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## OUTCOME OF THE COUNCIL MEETING

3473rd Council meeting

### Justice and Home Affairs

Luxembourg, 9 and 10 June 2016

Presidents      **Ard van der Steur**  
Minister for Security and Justice  
**Klaas Dijkhoff**  
Minister for Migration

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<sup>1</sup>

- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

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ITEMS DEBATED

JUSTICE

**Digital single market strategy**

The Council held a policy debate ([9768/16](#)) on the ongoing work on the proposal for a directive on certain aspects concerning contracts for the supply of digital content. After discussions, ministers agreed a number of basic principles and endorsed a set of political guidelines for the work to continue at technical level.

Ministers reached a common understanding on:

- **the objectives of the proposed directive:** ministers agreed on the main political objectives which should guide the forthcoming negotiations. They emphasised the need for coherence with other legislation, such as the legislation regarding the sale of goods, the consumer rights directive and the General Data Protection Regulation. Finally, they recalled that the aim should be to achieve full harmonisation to the largest extent possible but bearing in mind that final decision on this aspect can only be taken once the negotiation is more advanced.
- **the scope of the directive:** ministers agreed, in particular, that the definition of digital content should be drafted in a way that covers a very large range of the digital content that currently exist on the market whilst remaining open to future technical developments.
- **the need to ensure the new rules achieve a right balance between consumers' and suppliers' interests:** ministers agreed that while the rules should achieve a high level of protection for consumers, they should, at the same time, create a business-friendly environment for EU entrepreneurs and should also be technologically neutral, effective and user-friendly.

The directive on digital content is aimed to regulate contracts for the supply of digital content in business-to-consumer (B2C) contracts. The scope of the proposal is broad as it covers: data produced and supplied in digital form (e.g. music, online video, etc.), services allowing the creation, processing or storage of data in digital form (e.g. cloud storage), services allowing sharing of data (e.g. Facebook, YouTube, etc.) and any durable medium incorporating digital content (e.g. CDs and DVDs).

The proposed directive on certain aspects concerning contracts for the supply of digital content was presented by the Commission on 9 December 2015 together with a proposal for a Directive on certain aspects concerning contracts for the online and other distances sales of goods.

For more information:

[Council website: Digital single market strategy](#)

### **Matrimonial property regimes and registered partnerships**

The Council adopted, without discussion, a decision ([8112/16](#)) authorising enhanced cooperation on matrimonial property regimes and registered partnerships.

The Council also reached a general approach on the two proposals for regulations ([8115/16](#) + [8118/16](#)) implementing the enhanced cooperation in the area of matrimonial property regimes, on one side, and on the property consequences of registered partnerships, on the other side.

For more information:

[Press release on the enhanced cooperation in the area of matrimonial property regimes and registered partnerships](#)

### **European Public Prosecutor's Office**

The Council continued the discussion on the proposed regulation. Ministers expressed broad conceptual support for the latest set of articles discussed at experts level ([9799/16](#)). These articles cover the rules on the case management system and data protection, simplified prosecution procedures, general provisions and financial and staff provisions.

Taking note of the overall progress made but keeping in mind reservations expressed by some delegations and noting that nothing can be considered as fully agreed before an overall agreement on the text is reached, ministers invited experts to continue negotiations.

The proposed regulation aims at helping combat crimes against the EU's financial interests by introducing a European Public Prosecutor's Office with competence in that area. The proposed regulation requires the unanimous support in the Council which adopts it after having obtained the consent of the European Parliament. The proposal was presented by the Commission on 17 July 2013.

In previous meetings, the Council has already reached a provisional agreement on a number of articles, including the structure and organisation of the Office, as well as the rules on investigation and prosecution.

For more information:

- [Outcome of the Council meeting, October 2015](#)
- [Outcome of the Council meeting, December 2015](#)
- [Outcome of the Council meeting, March 2016](#)

### **Fight against fraud to the Union's financial interests ("PIF" directive)**

The Council discussed the state of play and way forward after the work done at working level during the Netherlands presidency.

Ministers reflected in particular on the issue of the possible inclusion of some aspects of fraud with VAT within the scope of the directive, which is the key issue on which Council and Parliament could not agree at the latest trilogue meeting in June 2015.

After the debate, the Presidency took note of the positions expressed by member states and concluded that there is neither any consensus on the issue of the inclusion of the VAT in the scope of the directive yet, nor on the modalities of a possible inclusion. For this reason, efforts to find a solutions must continue under the incoming Slovak presidency.

The objective of the so-called PIF directive is to deter fraudsters, improve the prosecution and sanctioning of crimes against the EU budget, and facilitate the recovery of misused EU funds thereby increasing the protection of EU taxpayers' money.

