuits are conducted, as the provisions of their bilateral agreements already cover most of the points of the 2022 Council Recommendation. More specifically, four Member States stated in the Implementation Roadmap that they allow cross-border hot pursuits on their territory for all criminal offences listed in the Annex to the 2022 Council Recommendation.

Further insights gathered from the Implementation Roadmap showcased that eight Member States have lifted all temporal and geographical restrictions on cross-border hot pursuits until the arrival of officers from their own law enforcement authorities. Two Member States are currently in the bilateral process of lifting territorial restrictions for cross-border operations, while one Member State reported that it continues to apply a 25 km territorial limitation to a neighbouring Member State.

Based on Implementation Roadmap responses, eight Member States also indicated that they allow officers conducting cross-border hot pursuits to carry and use their service weapons, ammunition, and other service equipment. One Member State stated, however, that carrying service weapons is subject to approval in each individual case.

The replies to the Commission questionnaire highlighted that several Member States' law enforcement authorities still face challenges, obstacles, and issues to perform cross-border hot pursuits with neighbouring Member States. The following challenges were indicated:

- lack of harmonised conditions and rules (even constraining rules), both regarding the conditions and the powers of law enforcement officers involved in cross-border hot pursuits;
- temporal and geographical limitations;
- lack of uniform or compatible radio communication system with international roaming;
- language barriers.

Further complications identified in the responses to the Commission questionnaire arise when more than two Member States are involved in a cross-border hot pursuit or in cases where the pursued person goes back to the Member State of origin. Another difficulty emerges when the pursuing law enforcement officers use different (possibly heavier)

⁽¹²⁾ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision. (OJ L 190, 18.7.2002, p. 1–20. http://data.europa.eu/eli/dec_framw/2002/584/oj).

classes of service weapons than the officers in the Member State where the pursuit takes place.

As regards best practices which were shared by Member States during the workshops, the following were highlighted, each carrying the potential to improve consistency and uniformity in engagement across Member States:

- detailed standard operating procedures agreed jointly upstream. These procedures provide a clear and unified framework for operational conduct, ensuring that involved law enforcement officers from different Member States adhere to common protocols, follow the same guidelines, thereby reducing variations in practices;
- online flash cards available to patrol officers to remind them of their rules of engagement upon entering the territory of a neighbouring Member State. These cards serve as a quick-reference tools, reminding law enforcement officers of the rules of engagement when acting in the territory of a neighbouring Member State, thereby promoting consistency in their actions;
- reassurance of insurance coverage for police officers in case of accidents abroad. Providing reassurance about insurance coverage during cross-border operations helps law enforcement officers to act confidently, ensuring their protection and encouraging a standardised approach to engagement.

Several Member States expressed a need to update the relevant Article 41 of the CISA to improve the conditions for cross-border hot pursuits by expanding the list of offences and harmonising the general rules of engagement. The latter applies to, among others, the right for law enforcement officers to apprehend a suspect and to carry their service weapons, ammunition, and other service equipment.

In conclusion, while the objective could be to make cross-border hot pursuits as easy as pursuits inside a Member State, the diverse landscape of EU and national rules and measures, linked to numerous bi- and multilateral agreements containing highly individual definitions and regulations, appears to continue to pose a significant challenge to practitioners in the field. The most frequent problem for performing cross-border hot pursuits remains the often very limited executive power of law enforcement officers on the territory of the other Member State. There is, however, a growing number of Member States that allow for cross-border hot pursuits on their territory for all criminal offences listed in the Annex to the 2022 Council Recommendation, and several Member States have lifted geographical and temporal limitations.

2.2. Cross-border surveillance

Cross-border surveillance is a type of law enforcement operation in which a law enforcement authority of a Member State continues a criminal investigation by keeping one or more suspects under surveillance on the territory of one or more other Member States, after the suspect(s) has/have crossed the border.

The possibility to act outside the national jurisdiction has historically been designed as an exception. As a result, the CISA only lays down common principles to be further detailed through bilateral agreements between Member States. While some of these bilateral agreements go much further than the CISA in allowing cross-border surveillance without temporal or geographical limitations and extending the types of crimes eligible for cross-border surveillance to extraditable offences, others are still either outdated, underused,

raising unaddressed implementation issues, or experience significant delays between their signature, ratification, and implementation.

In addition, according to the CISA, physical cross-border surveillance, as referred to in Article 40, paragraph 2, may take place only for one of the criminal offences listed in Article 40, paragraph 7. Moreover, in some Member States, conducting cross-border surveillance is considered a judicial investigative measure and as a means of gathering evidence, rather than a form of police cooperation, and therefore those Member States consider that judicial cooperation instruments should be applicable, such as 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 ⁽¹³⁾. As a result, cross-border surveillance requests made under Article 40 of the CISA are frequently denied due to differing interpretation of the procedural requirements, thereby undermining the effectiveness of police cooperation within the Schengen area. At the same time, the Final report on the tenth round of mutual evaluations on the implementation of the European Investigation Order ⁽¹⁴⁾ has recommended to clarify the relationship between the Directive 2014/41/EU of the European Parliament and the Council and Article 40 of the CISA and the application of that Directive to cross-border surveillance carried out by technical means for the purpose of gathering evidence in criminal proceedings and within the framework of judicial cooperation. Furthermore, Article 40 of the CISA does not regulate the use of technical means during cross-border surveillance. The establishment of such rules is addressed only in some bilateral agreements. Consequently, the level of cross-border surveillance that is taking place between different Member States varies, sometimes greatly, affecting both the quality and consistency of cross-border law enforcement cooperation, while transnational crime continues to rise.

