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THE ROLE OF COSI IN THE EUROPEAN UNION'S INTERNAL SECURITY AREA: THE INITIAL YEARS OF ACTIVITY

Internal security is one of the most complicated areas of European integration. On one hand, it is a jealously guarded domain of a member state's sovereignty; on the other hand, many threats have a pan-European or global character, and thereby need a common approach and co-ordinated actions. At the outset, integration in the internal security area was very slow and had a specific character. Member states tried to preserve their competences, but new challenges and crises forced them to increase cooperation in this field. The last important step of this process was the Lisbon Treaty, which abolished the 3-pillar structure of the European Union and made cooperation in the internal security area more supranational. However, the Area of Freedom, Security and Justice (AFSJ) – formerly the Justice and Home Affairs area (JHA) – has enabled so-called shared competences that enable member states to influence EU internal security policy. Notwithstanding, the last few years have brought to Europe a new wave of threats, especially with regard to the refugee crisis and terrorist attacks in Paris and Brussels. New resolutions from the Lisbon Treaty are confronted with an unprecedented intensification of threats, which gives member states and EU institutions and bodies the occasion to examine existing security solutions. The main goal of this paper will be to explore one of the new "Lisbon" bodies from the EU internal security area – the Standing Committee on Operational Cooperation on Internal Security (COSI), especially the functional and legal dimension of this committee, and its effectiveness. Events of recent years have created many occasions to use COSI to improve the cooperation between member states' agencies and those of the EU in the internal security area, and have given also occasion to use a new solidarity clause from Article 222 of the Treaty on the Functioning of the European Union (TFEU). This paper will show how COSI was used for Europe's crises, and roles that the committee had assumed, between 1st January 2010 and 30th December 2015. Official EU documents and legal acts will be the main sources for the paper, and analysis from EU security scholars will also be

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useful in painting a more complete picture of COSI. Literature and web materials on EU internal security will also prove useful in the analysis.

Basic information

The Standing Committee on Operational Cooperation on Internal Security (known by its acronym COSI) is a new committee in the EU security framework. It has been established in the Lisbon Treaty, but the concept had been formally introduced in 2004 in article III-261 of the Treaty establishing a Constitution for Europe². Article 71 of the TFEU states³ that “a standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union”⁴. An instance of that regulation has been established in the Council decision of 25 February 2010 on setting up the Standing Committee on Operational Cooperation on Internal Security (2010/131/EU)⁵. By establishing COSI, the treaty substantially strengthened and formalized operational cooperation on internal security issues within the EU⁶. Before the Lisbon treaty, operational coordination had not been the exclusive domain of Justice and Home Affairs (JHA) agencies. In fact, until 2010, the Council and its secretariat had played an important executive role⁷; it had served a forum for operational cooperation between member states’ law enforcement entities, occasionally taking on a coordinating role itself in the absence of powers in this regard for the European Commission⁸. The Working Group on the Area of Freedom, Security and Justice had, in its final report for Constitutional Convention, proposed a fusing of the various Council working groups dealing with internal security and redefining the mission of the “Article 36 Committee” involved in the Council’s legislative work, to the coordinating operational cooperation⁹. COSI has been an

² “Treaty establishing a Constitution for Europe”, retrieved 22.07.2016, http://europa.eu/eu-law/decision-making/treaties/pdf/treaty_establishing_a_constitution_for_europe_en.pdf.

³ It is almost literally a repetition from the article III-261 of the Treaty establishing a Constitution for Europe.

⁴ Treaty on the Functioning of the European Union, O.J. 2012 C, no. 326/47.

⁵ Council Decision of 25 February 2010 on setting up the Standing Committee on operational cooperation on internal security (2010/131/EU), O.J. 2010 L, no. 52/50.

⁶ Ursula C. Schroeder, *The Organization of European Security Governance. Internal and external security in transition* (London–New York: Routledge, 2011), 70.

⁷ Jorrit Rijpma, “Institutions and Agencies: Government and Governance after Lisbon”, in *EU Security and Justice Law. After Lisbon and Stockholm*, eds. Diego Acosta Arcarazo, Cian C. Murphy (Oxford–Portland: Hart Publishing, 2014), 69.

⁸ Deirdre Curtin, *Executive Power of the European Union: Law, Practices and the Living Constitution* (Oxford: Oxford University Press, 2009), 129.

⁹ Chairman of Working Group X “Freedom, Security and Justice”, “Final Report of Working Group X »Freedom, Security and Justice«, CONV 426/02, WG X 14, (Brussels: 2002), 16, retrieved 23.07.2016, <http://www.statewatch.org/news/2003/apr/wpX.pdf>.

answer for those suggestions¹⁰. Amandine Scherrer et al., argue that establishing COSI was the catalyst for “the main transformation experienced within the Council in the field of internal security, following the entry into force of the Lisbon Treaty”¹¹.

COSI’s members are bureaucrats from European capitals, that have support from Brussels for its work. It is comprised of high-level officials from each member state’s interior ministry or ministry of justice, and representatives of the European Commission and European External Action Services (EEAS)¹². The number of national delegates varies, because the governments can send delegates depending on the expertise needed for specific COSI meetings. However, the number of delegates is limited in order to ensure the efficiency of the committee’s work¹³. In practice, especially at the beginning, there was an imbalance in the representation of member states, not only in rank, but also in background (i.e. senior law-enforcement, ministry representatives from member states, director-level officials of security agencies, policy generalist, and even Brussels-based personnel)¹⁴.

