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14984/14

CATS 167

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 22 and 23 October 2014
To: CATS
Subject: Summary of discussions

1. Adoption of the agenda

The agenda has been adopted.

2. Information by the Presidency

– State of play on the draft Europol Regulation

CATS was briefed by the Presidency about the outcome of the first trilogue with the European Parliament on the draft Europol Regulation held on 13 October 2014 on the basis of the General Approach reached by the Council on 5-6 June 2014 (doc. 10033/14), and about the future steps relating to this file. The Presidency noted that it would continue to constantly update the relevant Council bodies about the trilogue process.

3. European Law Enforcement Training Scheme

– Orientation debate

13865/14 ENFOPOL 303 CATS 143

CATS held an orientation debate on the European Law Enforcement Training Scheme on the basis of the discussion paper prepared by the Presidency (doc. 13865/14), following a presentation by the Commission of its Communication establishing LETS (doc. 8230/13ENFOPOL 99).

In relation to the five questions raised in the discussion paper, the Presidency concluded that:

(1) delegations generally support the concept and basic principles of LETS as a means to ensure the development of a common European law enforcement culture and achieve better coherence in the law enforcement training in the EU. At the same time the principle of subsidiarity and the training delivered at the national level need to be taken into account. Most delegations also suggested to avoid references to LETS in the text of the Regulation;

(2) delegations generally support the four strands of LETS. They also note that the implementation of each of the strands should be in line with the training needs and available resources;

(3) delegations generally support the extension of the target groups for training based on LETS to all law enforcement staff of all ranks, but this has to be in line with the national law so that Member States are in a position to decide about participants in various training activities in all strands. Also, budgetary restraints should be kept in mind so it might be preferable to focus on staff involved in cross-border cooperation;

(4) delegations generally agree that CEPOL should play a supporting role in the implementation of strands 1 and 2, and a key role in delivering strands 3 and 4, while noting that the number of beneficiaries of the latter would be rather limited. Thus, CEPOL should be the centre of excellence of law enforcement training, in particular in relation to strands 3 and 4 while at the same time respecting the principle of subsidiarity and without imposing obligatory standards of training upon Member States. Delegations also generally agreed on the need of a coordinating or consulting role of CEPOL in respect to law enforcement training delivered by other EU agencies so as to avoid overlapping. No specific proposals on the timeframe of the implementation of LETS were made;

(5) delegations generally agree that the lack of resources could be the main obstacle to the successful implementation of LETS, but tend to think that the increase of budget is not a realistic option and therefore suggest that CEPOL should prioritise its activities, in particular by focusing of those strands and activities where it can bring most added value (i.e. strand 3 and to some extent strand 4). The possibilities of financing under ISF Police, both national programmes and Union Actions, could be considered for certain training activities.

A representative of CEPOL expressed support to the principles of LETS and underlined the need to seek synergies and avoid overlapping with other law enforcement training activities delivered at Union level, e.g. by sharing annual strategic training programmes among relevant EU agencies. The need for a multidisciplinary approach to training was also underlined, and the limited resources for the implementation of LETS were pointed out.

The Chair concluded that the outcome of this discussion will serve as guidance to the LEWP on how to reflect the content of LETS in the draft CEPOL Regulation.

4. Preparation of the JHA Senior Officials meeting EU-OIPC Interpol 14407/14 JAI 781 COSI 95 CATS 154 ENFOPOL 328 JAIEX 73

The Committee took note of the agenda of the JHA Senior Officials meeting EU - OIPC Interpol which will take place on 12 November 2014, as set out in doc. 14407/1/14 REV 1 JAI 781 COSI 95 CATS 154 ENFOPOL 328 JAIEX 73.

5. Fight against organised crime infiltration in the legal economy

- **Information by the Presidency on the State of play of preparations regarding:**
 - a) **Draft Conclusions of the Council of the European Union on combating organised crime infiltration in the legal economy through financial flow traceability and monitoring, in particular regarding public procurement 13311/2/14 REV 2 JAI 683 COSI 84 CATS 123 GENVAL 56 ENFOPOL 279 DROIPEN 108 MI 669**
 - **Update by the Presidency**
 - b) **Draft Council Resolution on the creation of an operational network - @ON - to counter mafia-style serious and organised crime groups 12214/2/14 REV 2 ENFOPOL 231 COSI 73**

CATS was informed by the Presidency about the state of play of the draft Council Conclusions on combating organised crime infiltration in the legal economy through financial flow traceability and monitoring, in particular regarding public procurement (doc. 13311/2/14 REV 2) as well as the draft Council Resolution on the creation of an operational network - @ON - to counter mafia-style serious and organised crime groups (doc. 12214/3/14 REV 3). A couple of drafting suggestions were made, and the Chair concluded that agreement on both documents would be sought in GENVAL and LEWP with a view to adopting them at the Council of 4-5 December 2014.