The 2022 Council Recommendation recommends that Member States:

- 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;
- 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;
- allow the conduct of cross-border surveillance on their territory across land, sea, river, lake and air borders;
- based on jointly agreed procedures, allow and facilitate the pooling of material (such as communication devices, surveillance and monitoring tools, tracking and detection equipment, vehicles for surveillance, service equipment, ammunition, deployment of law enforcement officers), for the purpose of carrying out cross-border surveillance more efficiently;
- 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

⁽¹³⁾ Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p. 1, ELI: <http://data.europa.eu/eli/dir/2014/41/oj>).

⁽¹⁴⁾ Final report on the tenth round of mutual evaluations on the implementation of the European Investigation Order, Council doc. 15834/24, 21 November 2024, chapter 12.7.

contact, and to be able to process and provide requests for authorisation 24 hours a day, 7 days a week.

Ten Member States confirmed in their responses to the Commission questionnaire that following the adoption of the 2022 Council Recommendation they have taken actions to implement its provisions regarding cross-border surveillance, while twelve Member States stated that they have not taken any steps to implement the above recommendations.

The Implementation Roadmap does not clearly indicate the degree to which Member States allow cross-border surveillance for persons suspected of having committed criminal offences listed in the Annex to the 2022 Council Recommendation, and for persons that can lead to the identification or the tracing of such suspected persons. While two Member States reported having implemented the 2022 Council Recommendation in this regard, three Member States reported allowing cross-border surveillance for “several” criminal offences or “all intentional crimes”. Moreover, three Member States referred to the list of criminal offences stipulated by Article 40 of the CISA.

In response to the recommendation to allow and facilitate the pooling of material for cross-border surveillance, some Member States highlighted best practices and planned initiatives. For instance, the Agreement on Cooperation between Police Authorities in the Nordic Countries allows for the lending of equipment (all equipment, apart from firearms). Moreover, one bilateral police cooperation agreement between two Member States provides, within certain parameters, for the common use of service equipment. One Member State emphasised that despite the absence of own initiatives in this domain, it considers the pooling of material (in combination with coordinated training and common standards) crucial for tackling the challenges of the ever-advancing surveillance technology.

For cross-border surveillance, the degree to which Member States allow officers to carry their service weapons, ammunition, and other service equipment, as well as to use their service weapons and other technical means/equipment, mirrored the input gathered for cross-border hot pursuits. Eight Member States reported having implemented the provisions of the 2022 Council Recommendation on service weapons and ammunition, without specifying the current state of regulations regarding other necessary equipment. One Member State emphasised that the carrying and use of service weapons is allowed for officers from all neighbouring Member States. Another Member State stressed the need to adapt regulations to new technologies, including, for instance, drone technology.

The Implementation Roadmap gathered two Member States’ responses to the recommended designation of a central authority/authorities to coordinate inbound and outbound cross-border surveillance, to be part of or work in close cooperation with the single point of contact (SPOC), and to be able to process and provide requests for cross-border surveillance authorisation 24 hours a day, 7 days a week. While one Member State stated that the current procedures are functional and that coordination of cross-border surveillance through a SPOC is possible 24/7, another Member State stressed that it has no intention to create a central authority for coordination, equally processing requests via a SPOC.

As regards best practices related to cross-border surveillance, the following were highlighted in the workshops and in the Implementation Roadmap:

- one Member State emphasised that the secure information exchange network application (SIENA) is the proven and predominantly used communication channel for

cross-border surveillance operations, suggesting that the existing national communication systems could become interoperable and cross-linked;

- at least one Member State has bilateral agreements in place that contain provisions extending the traditional scope of cross-border surveillance operations and granting the same police powers to foreign officers as those of national police officers when they carry surveillance in that Member State;
- the use of Europol support when conducting cross-border surveillance operations with the European tracking system and virtual command post, which enables secure real time communication that remains unaffected when operating in another Member State's territory.

Thirteen Member States confirmed that following the adoption of the 2022 Council Recommendation their law enforcement authorities still face challenges, obstacles, and issues to perform cross-border surveillances with neighbouring Member States. The conditions and approval procedures for authorising a cross-border surveillance operation continue to differ between Member States and some Member States require the use of judicial cooperation instruments (such as the European Investigation Order). Some Member States indicated a need for harmonising the authorisation processes to avoid compromising the efficiency of police cooperation.

While eleven Member States see a need to revise Article 40 of the CISA on cross-border surveillance, as expressed in their responses to the Commission questionnaire, fourteen Member States stressed that they do not view an update as necessary. Reasons given by Member States for a revision of Article 40 of the CISA were, *inter alia*:

- there could be options for (threat-)preventive surveillance measures, which would enable immediate reactions, for instance in cases when a suspect crosses a border into another Member State;
- there is a need to additionally account for technical means of surveillance. At present, the article is often understood to merely encompass officers of one Member State who, when carrying out cross-border surveillance, physically cross a state border into another Member State to continue their surveillance;
- there is a need to clarify why some Member States require a European Investigation Order for ordinary cross-border surveillance, considering the provisions set out in Directive 2014/41/EU of the European Parliament and the Council ⁽¹⁵⁾. Some Member States require the submission of a European Investigation Order for both ordinary (Article 40(1) CISA) and urgent (Article 40(2) CISA) surveillance;
- moreover, there is a need to account for the procedures for information exchange before, during and after cross-border surveillance, including the exchange of cross-border surveillance operation reports, as this is currently not regulated by Article 40 of the CISA.