At the outset, the chair of COSI changed every six months in line with the rotating EU Presidency. However, it soon became obvious that COSI would benefit from less frequent changes in its chairmanship. It was not created to be a political body, there was no conceivable logical connection between the nationality of the person best qualified to chair committee and the identity of the member state holding the presidency¹⁵. At some point between its founding and the present, COSI switched to having “an elected chair” chosen through unclear means¹⁶. A committee’s secretariat is provided by the Commission, and that is the Brussels-based support. Sometimes, when necessary, representatives of Europol, Eurojust, Frontex, CEPOL and other relevant EU bodies may be invited as observers¹⁷. However, Europol and Frontex in particular have been the main interlocutors of COSI, second to CEPOL

¹⁰ Rijpma, *Institutions*, 69.

¹¹ Amandine Scherrer et al., *Developing an EU Internal Security Strategy, fighting terrorism and organised crime* (Brussels: European Parliament, 2011), 38, retrieved 21.07.2016, <http://www.europarl.europa.eu/document/activities/cont/201206/20120627ATT47777/20120627ATT47777EN.pdf>.

¹² Council of the European Union, “Standing Committee on Operational Cooperation on Internal Security (COSI)”, retrieved 21.07.2016, <http://www.consilium.europa.eu/en/council-eu/preparatory-bodies/standing-committee-operational-cooperation-internal-security/>.

¹³ General Secretariat of the Council, “The Lisbon Treaty’s impact on the Justice and Home Affairs (JHA) Council: More co-decision and new working structures” (Brussels: 2009), 4, retrieved 21.07.2016, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/111615.pdf.

¹⁴ Rijpma, *Institutions*, 70; Madalina Busuioc, Deirdre Curtin, *The EU Internal Security Strategy. The EU Policy Cycle and the Role of (AFJS) Agencies: Promises, Perils and Pre-requisites* (Brussels: European Parliament, 2011), 11, retrieved 22.07.2016, http://www.europarl.europa.eu/meetdocs/2009_2014/documents/libe/dv/01_study_eu_iss_/01_study_eu_iss_en.pdf.

¹⁵ House of Lords, European Union Committee, “The EU Internal Security Strategy. Report” (London: Authority of the House of Lords, 2011), 55–56, retrieved 14.07.2016, <http://www.publications.parliament.uk/pa/ld201012/ldselect/lducom/149/149.pdf>.

¹⁶ EU Monitor, “Standing Committee on Operational Cooperation on Internal Security (COSI)”, retrieved 24.07.2016, <https://www.eumonitor.eu/9353000/1/j9vvik7mlc3gyxp/viddhzs7insf>.

¹⁷ Council of the European Union, *Standing*.

and Eurojust. The aforementioned bodies play important role in another EU entity – COSI Support Group. Preparation of COSI meetings, and implementing projects and operations initialised by COSI, are the most important aims of this support group. Justice agencies such as the EU Agency for Fundamental Rights (FRA) or European Data Protection Supervisor (EDPS) do not seem to be included in the committee’s work on a regular basis¹⁸.

Summarily, the creation of COSI was intended to avoid duplication and unnecessary overlap between the numerous Council working groups and to ensure more effective coordination between different EU agencies. At the beginning, there was concern that establishment of COSI would simply add a new layer to an already crowded network. That concern is still relevant because a plethora of other Council entities still exist, and the rationalisation that was foreseen before its creation has yet to be achieved¹⁹. However, the establishment of COSI has led to a number of changes in the Council’s working structures in the area of internal security, which in turn have deprived the Council of its central place in decision-making²⁰. However, the committee has not yet taken that central place, partly because of the short period of time after COSI’s establishment, and partly because of the reluctance of member states.

Tasks and duties of COSI

COSI is a crucial product of changing EU working groups concerning matters of Justice and Home Affairs conducted by the Lisbon Treaty²¹. The overall intention had been to streamline the Council’s policy-making in the area JHA by creating a central Council body. However, the process of setting up COSI and its performance in its initial years have shown that it is unlikely to improve the transparency of the EU’s field of internal security. Public information about COSI’s composition and its work was nearly non-existent²².

First of all, it is important to describe limitations of COSI’s activities, which are defined in article 4 of the Decision 2010/131/EU. The Decision states that COSI shall not be involved in conducting operations that are still the task of the member states. The other limitation is an exclusion from the process of preparing legislative acts. Overall, it remains doubtful how COSI, which is likely to occupy a central role in the EU’s policy on internal security, will manage to fulfil all its duties without having a clear legislative or operational role (as explicitly excluded in COSI

¹⁸ Rijpma, *Institutions*, 70.

¹⁹ House of Lords, European Union Committee, *The EU*, 54.

²⁰ Scherrer et al., *Developing*, 40.

²¹ Claudia Hillebrand, “COSI & the EU’ internal security strategy”, *Europa on the Strand* (2010), retrieved 25.07.2016, <http://europeonthestrand.ideason europe.eu/2010/08/10/cosi-the-eu%E2%80%99s-internal-security-strategy/>.

²² Ibidem.

