

Swedish non-paper – Ensuring SecEUrity

Sweden welcomes the commitment of the new Commission to focus on ensuring security in every sense. Policy initiatives for the coming five years should be guided by the perspective of victims and society's legitimate interest in the protection against crime and the internal security perspective needs to be better reflected as a horizontal priority for the incoming commission. Such "whole of government approach" require the full involvement of at least both the justice and home affairs sectors.

Sweden proposes that policy proposals, including the New Internal Security Strategy includes the following elements:

- Going dark –Access to digital data
- Prevent money laundering and Follow the money
- Making the most of JHA-agencies operational support
- Intensified efforts to combat violent extremism and terrorism
- Joined-up approach to address security threats
- Creating adequate institutional working methods

The Challenge

The situation is well known; **organised crime is on the rise in several EU Member States**. Substantial profits from drug trafficking and other illegal activities enable organised criminal groups to reinvest in new illegal activities and into the legal economy. Criminal assets are hidden both within the EU and abroad, and criminal leaders frequently operate from other countries, also outside the EU. Crime and criminals alike regularly cross both external and internal borders. In some cases, **organised criminal groups take aim at public institutions** and civil society organisations threatening our open societies based on trust and democratic values. Organised crime groups use their financial resources to corrupt our society and infiltrates our legal economies. Law enforcement cannot alone deal with the situation.

The **threat of terrorist attacks** also remains high and has become increasingly complex and difficult to combat. There are individuals in Europe guided by extremist ideals who are prepared to instigate or commit acts of terrorism, to hurt and kill civilians and create chaos in our societies. Digital platforms contribute to the ability to rapidly disseminate violent messages and terrorist content online. Constructives dialogues are much needed.

In addition, the threat from state actors engaging in hostile acts intended at destabilising our open societies must be taken into consideration. Wars and armed conflicts in other countries must be seen in the light of an increasingly complex global context in which authoritarian states are trying to reformulate international norms. **State actors** are engaging in hostile operations, from disinformation campaigns to contracting for murders, intended at destabilising our open societies. There are clear signs that **organised crime, state actors and violent extremism and terrorism have become more interlinked**, which clearly affects the internal security negatively. There are examples of state actors using organised crime structures to carry out violent attacks on different targets in the EU. Swift and strong actions are needed to reverse this trend, also at the EU level.

Digitalisation of our societies, and the creation of a cybersecure environment, makes us a strong global player with prosperous economies. We should value the benefits it creates for our open societies. However, digital tools are also increasingly used to support organised crime and terrorism. Cybercrimes range from ransomware attacks on public institutions to child sexual abuse and on-line frauds. Online platforms and encrypted OTT-services, including via gaming platforms, are abused for distribution of drugs and recruitment of minors into criminality. Measures from the industry to protect the legitimate interest of fundamental rights such as the right to privacy, combined with tools exclusively designed for criminals to avoid detection, **risk creating digital safe havens for criminality**. We need to find a new equilibrium in balancing legitimate privacy demands and protection against crime.

Societal security and personal safety are at the top of citizens' priorities and should be at the top of policy makers' agendas. The EU has managed to agree on several important initiatives over the last years. Nevertheless, proposals aiming at a more efficient fight against organised crime, violent extremism and terrorism are too often watered down during the legislative process, thus failing to add any value on EU level. The current political discourse contributes to maintaining an imbalance between different legitimate interests, such as the protection of privacy on the one hand, and the need of access to data for law enforcement purposes on the other. The law enforcement and victims' rights perspective should to a higher degree than today be included the EU policy making process. **This should be the case also in initiatives outside the Justice and Home Affairs area**. Security is not in opposition to fundamental rights. On the contrary, the right to safety and security are extremely fundamental to our citizens.

Proposals for the upcoming inter-institutional cycle

The EU should aim for a “**whole of government approach**” using all the instruments in the toolbox available to ensure our security and protect democracies. It is imperative that internal security is integrated as a horizontal commitment, fully involving at least both the justice and home affairs sectors. It is vital that the new European Internal Security Strategy that will be launched during next year is designed to be a joint commitment between EU policy-making institutions. We suggest that initiatives from the Commission, including the Internal Security Strategy, include the following elements:

Going dark – Access to digital data

EU action on lawful access to data lags behind technological development. We need to provide law enforcement with adequate and up-to-date tools for lawful access to digital information. For this reason, the *High-Level Group on Access to Data for effective law enforcement* (HLG) was launched during the Swedish Presidency. The incoming Commission should undertake efforts to **improve law enforcement's tools for access to data** based on the recommendations presented by the HLG June 2024, in particular:

- **legislative recommendations**, (lawful access to digital data),
- **cooperation with the industry** (with a common strong EU voice promote both lawful access-to-data-by-design and combating on-line criminality such as drug-trade and recruitment of minors), **including exploring better reporting or stricter enforcement of agreed measures.**
- **capacity building** (such as strengthening the role of Europol in gathering and sharing best practices on forensic science).