In conclusion, the recommendations of the 2022 Council Recommendation regarding cross-border surveillance fall short of being coherently implemented across the Union. Based on the responses to the Commission questionnaire, it appears that several Member States have not taken any action to implement the provisions, while concurrently confirming that their law enforcement authorities face obstacles in conducting cross-border

⁽¹⁵⁾ This Directive should not apply to cross-border surveillance as referred to in the CISA.

surveillance. However, several Member States have indicated a need for harmonising the authorisation process, as conditions and approval procedures continue to differ between Member States. The Implementation Roadmap indicated that, although there is a high level of harmonisation regarding the right of officers to carry and use their service weapons and ammunition during cross-border surveillance operations in another Member State, there is a lack of convergence on regulating the carrying and use of other necessary equipment or the use of technology, as well as the list of criminal offences allowing for cross-border surveillance operations. Nevertheless, the responses have also shown that there is a will among Member States to increase the pooling of material, which is a crucial measure for a more effective cooperation on cross-border surveillance across the Union.

2.3. Joint patrols and other joint operations

According to Article 17 of Council Decision 2008/615/JHA (‘the Prüm Decision 2008/615/JHA’), the competent authorities designated by the Member States may, in maintaining public order and security and preventing criminal offences, introduce joint patrols and other joint operations in which designated officers or other officials from a Member State participate in operations on another Member State's territory.

The aim of joint patrols and other joint operations is, among others, to improve cooperation among the competent authorities and officers involved, to provide practical and linguistic assistance to the officers of the host state, and to facilitate communication with national authorities of the seconding Member State. The following types of joint patrols and other joint operations are usually carried out:

- joint patrols in border areas between Member States which are established depending on operational needs, which may include addressing specific security challenges such as increased cross-border crime activity, irregular migration flows, or heightened terrorism threats. Such patrolling may be performed on the territory of one of the Member States concerned, or patrols may repeatedly cross the borders;
- joint operations in the framework of mass gathering and similar major events ⁽¹⁶⁾ e.g., during sport events, in touristic places, during summer or winter touristic seasons, and/or to help solve a specific crime wave, e.g. organised property crime.

The 2022 Council Recommendation recommends that Member States allow law enforcement officers from another Member State involved in joint operations conducted on their territory to do at least the following actions, provided that similar powers are granted and similar equipment, including uniforms, is provided to the officers of their own law enforcement authorities:

- perform identity checks and provisionally detain any person who tries to avoid an identity check;
- wear their uniform and carry their service weapons and ammunition and other service equipment;
- use their service weapons in legitimate self-defence, and in the defence of others;

⁽¹⁶⁾ Article 18 of Prüm Decision 2008/615/JHA

- 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 could be provided for.

Based on the responses to the Commission questionnaire, twelve Member States have established practices which facilitate or allow for joint operations to take place.

Most responding Member States reported in the Implementation Roadmap a high level of implementation regarding the rights of officers from other Member States involved in joint operations (operate secure real-time means of communication across borders, wear uniform and carry/use their service weapons, ammunition, and other service equipment, as well as perform identity checks and detain persons who try to avoid this check). While five Member States indicated that they have implemented the provisions of the 2022 Council Recommendation, three Member States stated that they have partially implemented the Recommendation with minor deviations. In this regard, two Member States do not yet allow officers of one of their neighbouring Member States to perform identity checks and/or detain persons who try to evade those checks. One Member State stressed that national legislation does not confer the right to any law enforcement officer to conduct general identity checks or the right to detain a person in this context.

Eleven Member States confirmed that law enforcement authorities involved in joint patrols and other joint operations still face challenges, obstacles, and issues to perform joint operations with neighbouring and non-neighbouring Member States due to practical and legal constraints. One Member State indicated that the most significant problem in organising joint operations is to make available financial resources for the tasks' implementation. Eight Member States indicated, in the Commission questionnaire, that they were still facing practical and technical challenges (such as language barriers, disparities in bilateral agreements, radio communication range and interoperability, data access limitation) linked to the increase in the trafficking of human beings and the human resource commitment required to deal with this issue, and the prevalence of bilateral agreements in geographical areas where there is a potential for the involvement of a third Member State.

Sixteen Member States also reported that the 2022 Council Recommendation did not sufficiently improve operational cooperation with neighbouring and non-neighbouring Member States regarding the planning and execution of joint patrols and other joint operations. Several Member States, however, welcomed the raising of awareness of the potential need for a facility to assist in the planning and execution of these types of operations.

For the Implementation Roadmap, six responding Member States confirmed that they have designated a national point of contact for joint patrols and other joint operations, and one Member State added that there are further support mechanisms available for joint local operations, depending on the scale and nature of the operation.

One of the best practices highlighted in the workshops and in the Implementation Roadmap, is the creation of a joint reserve pool of officers, such as the one currently existing between Germany and France (the UFOA ⁽¹⁷⁾), which can be deployed for large events with a cross-border dimension.

⁽¹⁷⁾ “*Unité opérationnelle franco-allemande*”, a joint unit made up of French gendarmes and German federal police (*Bundespolizei*).

Seventeen Member States saw no need to modify Article 17 and 18 of the Prüm Decision 2008/615/JHA, whereas six Member States expressed a need to further enlarge the scope of these articles. The proposed changes would aim at addressing the legal issues regarding the operational competences of officers operating abroad during joint operations (legal framework for performance of powers and obligations). One Member State proposed to amend Article 17, paragraph 1 to include the possibility of stepping up cross-border cooperation in the field of illegal migration.