Decision 2010/131/EU)²³ – this being especially important because it theoretically divests COSI’s opportunity to influence legal acts from the inner security area. In practice, however, the opposite is true; the General Secretariat of the Council states that COSI is “responsible for evaluating the general direction and efficiency of operational cooperation with the goal to identify possible shortcomings and adopt recommendations to address them” (i.a. Council)²⁴. If COSI takes this role seriously, it will not only have an effect on the Council’s policy priorities in this area, but also on national policing policies. That means it will have at least an indirect impact on legislation in matters of internal security²⁵.

COSI has a broad mandate to foster and facilitate the EU-wide coordination of member states’ operational activeness in the field of internal security. Ursula Schroeder underlines that while the scope of COSI activity seems to have been left deliberately vague, the committee has possibility to expand its tasks and mandates at a later stage²⁶. Although COSI still should establish itself as a strong player in the European area, member states’ governments generally think that committee “should be ambitious and produce concrete and tangible results”²⁷.

In Article 71 of the Treaty on the Functioning of the European Union, it is provided that COSI should “ensure that operational cooperation on security is promoted and strengthened within the Union”²⁸. But it is unclear what “operational cooperation on internal security” exactly means. A Council press release concerning the committee describes that its “coordination role will concern, among other things, police and customs cooperation, external border protection and judicial cooperation in criminal matters relevant to operational cooperation in the field of internal security”²⁹. The second provision from the Article facilitates “coordination of action of member state’ competent authorities”. Claudia Hillebrand argues that such a weakly defined field of activity gives COSI much freedom to identify areas of action. However, the main problem is that it is hard to improve, strengthen and streamline cooperation in such an undefined area³⁰.

Other provisions are established in article 222.3 of TFEU. The “solidarity clause” is established in this article, which means that the EU and member states “shall act jointly in a spirit of solidarity if member state is the object of terrorist attack or victim of natural or man-made disaster”. The task for COSI is to assist the Council for the purpose of that solidarity clause with the support of the structures

²³ Ibidem.

²⁴ General Secretariat of the Council, *The Lisbon*.

²⁵ Hillebrand, *COSI*.

²⁶ Schroeder, *The Organization*, 70.

²⁷ Ibidem.

²⁸ Treaty on the Functioning of the European Union, O.J. 2012 C, no. 326/47.

²⁹ Council of the European Union, *Press release 2998th Council meeting Justice and Home Affairs*, 6855/2/10 REV 2 (Presse 42), Brussels, 25-26.02.2010, retrieved 22.7.2016, http://europa.eu/rapid/press-release_PRES-10-42_en.htm?locale=en.

³⁰ Hillebrand, *COSI*.

developed in the context of security policy. An obligation to assist the Council in the solidarity clause area is repeated in the article 3.3 of Decision 2010/131/EU. Further in regard to this article, COSI with the Political and Security Committee shall, if necessary, submit to the Council joint opinions. However, the role of COSI is limited because the decision that is to implement the solidarity clause gives a leading role to the European External Action Service (EEAS)³¹.

Other tasks are stated in article 3 of the Decision 2010/131/EU. COSI “shall facilitate and ensure effective operational cooperation and coordination in an area of freedom, security and justice, including areas covered by police and customs cooperation and by authorities responsible for the control and protection of external borders”. Committee shall also “cover (...) judicial cooperation in criminal matters relevant to operational cooperation in the field of internal security”. Furthermore, COSI “shall evaluate the general direction and efficiency of operational cooperation”. In that field, the committee must identify possible shortcomings or failures and adopt appropriate concrete recommendations. Additionally, article 5.2 of Decision 2010/131/EU states that COSI will help ensure consistency of action taken by Eurojust, Europol, Frontex and other relevant bodies³².

The other task for the committee is stated in article 6 of Decision 2010/131/EU. COSI has to regularly submit a report to the Council on its activities. These reports are a base for the Council to prepare information for the European Parliament and national parliaments of the proceedings of the committee. Until now, four reports have been submitted about COSI activity. The first involves the period between 1st January 2010 and 30th June 2011³³; the second on the period between 1st June 2011 and 30th December 2012³⁴; the third report on the period between 1st January 2013 and 30th June 2014³⁵, and the last one concerned the period from 1st July 2014 to 30th December 2015³⁶.

³¹ Council Decision of 24 June 2014 on the arrangements for the implementation by the Union of the solidarity clause (2014/414/EU), O.J. 2014 L, no. 192/53.

³² Hillebrand, *COSI*,

³³ General Secretariat of the Council, “Report to the European Parliament and national Parliaments on the proceedings of the Standing Committee on operational cooperation on internal security for the period January 2010 – June 2011”, 14614/11, Brussels 2011, retrieved 22.07.2016, <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2014614%202011%20INIT>.

³⁴ General Secretariat of the Council, “Report to the European Parliament and national Parliaments on the proceedings of the Standing Committee on operational cooperation on internal security for the period July 2011 – December 2012”, 7282/13, Brussels 2013, retrieved 22.07.2016, <http://www.Parliament.bg/pub/ECD/153116ST07282.EN13.PDF>.

³⁵ General Secretariat of the Council, “Report to the European Parliament and national Parliaments on the proceedings of the Standing Committee on operational cooperation on internal security for the period from January 2013 – June 2014”, 14440/14, Brussels 2014, retrieved 22.07.2016, <http://data.consilium.europa.eu/doc/document/ST-14440-2014-INIT/en/pdf>.