6. Judicial response to terrorism
13040/14 DROIPEN 103 ENFOPOL 262 + ADD 1

14188/14 CATS 151 DROIPEN 117 ENFOPOL 312 COTER 70

Delegations agreed that taking a multidisciplinary approach to the challenges posed by the phenomenon of foreign fighters, as already called upon by the European Council, most recently in August 2014, is of crucial importance in order to provide for a comprehensive response to this phenomenon across the EU.

From a criminal justice point of view, the majority of Member States informed about the presently ongoing evaluation process of their national legislation, in particular in the light of the requirements of the UNSC Resolution 2178(2014) of 24 September 2014. Some Member States have already adopted new legislation specifically designed to address the phenomenon of foreign fighters. It was underlined that the timing aspect of providing an effective judicial response in this respect is particularly relevant and therefore the majority would favour at this stage a nationally based approach in implementing the UNSC Resolution 2178 (2014).

The upcoming Eurojust Report on this issue, which should be released by the end of the year was referred to by Member States as a useful tool in order to assess adequately the necessity to further review in this respect the existing Council Framework Decision 2002/475/JHA on combating terrorism, as amended by Framework Decision 2008/919/JHA .

7. CATS contribution to COREPER's evaluation of the role of CATS
14207/14 CATS 152

After an exchange of views on the guidelines, where delegations in particular made comments on the linguistic regime issue and on CATS participation in trilogies, delegations were invited to send their written contributions until 31 October. CATS would discuss the issue at its next meeting on the basis of a new draft.

8. Proposal for a Directive of the European Parliament and of the Council on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings

– **Cost of legal aid in European arrest warrant proceedings**
14302/14 DROIPEN 120 COPEN 251 CODEC 2019

The majority of delegations informed that according to their national legislation and ensuing practice they interpret the cost associated with legal aid for the purposes of the execution of an EAW, as cost "incurred in the territory of the executing Member State" , as provided under Article 30 (1) of Framework decision 2002/584/JHA. Consequently this cost should be borne by the executing Member State. In this respect, some delegations referred to the need to apply consistently the principle of proportionality when issuing EAW. This issue will be referred for further discussions to the EAW experts formation of the Working Party on Cooperation in Criminal Matters (COPEN).

9. Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (EPPO)

12558/13 EPPO 3 EUROJUST 58 CATS 35 FIN 467 COPEN 108 + ADD 1 + ADD 2

– **Thematic discussion on certain issues**
14447/14 EPPO 58 EUROJUST 182 CATS 156 FIN 757 COPEN 256 GAF 58

CATS discussed the issue of transactions (Article 29 in the proposal), and the substantive question whether an autonomous regulation of transactions should be introduced in the Regulation. 24 Member States took the floor.

To conclude the debate, the Presidency noted that a large majority had declared themselves itself in favour of regulating transactions in the Regulation. A few Member States preferred a reference to national law, and a few others would prefer to have no rule on transactions at all. The COPEN Working Party will continue to discuss the issue in view of establishing a European system for transactions in the relevant field, with particular regard to:

- putting in place a comprehensive system for transactions;
- ensuring sufficient procedural safeguards and rights of judicial review;
- assessing whether the system will apply to all cases or only to minor ones;
- determining whether transactions will be registered in the criminal records.

CATS also discussed the issue of cooperation between the EPPO and non-participating Member States. Some of the delegations that took the floor argued that existing instruments for cooperation should be used (in particular mutual recognition instruments), and that Eurojust could play a role as facilitator in this sense. Others noted that the issue is complicated and would need further analysis. The Presidency concluded that the issue will be revisited at a later stage of negotiations.

10. Draft Council Conclusions "Training of legal practitioners: an essential tool to consolidate the EU acquis"

– **First exchange of views**

14409/14 JAI 782 JUSTPEN 3 JUSTCIV 245

CATS had a general exchange of views on the draft Council Conclusions on judicial training (doc. 14409/14 JAI 782 JUSTPEN 3 JUSTCIV 245). The Chair invited delegations to submit written comments and drafting suggestions by close of business on Tuesday 4 November 2014 to the General Secretariat.

Subsequently to the reception of the comments and drafting suggestions, the Presidency will revise the draft Council Conclusions. The revised text will then be discussed in a meeting of the JHA Counsellors (criminal law and civil law), before being submitted for adoption, via Coreper, to the JHA Council meeting on 4/5 December 2014.

11. Pending cases and developments on the case law of the Court of Justice/European Court of Human Rights

– **Information of the Legal Service - Opinion 1/13 of the Court of Justice**

The Legal Service informed about the general impact that the opinion might have also for areas which are within the responsibility of CATS.

12. AOB

(1) The FR delegation made a presentation about the Handbook of best practices for the self-assessment of law enforcement forces to prevent corruption and enhance integrity, which was approved by the LEWP on 16 July 2014 (doc.11449/14). It was suggested to use this Handbook as a practical tool during the evaluations of States which are candidates for accession to the Union or during Schengen evaluation missions.

(2) The Council Legal Service intervened on a current file related to Europol's agreements with third countries.