In conclusion, building upon the practices established by Member States for joint operations, the responses to the Commission questionnaire, and the Implementation Roadmap have demonstrated a strong willingness among Member States to strengthen and deepen cooperation in this domain. Most Member States that responded to the Implementation Roadmap have implemented the 2022 Commission Recommendation concerning the rights of officers from other Member States involved in joint operations. This readiness to enhance cooperation is particularly significant given the challenges and obstacles that Member States are currently facing in cross-border law enforcement. By deepening collaboration, Member States aim to overcome these barriers through more seamless operational coordination, enhanced mutual trust, and shared use of resources. This includes harmonizing the legal frameworks governing the actions of foreign officers during joint operations, such as the right to carry and use service weapons or exercise coercive measures under specific conditions. Moreover, strengthening cooperation allows Member States to respond more swiftly to emerging threats, mitigate operational risks, and ensure the safety of officers involved in joint operations, while respecting national sovereignty and legal constraints.

2.4. Police and Customs Cooperation Centres

Police and Customs Cooperation Centres are established based on bi- or multilateral agreements in accordance with Article 39(4) of the CISA. At present, around 50 centres exist across the Schengen area (and 59 in Europe).

In practice, Police and Customs Cooperation Centres bring different law enforcement authorities of the participating Member States together in a single physical location (police and usually customs and/or border officers of two, three or even four Member States). This cooperation involves the exchange of information. These centres are among the most visible fixed structures of cross-border law enforcement cooperation and are a significant tool to facilitate the exchange of (a large amount of) information on regional cross-border crimes and to facilitate cooperation amongst law enforcement authorities from neighbouring Member States.

The tasks and responsibilities of Police and Customs Cooperation Centres within the Schengen area are heterogeneous. Some are limited purely to the exchange of operational information supporting the requesting law enforcement agencies and bodies, while others pursue a wider range of tasks. These encompass the support of cross-border hot pursuits or cross-border joint operations, the producing of cross-border regional risk analyses or criminal situation reports, and the support of readmissions. Moreover, some centres offer a help desk regarding document fraud or serve, in general, as a platform or an advice body in cross-border law enforcement matters. Furthermore, national organisation and management structures of these centres differ. For instance, a 24/7 service is not always provided everywhere, sometimes customs are not integrated, and links to the national level/SPOC and/or Europol (via SIENA) are not fully established.

The 2022 Council Recommendation indicates the need to address three strategic and operational goals, namely for Police and Customs Cooperation Centres to:

- facilitate, support and, where relevant, coordinate joint patrols and other joint operations in internal Union border areas;
- contribute to or produce joint analysis of cross-border crimes specific to their internal Union border area and, where appropriate, share such analysis through the national SPOC with relevant national authorities, other Member States and competent Union agencies and bodies;
- support investigations into cross-border crimes occurring in the internal Union border areas.

Replying to the Commission questionnaire, twelve Member States indicated that, following the adoption of the 2022 Council Recommendation, they have taken no actions to implement its provisions regarding Police and Customs Cooperation Centres. In general, the tasks of these centres are limited to an exchange of operational information to support the requesting law enforcement agencies and bodies. Three Member States indicated that their centres participate in the coordination of joint patrols and support other joint operations in border areas, such as hot pursuits.

According to the Implementation Roadmap, however, Police and Customs Cooperation Centres of the seven responding Member States are (to some extent) active in facilitating joint patrols and other joint operations in border areas, in contributing to joint analysis of cross-border crimes and sharing of such analysis through the national SPOC with relevant authorities, as well as in supporting investigations into cross-border crimes. In contrast to the Commission questionnaire, those seven Member States reported to have implemented at least some, albeit not all, aspects of the 2022 Council Recommendation and highlighted several successful local initiatives. The centres in five Member States, for instance, support the facilitation of joint patrols in border areas, while one Member State explicitly stated that these centres do not have a supervisory competence in this domain. Three Member States indicated planned initiatives in the area of expanding analytical capacity and information sharing in one or more of their centres.

Five Member States reported that they operate joint police stations and yet another Member State is currently constructing a joint cross-border police station.

As regards best practices regarding Police and Customs Cooperation Centres discussed during the workshops, the following were highlighted:

- Joint police stations established between neighbouring Member States in border regions to enhance and streamline operational cooperation and support investigations;
- Border Crime Centres hosted by one Member State, where officers from another Member State are deployed several times per week, with the stated goal of enhancing cooperation in gathering criminal intelligence and combatting cross-border organised crime. It has led to better sharing, collection, and analysis of data, and the development of a better situational understanding. The faster exchange of intelligence regarding urgent issues that has been facilitated by the crime centre has also resulted in more qualified threat assessments.

In conclusion, the Implementation Roadmap and Commission questionnaire responses reveal that most responding Member States have been (at least partially) active in

facilitating cross-border operational law enforcement cooperation through Police and Customs Cooperation Centres. The Implementation Roadmap emphasised, in particular, that several Member States have implemented provisions from the 2022 Council Recommendation on these centres. These Member States also outlined plans to further strengthen their centres by enhancing information sharing practices and improving analytical capabilities.

2.5. A support platform for joint patrols and other joint operations

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. Several Member States are already regularly sending their law enforcement personnel to other Member States. However, the lack of funding, administrative burden and technical obstacles that this entails, notably with different rules for deployment in different Member States, some more restrictive than others, makes it difficult for this practice to generalise.

The 2022 Council Recommendation recommends that to simplify the administrative and logistical management of joint patrols and other joint operations, a support platform with pan-European dimension should be set up. Specifically, it recommends that Member States establish 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, namely:

- 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;
- during mass gatherings and major events likely to attract visitors from other Member States such as large sport events or international summits;
- 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).