³⁶ General Secretariat of the Council, “Report to the European Parliament and national Parliaments on the proceedings of the Standing Committee on operational on internal security for the period July 2014 – December 2015”, 7033/16, Brussels 2016, retrieved 22.07.2016, <http://data.consilium.europa.eu/doc/document/ST-7033-2016-INIT/en/pdf>.

Some duties for COSI are established not just in legal acts, but in the one of the main political acts of the EU. Point 4.1 of the Stockholm Programme³⁷, which lays the groundwork for the function of the Freedom, Security and Justice Area, states that COSI should mainly be “developing, monitoring and implementing the internal security strategy”. The programme added that COSI “shall also cover security aspects of an integrated border management and, where appropriate, judicial cooperation in criminal matters relevant to operational cooperation in the field of internal security” in order “to ensure the effective enforcement of the internal security strategy”. Additionally, COSI must be regularly informed about coordination and cooperation against trafficking conducted by the member states and EU bodies (point 4.4.2).

Finally, the operational framework of COSI is laid out across multiple EU strategic documents, which is important because it shows how politicians see the position and role of COSI. The first of these documents, “Internal security strategy for the European Union: Towards a European security model”, adopted by the Justice and Home Affairs Council in 2010³⁸. According to this document, one of the priority tasks for COSI was to develop, monitor and implement the internal security strategy³⁹. The document also established ten guidelines for action. The fifth guideline, entitled “Operational cooperation”, assigns COSI the responsibility “to ensure effective coordination and cooperation between law-enforcement and border-management authorities, including the control and protection of external borders, and when appropriate judicial cooperation in criminal matters relevant to operational cooperation”. However, this activity had to be based on both national and EU threat assessments and security priorities. The guideline also provided for stringent cooperation between Europol, Frontex, Eurojust, CEPOL and Sitcen to encourage increasingly coordinated, integrated and effective operations in the domestic security area⁴⁰.

Another document is “The EU Internal Security Strategy in Action: Five steps towards a more secure Europe” from 2010⁴¹, which says that COSI was responsible for ensuring that operational cooperation is promoted and strengthened within the European Union. The Committee was accountable for facilitating coordination of the action of member states’ relevant authorities. Additionally, COSI had to meet regularly and work together with the Political and Security Committee “to ensure

³⁷ European Council, The Stockholm Programme – An open and secure Europe serving protecting citizens, O.J. 2010 C, no. 115/01.

³⁸ “Internal security strategy for the European Union. Towards a European security model”, Brussel 2010, retrieved 27.07.2016, www.consilium.europa.eu/en/documents-publications/publications/2010/pd/f/qc3010313plc_pdf/.

³⁹ Ibidem, 31.

⁴⁰ Ibidem, 25.

⁴¹ European Commission, “Communication from the Commission to the European Parliament and the Council, »The EU Internal Security Strategy in Action: Five steps towards a more secure Europe«, Brussels 2010, COM(2010) 673 final, retrieved 1.08.2016, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0673&from=EN>.

consistency with the wider European security strategy and to exploit synergies between internal and external policies, including risk and threat assessments”⁴².

A new internal security strategy for period 2015–2020 was presented by the European Commission at the end of April 2015⁴³. The role of COSI is described in this document, but in a more limited way. According to this document, the committee plays a central role in the EU Policy Cycle for serious and organised crime, in which framework member states’ authorities coordinate common proprieties and operational actions⁴⁴. Additionally, Home Affairs agencies have begun regularly reporting to COSI regarding their operational activities⁴⁵. As Joanna Parkin noted, committee has thereby become the main “clearinghouse” for policy development, decision-making, policy implementation and evaluation, with the EU Home Affairs agencies as the critical feeders of knowledge, evidence and expertise into the EU Policy Cycle⁴⁶. However, the reduced role of COSI enumerated in this document doesn’t mean that its position declines in importance. In the former documents, its role was described in detail but the real value was rather weak; in the new security agenda there is less to say about COSI, but its existence has become more important because of the importance of the EU Policy Cycle.

The EU Policy Cycle

One of the early issues discussed within COSI was the outcome of the Harmony Project. The establishment of the programme in relation to organised crime had been supported by few member states. The United Kingdom, the Netherlands, Belgium and Europol had formed the steering group of the project. The final report of this group was a crucial issue in the first months of the committee’s work⁴⁷, and led to the formation of the EU Policy Cycle to Tackle Organised and Serious International Crime (referred to as simply the “Policy Cycle” from here on). According to Artur Gruszczak, it is a response to a need to develop a coherent Policy Cycle on the basis of an intelligence-led policing approach⁴⁸. Most of all, it is a methodology adopted

⁴² Ibidem, 15.

⁴³ European Commission, “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Agenda on Security”, Strasbourg 2015, COM(2015) 185 final, retrieved 19.07.2016, http://ec.europa.eu/dgs/home-affairs/e-library/documents/basic-documents/docs/eu_agenda_on_security_en.pdf

⁴⁴ Ibidem, 8.

⁴⁵ Scherrer et al., *Developing*, 42.

