



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 5 November 2010

15875/10

LIMITE

**GENVAL 19
ENFOPOL 314**

NOTE

from:	Presidency
to:	CATS/Coreper/Council
prev.doc.:	14277/1/10 REV 1 GENVAL 12 ENFOPOL 270
Subject:	Draft Council Conclusions on the fight against crimes committed by mobile (itinerant) criminal groups

Delegations find attached the draft Council Conclusions on the fight against crimes committed by mobile (itinerant) criminal groups, revised following the GENVAL meetings of 13 October and 4 November 2010.

CATS is invited to approve this document so that it can be transmitted to Coreper/Council.

**Conclusions of the Council
of ... 2010
on the fight against crimes committed by mobile (itinerant) criminal groups**

THE COUNCIL OF THE EUROPEAN UNION,

AWARE that the principle of free movement of persons not only offers opportunities to citizens acting in good faith, but may also be used by (...) offenders for unlawful purposes, noting at the same time that restrictions to this freedom must be well justified and proportionate .

RECALLING that according to the Stockholm programme¹ focus should be placed on cross-border wide-spread crime that has a significant impact on the daily life of the citizens of the EU. The Stockholm program also calls for more effective crime prevention, by using a multidisciplinary approach which also includes taking administrative measures;

RECALLING that the Stockholm programme also stresses the need to continue the work on mutual recognition and to implement the legal instruments which have already been adopted;

REFERRING to the Internal Security Strategy, which identifies cross-border crime as a significant common threat for the European Union's internal security;

REFERRING to the Council conclusions of 28 November 2008 on combating the criminal misuse and anonymous use of electronic communications²;

¹ OJ C 115, 4.5.2010.

² FR suggestion.

BEARING IN MIND that the Ministers of the Interior, during their informal meeting on 15 July 2010 discussed on the need to obtain a comprehensive picture of the problem, to develop a common definition, to improve the exchange of information and of best practices and to coordinate administrative measures;

NOTING the results of the Expert Meeting on itinerant criminal groups, held in Brussels, on 20-21 September 2010;

RECOGNIZING the importance of the integrated and multidisciplinary approach in order to have an impact on criminal phenomena, especially criminality against goods;

CONSCIOUS of the differences between Member States in relation to the police, administrative and judicial approach;

CONSIDERING that experience has shown that mobile (itinerant) criminal groups are mainly active in the following property crime phenomena: burglaries in houses with or without violence, skimming, organized shoplifting, organized pick-pocketing, burglaries in businesses, cargo thefts, metal thefts and thefts on construction sites and of heavy equipment, theft by trickery.

RECOGNIZING that almost all Member States are affected by this type of crime and that, therefore, it deserves a special attention at both national and European level;

RECOGNIZING that there is a need to take common action at European level and therefore a common description or definition of mobile (itinerant) criminal groups is needed;

AWARE that the Council Framework Decision 2008/841/JHA of 28 October 2008 on the fight against organised crime provides for a general, legal definition of the concepts of “criminal organisation” and “structured association”;³

RECOGNIZING the need for a structured and detailed EU image of the situation;

³ OJ L 300, 11.11.2008, p. 42.

STRESSING the need for a multidisciplinary approach to tackle this type of crime, involving police, judicial and administrative authorities;

CONVINCED of the need to develop a common vision and strategy;

AWARE of possible links with the problem of trafficking in human beings, especially involving minors that are recruited to commit property crimes. In this respect, protection of and assistance to victims need to be addressed.

CONCLUDES THAT IT IS NECESSARY TO TAKE ACTION AGAINST CRIMES COMMITTED BY MOBILE (ITINERANT) CRIMINAL GROUPS AND TO THAT END INVITES THE MEMBER STATES TO

1. Define the scope of the problem as follows: “A mobile (itinerant) criminal group is an association of offenders, who systematically acquire wealth through theft of property or fraud⁴, having a wide ranging area of operations and are internationally active.”

It is recognised that both adults and children can be exploited to commit these crimes.