Moreover, the 2022 Council Recommendation indicates that Member States should (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; and (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.

Most Member States confirmed, in the Commission questionnaire, that following the adoption of the 2022 Council Recommendation, they have taken no actions to implement its provisions relating to the support platform for joint patrols and other joint operations. A large number of Member States stated that joint patrols occur within the scope of existing bilateral agreements and mechanisms set up with neighbouring Member States, and that these existing agreements already address the operational needs of such joint endeavours.

One Member State confirmed that it is in the process of developing an IT-support platform to assist with joint patrols and other joint operations, with another Member State indicating that it is closely following this project. Six Member States expressed interest in having such a platform established at the EU level or are still considering the implementation of a

similar platform. Additionally, the Implementation Roadmap recorded that two Member States are planning to join the aforementioned initiative.

In conclusion, the Commission questionnaire and Implementation Roadmap revealed that the recommendations concerning the establishment of a support platform for joint patrols and other joint operations have found limited resonance among Member States, as most Member States do not believe that the Council Recommendation would improve cooperation in the domain of joint operations and have, as a result, not taken any action to implement the relevant provisions. Although existing bilateral agreements seem to sufficiently address operational needs, one Member State is developing such a support platform, which other Member States are willing to join and contribute to.

2.6. Ensuring effective access to information and communication

Communication and access to available information are critical for successful cross-border operational law enforcement cooperation.

The 2022 Council Recommendation indicates that, to ensure that such access is effective, Member States should guarantee that their law enforcement authorities involved in cross-border operational law enforcement cooperation and acting in the territory of another Member State:

- have secure remote access to their own national databases and to Union and international databases through the European Search Portal (ESP), as permitted under Union law and their national law;
- 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 States concerned;
- ensure secure real-time direct communication across borders either by making use of the technical solutions to be provided by, for instance, Europol, dedicated expert groups or Union funded projects, or by interlinking legacy systems with neighbouring Member States.

Member States' responses to the Commission questionnaire regarding the implementation of these provisions were mixed, with ten confirming that they had indeed taken actions to implement these provisions and ten stating that they had not done so.

There was also a mixed perception regarding the 2022 Council Recommendation's impact on improving effective access to communication, as well as regarding the question about challenges related to such access that are still faced by the Member States.

Hence, most Member States reported in the Implementation Roadmap to have secure remote access to national, EU, and international databases when deployed in other Member States. While one Member State reported to have fully implemented the recommendation to grant a secure remote access to databases, four Member States stated to have different national systems in place that grant secure access to most relevant databases. One Member State indicated that that recommendation is part of its ongoing national IT-development and yet another Member State announced that it will implement queries from mobile devices to Visa Information System (VIS), Entry/Exit System (EES), Schengen Information System (SIS), and European Dactyloscopy (Eurodac) between 2024-2026.

The Implementation Roadmap indicates that most responding Member States are currently unable to use secure real-time means of communications that can operate in the territory of another Member State. Four Member States stated that they rely on non-secure means of communication, out of which one Member State elaborated on the incompatibility of the national radio technology with the means of communication used by neighbouring Member States. Two Member States highlighted, in this regard, the implementation of regional solutions to harmonise communication technologies with neighbouring Member States. Another two Member States indicated a willingness to work towards technological compatibility and secure means of communication in the context of this recommendation.

These responses were mirrored regarding the recommendation to 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. One Member State argued that it would be best to use a common solution developed by Europol (the Virtual Command Post (VCP) Connect). Four Member States supported, in the Commission questionnaire, an update of Article 44 of the CISA, while a vast majority of Member States (sixteen) indicated that they saw no need to update this Article. Reasons given for updating Article 44 of the CISA were that the article quotes outdated technologies and could, instead, endeavour to be technology neutral.

As regards best practices regarding access to information and communication discussed during the workshops, the following were highlighted by Member States:

- existing interoperable communication system (ISI) created between Sweden, Finland and Norway that allows for seamless uninterrupted communication when crossing borders;
- the BroadWay and BroadEU.Net projects ⁽¹⁸⁾, procuring innovation activity to enable a pan-European broadband mobile system for public protection and disaster relief, validated by sustainable test and evaluation capabilities.

Moreover, the Commission is working with Member States to establish the EU Critical Communication System to connect communication networks of law-enforcement, civil protection, and public safety responders in Europe by 2030 to allow for seamless critical communication and operational mobility across the Schengen area ⁽¹⁹⁾.

In conclusion, based on the Commission questionnaire and the Implementation Roadmap, there are diverging levels of implementation regarding the different areas relevant to ensuring an effective access to information and communication. Only about half of the Member States have taken action to implement the 2022 Council Recommendation in this regard and a large majority does not see the necessity to update Article 44 of the CISA. Although most responding Member States stated to have secure access to national, EU, and international databases, most were unable to utilise secure real-time means of communication that are operational on another Member State's territory. Secure (means of) real-time cross-border communication and access to information will, however, be fundamental to the success of cross-border law enforcement cooperation.

⁽¹⁸⁾ <https://www.broadway-info.eu/>.

⁽¹⁹⁾ European Commission White Paper “How to master Europe's digital infrastructure needs?” of 21 February 2024 (COM(2024) 81 final); Political Guidelines for the next European Commission 2024–2029, Ursula von der Leyen, p.15.