⁴⁶ Joanna Parkin, “EU Home Affairs Agencies and the Construction of EU Internal Security”, *CEPS Paper in Liberty and Security in Europe* 53 (2012): 5, retrieved 20.07.2016, <https://www.ceps.eu/system/files/No%2053%20JP%20EU%20Home%20Affairs%20Agencies.pdf>.

⁴⁷ Scherrer et al., *Developing*, 42.

⁴⁸ Artur Gruszczak, “EU Intelligence-led Policing: The Case of Counter-terrorism Cooperation”, in: *New Challenges for the EU Internal Security Strategy*, eds. Maria O’Neill et al. (Cambridge: Cambridge Scholars Publishing, 2013), 25

by the European Union to react to the most important threats having an influence on EU security. Each cycle spans four years and involves improving coordination and cooperation on chosen crime priorities. The crime threats are identified on the basis of criminal intelligence and then agreed upon at the political level⁴⁹.

The EU Policy Cycle is divided into four steps. A Serious and Organised Crime Threat Assessment (SOCTA) is developed by Europol in the first step, which is composed of data from member state expert groups and EU agencies, as well as from its own resources⁵⁰. SOCTA includes an analysis of present and future threats for the EU and a set of recommended crime priorities. As a core part of the EU Policy Cycle, SOCTA should ensure that the most relevant threats are properly addressed, and that analytical products directly feed political decision-making in the EU⁵¹.

Setting Multi-Annual Strategic Plans (MASP) is the second step in the EU Policy Cycle. During that step, COSI examines SOCTA's recommended priorities. After that, the Council adopts the EU crime priorities for the Policy Cycle. Based on these priorities, the European Commission, with relevant agencies and partners, prepares a draft of a MASP. One MASP is prepared for one priority and contains a list of general objectives that should be achieved during the four-year cycle. The role of COSI in this step is especially decisive because they approve each MASP.

Third is the adoption of Operational Action Plans (OAP). Because OAPs implement the MASPs, one must be drafted for each priority, and for one year each. OAPs are prepared by representatives of member states, relevant EU institutions, and agencies. COSI, in addition to approving MASPs, also approves and monitors OAPs. Without COSI's approval, it is impossible to establish OAPs and, through this veto power, the COSI has instruments to influence their enforcement.

Evaluation is the final step in the EU Policy Cycle. COSI's influence in this area is not so strong because the EC plays the main role. The committee receives only from the Commission an annual "state of play"⁵². But it could use this information as an input for the next Policy Cycle⁵³.

In the above-conducted analysis, we can observe that the position of COSI within the EU Policy Cycle is strong and the committee has some instruments to influence this four-year long EU programme. It has a central role in the development, coordination and monitoring the EU Policy Cycle with the cooperation and input of relevant services of member states, EU institutions, and EU agencies⁵⁴. Notwithstanding, COSI's most vital competence is the right to authorise MASPs and OAPs, and that gives them a wealth of opportunity to influence the final shape of

⁴⁹ Council of the European Union, "The EU policy cycle to tackle organised and serious international crime", retrieved 20.07.2016, http://www.consilium.europa.eu/en/documents-publications/publication-s/2015/pdf/qc0114638enn_pdf/.

⁵⁰ Parkin, *EU Home*, 9.

⁵¹ Gruszczak, *EU Intelligence-led*, 25.

⁵² Council of the European Union, *The EU*, 4.

⁵³ Parkin, *EU Home*, 3-4.

⁵⁴ Busuioc, Curtin, *The EU Internal*, 4.

these documents. The ability to examine SOCTA's recommended priorities is also important because it gives COSI a chance to influence the Council's works, and to shape the EU Policy Cycle's priorities. For that reason, COSI plays a crucial role in the described programme, and thereby in the EU internal security area. The EU Policy Cycle also gives COSI a central role in translating Europol's strategic analysis into policy priorities, and in overseeing the implementation of coordinated actions to address those priorities. As Rob Wainwright and Ben Waites noted "it is not a coincidence that this initiative [the EU Policy Cycle] followed closely after the entry into force of the Treaty of Lisbon, which created the Standing Committee on operation cooperation on internal security (COSI) in order to improve the coordination of initiatives in the JHA field"⁵⁵. (sic)

Activity of COSI between 2010 and 2015

COSI's first meeting was held on 11 March 2010⁵⁶, and the committee has met regularly ever since. In the first three 18-month periods, the committee met eight/nine times, but in the period from 1st July 2014 to 30th December 2015, meetings took place almost twice often (see Table no. 1). Some authors had negatively commented on the slow start of COSI in its initial years⁵⁷. This may be explained to a certain extent by the fact that it was a relatively new body that was trying to find its pace within the Council apparatus. What is more, concerns existed from the beginning that COSI may be undermined by the continuing existence of its predecessor – the Coordinating Committee in the Area of Police and Judicial Cooperation in Criminal Matters (CATS)⁵⁸. After six years of COSI's existence, however, these concerns were unfounded⁵⁹. Undoubtedly, reasons why the number of meetings raised in the aforementioned period include the refugee crisis in Europe and terrorist attacks in Paris. That shows us that COSI is flexible and can fast adjust its agenda to the new situation.