In particular regarding data retention, it is necessary to explore new avenues towards an EU-approach that corresponds to the criminal threats and law enforcement needs. A possible harmonised EU-regime on data retention should only be considered if it brings added value for law enforcement and the rule of law.

Prevent money laundering and Follow the money

Today members of criminal groups can have prosperous lives using assets gained from cross-border criminal activity, such as trafficking of drugs, weapons and human beings. We need to step up measures at EU level to **prevent and disrupt the flow of illicit profits across borders** by ensuring that:

- the Directive on asset recovery and confiscation, including rules on confiscation of unexplained wealth, is fully implemented,
- a common and clear strategy is identified to address all possibilities to make use of criminal proceeds within the EU.
- all national confiscation orders are fully enforceable between Member States. It must be ensured that the Regulation on the mutual recognition of freezing orders and confiscation orders is applicable also to decisions on confiscation of unexplained wealth. In this context, it needs to be considered that some Member States have introduced or will introduce more far-reaching regulations on confiscation of unexplained wealth than prescribed by the Directive on asset recovery and confiscation.

- measures linked to investigations about confiscation of unexplained wealth are covered by a European Investigation Order, e.g. through reviewing the Directive regarding the European Investigative Order in criminal matters.
- cooperation between the EU and third countries includes the objective to stop flows of criminal proceeds to third countries for consumption or investments. It should be explored how the role of Europol and Eurojust can be strengthened in this context.

Making the most of JHA-agencies operational support

Law enforcement and judicial authorities across the EU have benefitted significantly from information-sharing and new working methods developed by Europol and Eurojust. They are crucial actors in ensuring that all relevant law enforcement authorities are fully operational, coordinated and efficient.

As criminal organisations and criminal activities today extend beyond the EU, the role of Europol and Eurojust in supporting Member States', law enforcement and judicial cooperation with third countries becomes more important. To make full use of their potential, we must **ensure that Europol and Eurojust are given the means to work effectively and efficiently to fulfil their respective tasks**. Given that border control is a tool not only to manage migration, but also to fight crossborder crime, we furthermore need to make sure that Frontex' activities are not duplicating, but complementing the efforts of other JHA agencies.

The added value of these agencies should be maximized. We propose that **Europol is strengthened** by:

- further development of new and cutting edge working methods and centers of excellence for the benefit of all national authorities and,
- enhancing their role as information-hub and facilitator for Member States' common EU-actions against cross-border criminal threats.

To gain full effect of these measures, it is paramount that also Eurojust is allowed to continue to optimise its complex forms of assistance and coordination mechanisms, including support to joint investigation teams and facilitation of Member States' ability to cooperate effectively with third countries. To do so requires **adequate resources, less administrative burdens and a continued focus on strengthening the operational work**.

Intensified efforts to combat violent extremism and terrorism

Violent extremism environments change constantly and are fuelled by political events and societal crises, both domestically and internationally. **More preventive measures** are needed to reduce polarisation, radicalisation and recruitment and the online dimension must be integrated into the work. Opportunities for perpetrators to commit attacks should be reduced, taking into account the rapid technological development. Efforts to share best practices through networks and mechanisms should be further encouraged.

Joined-up approach to address security threats

The EU needs to be vigilant about the threats from state actors engaging in hostile acts intended at destabilising our open societies. We must make full use of all available instruments, including external ones. With full respect for the institutional framework and national competence, our **efforts to strengthen internal security should be more joined-up with EU external tools** such as cooperation with partners and include also diplomatic and restrictive measures.

Creating adequate institutional working methods

A perceived trade-off between the right to personal safety versus right to privacy has too often torn EU institutions and co-legislators apart and has seriously hampered the EU's ability to tackle cross border organised crime. This risk eroding trust in EU as a dynamic actor in this field and must be addressed.

We therefore suggest that the co-legislators together take the responsibility to implement the new internal security strategy. A **joint roadmap should be drawn up by the institutions**, engaging the relevant Commissioners, the rotating EU Presidencies of the Council and the relevant rapporteurs and dedicated Members of the European Parliament. The roadmap leading up to the agreement on the European Pact on Migration and Asylum has shown how the different institutions can work better together over time and towards clear objectives, even on the most contentious and sensitive files.