2.7. Joint training and professional development

Effective cross-border operational law enforcement cooperation necessitates moving towards a common Union law enforcement culture ⁽²⁰⁾. To this end, exchange programmes between law enforcement cadets on matters relating to cooperation and continuous development courses for law enforcement officers and crime investigators are 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 to reinforce cooperation and drive increasing cross-border operational law enforcement to facilitate and further improve cooperation on, inter alia, cross-border hot pursuits, cross-border surveillance, and joint operations.

The 2022 Council Recommendation recommends that Member States:

- 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;
- 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;
- 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;
- 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;
- 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;
- 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;
- 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 European Union Strategic Training Needs Assessments (EU-STNA);
- 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;

⁽²⁰⁾ Law enforcement culture refers to a set of values, beliefs, behaviours, attitudes, and norms that shape the way law enforcement officers conduct themselves.

- 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.

In response to the Commission questionnaire, fifteen Member States confirmed that, following the adoption of the 2022 Council Recommendation, they have taken actions to implement its provisions relating to joint training and professional development on cross-border operational law enforcement cooperation. Six Member States confirmed that they have not taken any such actions.

Those Member States that replied in the affirmative highlighted the breadth and depth of the joint training sessions that they had been participating in, with seven of these Member States indicating that they had engaged in joint trainings with other Member States, and that there also exist joint training activities and ERASMUS+ cadet exchanges between Member States who do not share internal borders. Several Member States also pointed to existing bilateral and multilateral agreements already incorporate the provisions included in the 2022 Council Recommendation.

According to the Implementation Roadmap, seven Member States that replied reported that, for the most part, their initial training courses already incorporated recommendation regarding law enforcement cooperation. However, these Member States had differing responses to the question on setting up joint initial training courses and exchange programmes. Seven Member States confirmed, within the Implementation Roadmap, that they either already included joint initial training as part of existing police cooperation agreements or have committed do so over the course of the implementation of such agreements and four Member States set out that they engage readily with the existing CEPOL Exchange Programme. Two Member States, however, have not set up or implemented any joint initial training courses.

As regards continuous professional development courses related to cross-border operational law enforcement cooperation, four Member States highlighted the role that the Central European Police Academy (MEPA)⁽²¹⁾ plays in delivering professional development opportunities, whilst three further Member States indicated that they already conduct such joint training activities in cooperation with neighbouring Member States.

Eight of the responding Member States to the Implementation Roadmap also asserted that they already provide language training for officers as part of their national police training programmes. One Member State stated that the current language training by CEPOL, which consists of an online basic English language module, is insufficient. As regards the use of the EU-STNA to guide training portfolios, five of the responding Member States indicated that their national training portfolios are aligned with the EU-STNA.

There were mixed responses to the Commission questionnaire regarding the impact of the 2022 Council Recommendation on improving the provision of training and professional development on cross-border operational law enforcement cooperation to their law enforcement authorities. Eleven Member States responded affirmatively, while another eleven Member States provided a negative response. Those Member States that cited the positive impact highlighted the increased contacts with the law enforcement education authorities of other Member States and improvements in national training programmes as a result of these being adjusted to include the 2022 Council Recommendation clauses. They

(21) <https://www.mepa.net/en/cepa/Pages/introduction.aspx>.

also highlighted the importance of cross-border operational training and raised awareness of the increased need for such training to be made available.

There were also mixed responses amongst Member States about the challenges, obstacles, and issues that their law enforcement authorities which are involved in operational police cooperation still face in receiving appropriate training to perform their tasks. Nine Member States confirmed that this was still the case, whilst eleven Member States indicated that it was not.

As regards the possibility to revise the CEPOL mandate, twelve Member States indicated that they see a need for an amended mandate to be reflected in an amended Regulation ⁽²²⁾, whilst nine Member States did not see any such need.

Those Member States that indicated that there was a need to revise the mandate of CEPOL to be reflected in an amended Regulation did so for various reasons: two Member States indicated that the resources available to CEPOL could be increased; three Member States indicated that the evolving role of CEPOL warrants an amended mandate; and four Member States indicated that the CEPOL strategy 2023-2027 highlights the need to for an amended mandate as the current iteration does not sufficiently reflect this new strategy.

Six responding Member States also confirmed, in the Implementation Roadmap, that they cooperate and communicate with CEPOL, either through their relevant CEPOL National Units (CNU) or through feeding into CEPOL's periodic training needs analyses. Moreover, three Member States asserted that CEPOL would be best suited to implement large-scale and long-term pan-European training programmes. However, two of these Member States highlighted that the funding aspects of CEPOL producing such programmes needs to be taken into consideration. One Member State noted that it already evaluates the long-term impact of staff exchanges, whilst two Member States highlighted their current and ongoing commitments to long-term joint training programs and staff exchanges.

As regards best practices regarding joint training discussed in the workshops, the following were highlighted:

- the use of POLARIS to offer embedded joint training of cadets originating from different Member States ⁽²³⁾;
- specific training programs regarding cross-border operations that Belgium has set up for officers working in the regions bordering France, Luxembourg and the Netherlands (*'traverser les frontières sans encombre'*).

In conclusion, in view of the Commission questionnaire and the Implementation Roadmap, the recommendations related to joint training have, for a majority of Member States, either been acted upon or are already accounted for in their national training programmes. Some Member States indicated a need to amend CEPOL's mandate, with the Implementation Roadmap responses also indicating CEPOL as the appropriate Agency for delivering on

⁽²²⁾ 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, ELI: <http://data.europa.eu/eli/reg/2015/2219/oj>).