Between 1st January 2010 and 30th June 2014, three COSI meetings were gathered during each EU presidency. Only during Cyprus and Greece Presidencies did the committee hold meetings twice. Unfortunately, it has been impossible to determine the frequency of meetings pro EU Presidency in the period from 1st July 2014 to 30th December 2015, but meetings were probably called often during the Latvia and Luxembourg chairmanship in the EU due to the refugee crisis and terrorist

⁵⁵ Rob Wainwright, Ben Waites, "The changing Face of Organised Crime: Can Europol keep up?", in: *Organized Crime, Corruption and Crime Prevention. Essays in Honor of Ernesto U. Savona*, eds. Stefano Caneppele, Francesco Calderoni (London: Springer, 2011), 331.

⁵⁶ Niels Frenzen, *First Meeting of EU Committee on Operational Cooperation on Internal Security – COSI*, 12 March 2010, retrieved 10.08.2016, <https://migrantsatsea.org/2010/03/12/first-meeting-of-eu-committee-on-operational-cooperation-on-internal-security-%e2%80%93-cosi/>.

⁵⁷ House of Lords, European Union Committee, *The EU Internal*, 54–55.

⁵⁸ Ibidem, 55.

⁵⁹ Council of the European Union, "The future of CATS", 17187/11, Brussels 2011, retrieved 23.07.2016, <http://data.consilium.europa.eu/doc/document/ST-17187-2011-INIT/en/pdf>.

attacks. During this time, the number of meetings of the COSI Support Group was stable, because this body met eighteen to twenty times in each period.

Tab. 1. Frequency of meetings

Period	Number of COSI meetings	Number of meetings per presidency	Number of COSI Support Group meetings
1 st January 2010 – 30 th June 2011	9	Spain – 3 Belgium – 3 Hungary – 3	19
1 st July 2011 – 30 th December 2012	8	Poland – 3 Denmark – 3 Cyprus – 2	18
1 st January 2013 – 30 th June 2014	8	Ireland – 3 Lithuania – 3 Greece – 2	18
1 st July 2014 – 30 th December 2015	15	Italy Latvia Luxembourg	20

Source: Authors' own elaboration based on data from General Secretariat of the Council, *Reports to the European Parliament and national Parliaments on the proceedings of the Standing Committee on operational cooperation on internal security for the periods: January 2010 – June 2011, July 2011 – December 2012, January 2013 – June 2014, and July 2014 – December 2015*, op.cit.

The first years of COSI activity highlighted the fact that the new committee's priorities remain broad, unclear, and disorganised. Accordingly, priorities drafted by the Spanish, Belgian and Hungarian Trio of Presidencies was a broad document, identifying every issue from organised crime to failed states to civil protection as concerns⁶⁰. However, the first 18-month period was intended for self-organisation in accordance with the decision 2010/131/EU, the EU internal security strategy and the Stockholm Programme. We can now observe that this area of COSI activity has become more clearly defined.

According to Amandine Scherrer et al., COSI's priorities can be grouped into two categories:

- Organisational matters: the EU Policy Cycle, the Internal Security Strategy/the European Agenda on Security 2015-2020, the EU strategy for combatting radicalisation and recruitment to terrorism, the coordination mechanism for joint operations, the financing of operational cooperation agencies, and the interactions between internal and external security.

⁶⁰ Council of the European Union, "JHA Trio Presidency Programme (January 2010 – June 2011)", 5008/10, Brussels 2010, retrieved 31.07.2016, <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%205008%202010%20INIT>.

- Topical matters: organised crime, drugs and arms trafficking, the control of external borders and migration control, the refugee's crisis, terrorism, the discussion of solidarity clause⁶¹.

Organisational issues are a core set of activities for the committee, particularly in the realms of establishing and implementing the EU Policy Cycle, and monitoring of implementation the former and preparing a new strategy in the internal security field (See Table 2). From Amandine Scherrer et al.'s standpoint, COSI has played a crucial role in the process of redefining the organisation of the circulation and assessment of information about EU operational activities in the field of internal security⁶².

We can assume that organisational issues will remain stable in the future. First of all, the EU Policy Cycle seems to be the most important issue for COSI in the coming years. Analysis from the previous section shows that the committee plays an important role in this policy, and this role remains stable as well. Table 2 shows that a working methodology in the cycle was one of the main topics for COSI in previous years. However, the first methodology adopted by COSI did not clearly lay down provisions for independent or external evaluations of the information and analyses leading to the development of internal security policies⁶³. Thus, it was important for COSI to prepare a new working methodology with rules of independent evaluation of the EU political cycle in the period 1st July 2014 – 30th December 2015.

The other important organisational issue for COSI – the EU internal security strategy – is prepared in five-year cycles, and that needs from it perpetual activity. The present strategy has to be monitored and partly implemented by COSI, and at the same time the committee must prepare the next strategy. This activity is in sync with five-year cycles of EU activity, and analysis shows that this will continue to be the case.

Topical matters were more diversified in the researched periods, and this trend is expected to continue. Topics that are discussed in COSI meetings are determined to be present threats to EU internal security. The past has shown that some of them are constant (organised crime, drugs and arms trafficking or the control of external borders and migration control), but that others could arise unexpectedly (the ongoing refugee crisis or ISIS terrorism in Europe). Hence, COSI should be flexible and has to have ability to modify its agenda.

⁶¹ Scherrer et al., *Developing*, 41.

⁶² Ibidem, 42.

⁶³ Ibidem, 8.