2. Participate actively in the High Level Meetings on Property Crime, which are organised on a yearly basis by Europol.

⁴ E.g. theft, residential and non-residential burglaries, organised shoplifting, pick-pocketing, cargo thefts, metal thefts, thefts on construction sites and ATM fraud (skimming).

3. Develop an administrative approach in order to tackle crime, as a complement to prevention, police and judicial work, for example:

- developing administrative measures to close premises serving as meeting and fencing places, framed within a coherent action plan
- discouraging these mobile (itinerant) groups' criminal activities by considering national legislation imposing the registration of certain transactions (like for example, the recycling of used metals in order to prevent theft of metals)
- encouraging the registration and marking of precious objects which are being acquired or sold, and thus making it possible to return stolen goods to the official owner.

4. Encourage the police and judicial investigations with an international dimension and give a special interest to cross border financial investigations, in particular regarding money laundering and the handling of stolen goods. These kinds of investigations should be possible even without a direct link to the underlying offence, in accordance with national law.

5. Make full use of the existing European instruments and tools for the exchange of information on a strategic, tactical and operational level.

6. Encourage international cooperation on judicial level by implementing and using the existing EU legal framework, especially the Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders and the Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.

7. Improve bilateral or multilateral cooperation with third States, inter alia by concluding MoU's or treaties where necessary, particularly in the domain of transfer of the sentence.

8. Increase efforts in cooperation with the private sector (public private partnership), non governmental organisations and local communities, aimed at heightening awareness and reporting of threats arising in their surroundings.

INVITES THE MEMBER STATES, EUROJUST AND EUROPOL TO

1. Elaborate a security picture/image, when appropriate, about the phenomenon of mobile (itinerant) criminal groups, on the basis of which further operational action should be considered.
2. Consider establishing, where appropriate, Joint Investigations Teams (JIT) on the criminal activities perpetrated by mobile (itinerant) groups, with the support of Europol and Eurojust.
3. Explore possibilities to enhance cooperation and effectiveness in the fight against this criminal phenomenon.

CALLS UPON EUROPOL TO

1. Continue the ongoing process of preparing a Situation Report on the topic of mobile (itinerant) crime and to draft, based on the findings of this Report, a Threat Notice on the most important new or emerging threats.
2. Continue to organise a yearly High Level Meeting on Property Crime, dealing, amongst other issues, with crimes committed by mobile (itinerant) criminal groups.
3. Contribute to a Member States' led initiative, to produce and disseminate an European Operational Handbook on property crime listing, for example, the modus operandi of the criminals, rules regarding control operations and innovative practices used in controls and investigations.
4. Look into the possibility to integrate the relevant experts in the Europol Platform of Experts.
5. Examine the possibility of focusing an operational crime intelligence analysis project on this subject within the context of existing AWFs.

CALLS UPON THE MEMBER STATES AND THE EUROPEAN COMMISSION TO

Stimulate and facilitate an informal network of contact points, competent in the field of administrative measures to tackle the phenomenon of mobile (itinerant) groups and where necessary also other relevant crime areas, taking into account national needs and particular circumstances, and to nominate, when appropriate,⁵ at least one contact point. Other partners (like private partners and third countries) may be invited by the informal network.

This informal network is requested inter alia:

- to promote the concept of administrative measures;
- to assess possibilities to strengthen the exchange of (...) information between administrative bodies and traditional law enforcement organisations of EU Member States, making use of existing instruments for international exchange of information and limitations stemming from national legislation⁶;
- to encourage sharing of best-practices;
- to propose new initiatives in developing administrative measures;
- to report, via the Presidency of the Council, on the conclusions of the meeting to the competent Council working party; and
- to meet at least every 6 months.

CALLS UPON THE EUROPEAN COMMISSION TO

1. Propose, when appropriate, additional measures within the framework of the Communication on a European Strategy for financial investigation and financial and criminal analysis as foreseen by the Stockholm Action Plan.

2. Take into account, when considering the feasibility of setting up an Internal Security Fund to promote the implementation of the Internal Security Strategy, the operational need for maximal flexibility and swiftness for the establishment of Joint Investigation Teams (JIT).

⁵ DE suggestion.

⁶ NL suggestion.