⁽²³⁾ In 2017, France set up joint initial training courses between the French Gendarmerie and the Spanish Guardia Civil. This commitment to a common culture has continued with Germany and Lithuania, from 2019, as part of the Erasmus+ project called 'POLARIS' (POLice Academies Regional Integrated Schooling).

the recommendations related to large-scale and long-term training in lieu of the Member States themselves.

3. COLLECTION OF DATA AND COMPILATION OF STATISTICS

To be able to measure the extent to which operational law enforcement cooperation effectively takes place amongst Member States, with what specific cooperation tool, in what geographic area, statistics need to be collected in the Member States and reported. This would allow to better understand the needs of Member States and target support that could be provided to them.

To provide the Member States, the Council, and the Commission with a detailed and accurate quantitative picture of the implementation status of cross-border law enforcement cooperation activities across the Union, the 2022 Council Recommendation advocates for Member States to collect data and compile statistics on an annual basis and report those statistics (in particular on cross-border hot pursuits, joint operations, and a support platform for joint patrols and other joint operations).

In the context of cross-border hot pursuits, only three Member States responding to the Implementation Roadmap confirmed that they have fully implemented the relevant recommendations. Two Member States are examining possibilities and potential challenges for data collection. One Member State has put data collection measures in place and is expecting the first output in 2024. Moreover, one Member State reported that data on cross-border hot pursuits is collected in some, albeit not all, of its federal states. Finally, one Member State stated that, although the 2022 Council Recommendation has been implemented, the data and statistics are intended for the national law enforcement agency's own needs only.

Moreover, the 2022 Council Recommendation recommends Member States to collect data and compile statistics on (i) the number of joint patrols and other joint operations which were carried out, and (ii) the Member States on whose territories the joint patrols/operations were carried out. Four Member States were not able to provide national statistics on joint operations in response to the Commission questionnaire. In the Implementation Roadmap, seven Member States stated that they have or are establishing mechanisms to annually collect relevant data and compile statistics. Two Member States are expecting the first output in 2024, and another two Member States highlighted that although data is being collected, collection and statistical analysis are not centralised and hence do not follow uniform standards. One Member State reported to have partially implemented the provisions.

One Member State reported in the Implementation Roadmap that it has been collecting data since January 2023 to provide the support platform for joint patrols and other joint operations with relevant information. One Member State emphasised that effective bilateral mechanisms are already in place to communicate the nature and needs of such requests.

In conclusion, although Member States, the Council, and the Commission could gain a better understanding of the needs of the Member States and of potential issues that need to be addressed at Union level through the compilation of comprehensive statistics on operational law enforcement cooperation in the Union, the 2022 Council Recommendation in this regard has not been coherently implemented across the Union. Based on the limited Commission questionnaire and Implementation Roadmap responses, Member States continue to exhibit significantly diverging approaches, and limited appetite to collect, compile, and share data and statistics on their operational law enforcement cooperation.

4. CONCLUSIONS

4.1. General observations

The assessment reveals a heterogeneous level of implementation of the 2022 Council Recommendation among Member States, both in terms of individual measures, and in their overall approach.

The tools and rules supporting effective operational law enforcement cooperation have been further developed and strengthened over the last years, with several good practices developed by Member States across parts of the EU, and Member States having expressed their intention to step up their efforts in implementing the 2022 Council Recommendation in several areas. Despite these advancements, the current assessment points to persistent barriers that hinder the effective and uniform implementation of critical measures, particularly in areas such as joint patrols, cross-border surveillance, urgent cross-border intervention such as hot pursuits, and Police and Customs Cooperation Centres. Addressing these measures uniformly across Member States remains needed to achieve the necessary coherence to ensure effective and swift responses to cross-border security challenges.

To ensure the effective implementation of these measures, there is a need for additional resources and specialised training for law enforcement authorities. These resources are essential strategic investments to support the operational capabilities of Member States and to foster a unified approach across the Schengen area, enabling more consistent and efficient cooperation in tackling internal security threats.

The assessment also emphasises the need to align the rules of engagement of the operational law enforcement cooperation toolkit across Member States. While the willingness to cooperate is key to improving operational law enforcement cooperation, it is important to introduce common requirements to establish a coherent framework, while respecting the sovereignty of Member States.

In this context, the assessment has demonstrated a need to intensify efforts in implementing the 2022 Council Recommendation and a willingness among Member States to act, particularly in three priority areas of operational law enforcement cooperation: (i) joint patrols and other joint operations, (ii) urgent cross-border intervention and cross-border surveillance and (iii) Police and Customs Cooperation Centres. The assessment highlights that addressing these areas through open and more harmonised cooperation is essential to effectively respond to shared security challenges across the Union.

4.2. Strengthen joint patrols and other joint operations

Joint patrols and other joint operations, as outlined in point 2.5.c of Commission Recommendation (EU) 2024/268, can be deployed to detect and seize illegal goods (such as drugs, illicit weapons, illicit tobacco products) in vehicles or to identify individuals or groups of individuals who are posing a serious threat to internal security and/or public policy. In internal border areas, where the legal framework governing law enforcement operations varies across Member States, joint patrols and other joint operations can offer the ability to always intervene when needed on both sides of the border to address the threats identified by Member States. The feedback received through the Commission's questionnaire and the Implementation Roadmap reveals a willingness among most Member States to strengthen and deepen cooperation in this domain. The positive trend of increasing cross-border bilateral, multilateral, and regional operational law enforcement

cooperation was also emphasised in the Report on the situation at the internal borders, set out in Annex 3 to the 2024 State of Schengen report ⁽²⁴⁾. Nonetheless, fewer than half of the Member States have established frameworks that facilitate or permit joint operations, underscoring the potential for enhancing the operational effectiveness of such joint operations.