Tab. 2. The activity of COSI

Period	Main topics	Methodology/planning	Implementing	Conclusions
1 st January 2010 – 30 th June 2011	Elaborating on COSI roles and tasks in accordance with the decision 2010/131/EU, EU internal security strategy, and the Stockholm Programme	Establishing and honing of mechanisms to upgrade the planning and coordinating activity in the internal security area.	Beginning of the implementation of the new EU political cycle.	COSI concentrated on its own procedure and method of work.
1 st July 2011 – 30 th December 2012	Implementing of the EU political cycle.	COSI approved strategic goals for each priority. These strategic goals were transformed into OAP for 2012 and 2013. COSI accepted SOCTA methodology.	COSI supervised those projects from the EU internal security that were linked, integrated or coordinated with OAP. COSI monitored progress in the OAP reports.	COSI concentrated on implementation of the EU political cycle, especially by member states and JHA agencies.
1 st January 2013 – 30 th December 2014	Implementing of the EU political cycle for the 2012 and 2013, and preparing new cycle for 2014 – 2017. Terrorism.	Surveying the SOCTA methodology.	Monitoring and ending the EU political cycle for 2012 – 2013. Preparing and monitoring the new EU political cycle for 2014 – 2017. Implementing an EU strategy for combatting radicalisation and recruitment for terrorism.	COSI concentrated on the implementation of the EU political cycle and activity against terrorism.
1 st July 2014 – 30 th December 2015	A renewal of the EU internal security strategy. Terrorist attacks in Europe. Refugee crisis.	Formulating rules for independent evaluation of the EU political cycle: – Field – MASP and OAP – Subjects: two linked groups (one from the EC, second composed of external experts) – Schedule: results of the evaluation in the end of March 2017.	The European Agenda on Security 2015-2020. Implementing and monitoring the EU political cycle. Join action days: Archimedes (2014) and Blue Amber (2015).	COSI concentrated on the implementation of the EU political cycle and unpredicted threats for EU internal security (refugee crisis and terrorist attacks)

Source: Authors' own elaboration based on data from General Secretariat of the Council, *Reports*.

Another important area of COSI activity was, in the researched time, cooperation with the Political and Security Committee (PSC). This committee is an entity from the Common Foreign and Security Policy (CFSP) area and plays an important role as COSI does in the AFSJ. A tightening of links between internal and external aspects of EU security was the main goal of this cooperation, especially including the sharing of intelligence, incorporating internal security bodies in Common Security and Defence Policy (CSDP) mission planning, integrating threat assessments, training, implementing the solidarity clause from article 222 TFEU, and in communicating with third parties (see Table 3)⁶⁴.

Tab. 3. Cooperation between COSI and Political and Security Committee

Period	Number of meetings	Topics
1 st January 2010 – 30 th June 2011	1	A cooperation agreement between internal and external security entities in the area of intelligence, information exchange, decision-making processes, new crisis management missions and increase a capacity of the missions.
1 st July 2011 – 30 th December 2012	2	Cooperation between JHA and CSDP agencies in the field of combatting organised crime in the Western Balkans. Strengthening the European Cybercrime Centre.
1 st January 2013 – 30 th June 2014	3	Tightening the linkage between EU internal and external security: – Strengthening links between CSDP and an Area of Freedom, Security and Justice. – COSI input into EU civilian missions.
1 st July 2014 – 30 th December 2015	3	Tightening the linkage between EU internal and external security: – Strengthening synergies between CSDP and JHA agencies in the framework of the European Agenda of Security and in the illegal immigration field. – Cooperation in the fight against human smuggling and human trafficking in the Mediterranean and Sahel area. – Cooperation in the field of security in the MENA (the Middle East and Nord Africa region), – Cooperation in the field of security in the Western Balkans.

Source: Authors' own elaboration based on data from General Secretariat of the Council, *Reports*.

The cooperation between internal and external security bodies was needed for many years. However, as Steven Blockmans has noted, the current crises require a more comprehensive approach to EU security and involve elements and actors of the CFSP on a more structural basis in the internal security area. In consequence, the blurred boundaries between internal and external security should be abolished and thereby enable a more efficient and effective handling of the crises confronting the

⁶⁴ Alistair J. K. Shepherd, "CSDP and internal-external nexus", in: *The EU, Strategy and Security Policy. Regional and strategic challenges*, eds. Laura Chappell et al. (Abingdon: Routledge, 2016), 90–91.

EU⁶⁵. Common COSI and PSC meetings are a good platform to achieve this comprehensive approach, but a higher frequency of these meetings is likely needed. An increase in the number of meetings is observed in the researched period, but one meeting per six months may be not enough. The main topic of common discussions was cooperation in the field of security in Western Balkans. In the most recent period (1 July 2014 – 30 December 2015) the agenda has expanded to include human smuggling and human trafficking (see Table 3).

Conclusions

At the time of the Convention on the Future of Europe, the idea of the committee known as COSI had been criticised as “an EU interior ministry in the making”⁶⁶, or as a “toothless standing committee”⁶⁷ and some asked whether it would be necessary at all to formally provide for such a body⁶⁸. Notwithstanding, after six years of activity, we can observe that COSI has built a strongly influential position in the EU Area of Freedom, Security and Justice, if not one that is wholly independent. It has been involved in the implementation of the EU Internal Security Strategy and the preparation of the new European Agenda on Security, which has been one of the main tasks for that committee laid out by EU documents. However, COSI has concentrated its activity mainly on the EU Policy Cycle framework. It has been a forum where member states and relevant EU agencies can coordinate common approaches to pan-European threats, especially against serious and organised crime. The committee has tried also ensure a coherence of active and relevant EU agencies – especially Eurojust, Europol, Frontex – in the internal security field. Monitoring of the efficiency in the operational cooperation in the internal security field has been another area of COSI activity. Furthermore, the committee has pointed out deficiencies and faults, and has taken recommendations to improve the situation within the EU’s internal security apparatus. Moreover, in recent years COSI has proved that it has an ability to adapt its agenda to current threats, for example, illegal immigration, the refugee crisis, and terrorism. Moreover, COSI has proven to be a useful forum to link EU internal and external security, especially through regular meetings with Political and Security Committee.

On the other hand, the first years of experience have shown, that within the solidarity clause framework (article 222 TFEU), the position of COSI has been

⁶⁵ Steven Blockmans, “New Thrust for the CSDP from the Refugee and Migrant Crisis”, *CESP Special Report* 142 (2016): 15, retrieved 17.08.2016, <https://www.ceps.eu/system/files/Thrust%20to%20CSDP%20S%20Blockmans%20CEPS%20Special%20Report.pdf>.

⁶⁶ Tony Bunyan, “The Creation of an EU Interior Ministry”, *Statewatch News* (2003): 3, retrieved 18.08.2016, <http://www.statewatch.org/analyses/no-16-tb-anal.pdf>.

⁶⁷ Adam Townsend, “Can the EU Deliver in the Area of Freedom, Security and Justice?”, *EPIN Working Paper* 9 (2003): 11, retrieved 18.08.2016, http://aei.pitt.edu/1804/1/EPIN_WP9.pdf.

⁶⁸ Jörg Monar, “A New “Area of Freedom, Security and Justice” for the Enlarged EU? The results of the European Convention”, in: *The Area of Freedom, Security and Justice in the Enlarged Europe*, ed. Karen Henderson (Hampshire: Palgrave Macmillan, 2005), 127.

inconsiderable. The Treaty on the Functioning of the European Union and the decision 2010/131/EU predict an influent – if not strong – position of COSI in the described area of cooperation. However, as was mentioned above, the decision on the arrangements for the implementation of the solidarity clause by the Union strongly limits the position of COSI in favour of EEAS. It is likely why during last the six years, application of article 222 TFEU has not been an area of discussion in the committee's meetings.

The most important problem with COSI is not in topics of its activity but in its practice. On the whole, it is a good idea to streamline the operational aspects of the EU's internal security, but it is disappointing to see that COSI has become another opaque Council body. Generally speaking, it is not easy to find concrete information about this committee, especially about its activity. To piece together a coherent picture of COSI, one must dig deep into EU documents and governmental reports to national parliaments. Reports prepared by the Council to the European Parliament and draft agendas are nearly the only sources, and it is impossible to find information about composition, chair or shape of discussion. That not increase a transparency of Council system, which is important in the area of COSI activity. The internal security is a sphere where civil rights and freedoms should be preserved, and that needs a transparency that is not given by COSI.

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Abstract

This paper explores a new body that has been established by the Lisbon Treaty in the European Union internal security area: the Standing Committee on Operational Cooperation on Internal Security (COSI). Opening with an analysis of the legal framework for its activity through EU legal acts and other documents, the paper describes the roles within COSI’s purview. Thereafter, the EU Policy Cycle is established as vital to COSI’s operations. The paper wraps up with a discussion of the security issues the Committee handled between 2010 and 2015. The analysis shows that the initial years of COSI activity served to crystallise its role in the EU internal security area, while also having flexibility to expand said role as other issues, crises, and threats arise. Moreover, the analysis also shows that the time-cycle of COSI’s work is in sync with those of the EU Policy Cycle and EU internal security strategy.

Rola COSI w obszarze bezpieczeństwa wewnętrznego Unii Europejskiej: pierwsze lata doświadczeń

Artykuł prezentuje nowe ciało, które zostało ustanowione traktatem lizbońskim w obszarze bezpieczeństwa wewnętrznego UE – Stały Komitet Współpracy Operacyjnej w Zakresie Bezpieczeństwa Wewnętrznego (COSI). Na początku zostały zdefiniowane podstawy prawne funkcjonowania COSI. Następnie opisano główne jego zadania wynikające

z unijnych aktów prawnych oraz dokumentów. W ostatniej części artykułu przeanalizowana została aktywność COSI w okresie 2010-2015. Pozwoliła on zauważyć, iż w pierwszych latach komitet skoncentrowany był przede wszystkim na precyzowaniu swojej roli w obszarze bezpieczeństwa wewnętrznego UE, wykazując przy tym elastyczność w obliczu pojawiających się zagrożeń i kryzysów. Niemniej jednak wyraźnie zauważalne były dwa regularne zadania, tj. przygotowanie tzw. Cyklu Polityki UE oraz opracowywanie unijnej strategii bezpieczeństwa wewnętrznego.

Keywords

COSI, the EU internal security, the EU Policy Cycle

Słowa kluczowe

COSI, bezpieczeństwo wewnętrzne UE, Cykl Polityki UE

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