Moreover, certain Member States reported ongoing obstacles to performing joint patrols and other joint operations with neighbouring and non-neighbouring Member States, citing practical, technical, financial, and legal constraints. Additional efforts at the EU level to address these challenges would significantly contribute to enhancing cooperation among Member States in joint patrols and other joint operations and therefore on combatting crime throughout the Union.

To take operational law enforcement cooperation to the next level, consideration could be given to empowering joint patrols and mixed brigades, carried out by the law enforcement authorities of Member States, to operate across defined areas, determined on the basis of a comprehensive risk assessment. This would require Member States to ensure that all necessary legal, technical, and operational means are made available to facilitate these operations.

4.3. Facilitating cross-border operational actions

Complementary to joint patrols and other joint operations, cross-border surveillance and urgent cross-border intervention are essential for ensuring a swift and targeted response to internal security threats. The assessment of the implementation of the 2022 Council Recommendation highlights inconsistencies across the Union regarding urgent cross-border intervention and cross-border surveillance.

Regarding urgent cross-border intervention such as hot pursuits, fewer than half of the Member States have reported taking actions to implement the 2022 Council Recommendation. The current framework is characterised by a patchwork of rules set out in bilateral agreements. Furthermore, the limited executive powers of law enforcement officers in other Member States represent a recurring barrier. Only some Member States have lifted geographical and temporal limitations and extended the scope of urgent cross-border intervention to all criminal offences listed in the Annex to the 2022 Council Recommendation.

Regarding cross-border surveillance, most Member States have not taken any action to implement the 2022 Council Recommendation. Almost half of the Member States have reported challenges to perform cross-border surveillance. In addition, Member States indicated a need for harmonising the authorisation process, as conditions and approval procedures for cross-border surveillance continue to differ between Member States, creating high practical barriers to implementation. Moreover, the Implementation Roadmap revealed a lack of convergence on regulating the carrying and use of necessary equipment and technology, as well as the list of criminal offences allowing for cross-border surveillance operations.

Addressing the fragmented landscape of divergent rules and practices on urgent cross-border intervention and cross-border surveillance requires making all necessary legal,

⁽²⁴⁾ Annex 3 of the State of Schengen report 2024, COM(2024) 173 final. https://eur-lex.europa.eu/resource.html?uri=cellar:bbfa9499-fc87-11ee-a251-01aa75ed71a1.0001.02/DOC_4&format=PDF

technical, and operational means available to unlock the full potential of these measures across the Union.

4.4. Reinforcing the Police and Customs Cooperation Centres

The assessment highlights significant disparities in the structure, scope and competences of Police and Customs Cooperation Centres across the Union, highlighting the need for a more harmonised, yet tailored, approach. Notably, the composition of these centres varies between Member States: in some cases, only guards are represented, and customs representatives are not always included. In addition, not all centres are involved in or actively supporting operational law enforcement cooperation, which limits their effectiveness in fully addressing cross-border security needs. Through the Implementation Roadmap, several Member States have indicated their intention to enhance the information sharing and analytical capabilities of one or more centres, recognising the need for strengthened interagency cooperation.

Police and Customs Cooperation Centres could play a strengthened role in supporting operational law enforcement cooperation, particularly in safeguarding internal border areas. These centres could become information exchange hubs, sharing information and patterns regarding, for instance, unauthorised movement with other concerned Member States and relevant EU Agencies, particularly Europol. Additionally, these centres could further support and coordinate joint investigations of identified high-risk criminal individuals, groups, or networks, and contribute to joint risk analyses to determine appropriate measures to respond to serious threats to public policy and internal security.

A more integrated approach, with comprehensive representation from police, border guard, and customs authorities would better equip Police and Customs Cooperation Centres to respond to cross-border threats effectively. This approach would also allow these centres to address specific local conditions and needs while enhancing EU-wide coordination in tackling complex, cross-border security challenges.

4.5. Final conclusions

The effective implementation of the 2022 Council Recommendation, alongside the replication of identified best practices across the whole EU, has the potential to establish a flexible, operational, toolbox of operational cooperation measures that Member States can implement jointly to reinforce cross-border cooperation in the fight against international crime. This toolbox would enable police, customs, and border guard authorities to join forces across-borders and address common security challenges without unnecessary legal, technical, and operational obstacles. By enhancing operational cooperation, Member States could ensure a more resource-efficient, effective, and targeted way to tackle cross-border security threats.

Despite efforts already undertaken by Member States, the present assessment shows that not all recommendations contained in the 2022 Council Recommendation have been implemented by all Member States. Persistent legal, technical, and operational challenges highlight the limits of the current non-binding recommendations. Addressing these challenges would require police, customs, and border guard authorities to work together at both national and EU levels, leveraging advanced technology and shared standards to strengthen their collective response to the security challenges facing the EU. To further strengthen joint operational capability, police, customs, and border guards could participate in joint training and capacity-building programs to foster the use of

interoperable technologies, standardised procedures, and joint protocols. Such programs would ensure that all personnel, whether in regional or EU-wide operations, are fully equipped to work together seamlessly to address cross-border threats.

Addressing these challenges by strengthening operational law enforcement cooperation would significantly reduce reliance on static internal border controls, limiting their reintroduction to circumstances involving exceptional serious threats to internal security or public policy, thereby ensuring that systematic checks on persons are used only when absolutely necessary and for a limited period of time. Strengthened cooperation would ensure that border controls remain a truly last-resort measure, while maintaining the integrity and openness of the Schengen area.