The proposed directive provides common definitions of a number of offences against the EU budget, such as fraud, and other fraud related crimes such as active and passive corruption, the misappropriation of funds, money laundering and minimum rules on prescription periods, within which the case must be investigated and prosecuted, as well as minimum rules on sanctions, including imprisonment for the most serious cases to strengthen the deterrent effect. These common rules should help to ensure a level playing field and improved investigation and prosecution across the EU.

The Council has adopted its general approach ([10232/13](#)) at first reading on the draft directive in June 2013.

## **European Criminal Records Information System (ECRIS)**

Ministers took stock of the progress made at working level ([9798/16](#)) on the proposed amendment to the European Criminal Records Information System (ECRIS), which aim is to render more effective the exchange of information on convicted third country nationals.

Ministers supported a change of the approach from a decentralised system, as proposed by the Commission, to a centralised automated one for the exchange and storage of both fingerprints and alphanumeric data of convicted third country nationals. They invited experts to continue the discussion on the technical details of such a system in particular with regards to data protection and the possibility of complementing the automated features by the possibility of performing also manual checks at national level.

ECRIS was established in 2012. It aims at allowing an efficient information exchange between member states regarding criminal convictions in the EU. It takes the form of an electronic interconnection of criminal records databases which enables the central authorities to provide judges and prosecutors with comprehensive information on the criminal history of persons concerned, no matter in which member states that person has been convicted in the past. This system removes the possibility for offenders to escape their criminal past by moving from one EU country to another. At the moment, mostly information on EU citizens is exchanged. Although it is already possible to exchange information on third country nationals through ECRIS, there is currently no common European procedure or mechanism in place to do so effectively.

## **Criminal justice in cyberspace**

Under the non-legislative items, ministers adopted conclusions on improving criminal justice in cyberspace, as well as on the European judicial cybercrime network. They also held a policy debate on some open issues related to criminal justice in cyberspace.

For more information:

[Press release on criminal justice in the cyberspace](#)

## **Other business**

The presidency updated the Council on the **state of play of a number of legislative proposals**.

The Commission presented the **code of conduct on countering illegal hate speech online** recently agreed by Facebook, Microsoft, Twitter and YouTube ('the IT companies'). The Council welcomed this important progress in the fight against hate speech online.

Through this code of conduct, the IT companies support the Commission and Member states in their efforts to ensure that online platforms do not offer opportunities for illegal hate speech to spread virally. The code of conduct is not binding and does not replace any national legislation. It is an addition to provide a common approach at EU level.

Justice and Home affairs ministers were updated by the presidency on the **outcomes of the latest EU-US JHA ministerial meeting** which took place in Amsterdam on 1-2 June. During that meeting, the European Union and the United States of America signed the so-called "Umbrella agreement" which puts in place a comprehensive high-level data protection framework for criminal law enforcement cooperation.

For more information, see [press release](#).

The Slovak Justice Minister Lucia Zitnanska informed the Council about **priorities of the upcoming Slovak EU Presidency in the justice area**, with regard to which the Presidency intends to work intensively in cooperation with the European Commission and the European Parliament.

The Slovak Presidency is set to devote its efforts to all legislative proposals currently discussed. Attention will be paid to the regulation establishing a European public prosecutor's office in order to maximise progress in on-going negotiations. In this context, the Slovak Presidency is also committed to reinvigorating negotiations on the directive on the fight against fraud to the EU's financial interests by means of criminal law (the so-called PIF directive).

A lot of importance by the Slovak Presidency will also be given to the directive on the exchange of information on third-country nationals in the context of the European Criminal Records Information System (ECRIS). The Presidency's ambition is to reach a Council agreement. Similarly, an agreement on the directive on combating terrorism is to be sought.

In line with the Slovak Presidency's overall ambition to deliver tangible results for EU citizens, intensive efforts will be put into digital contract rules, especially the proposal of directive on the supply of digital content.

**OTHER ITEMS APPROVED**

**JUSTICE AND HOME AFFAIRS**

**Fight serious and organised crime - Council conclusions**

The Council adopted conclusions on the administrative approach to prevent and fight serious and organised crime ([9061/16](#)).

The conclusions encourage the member states to prevent that persons involved in criminal activities use the legal administrative infrastructure for criminal purposes.

**European network on victim's rights**

The Council has adopted conclusions on the establishment of an informal European network on victim's rights ([8960/16](#)).

The network should facilitate and contribute to enhancing cooperation between the competent authorities responsible for victims' rights in the member states with a view to enhancing access of victims to their rights. In practice, the network should facilitate the exchange of best practices and experiences, the cooperation between competent authorities in cross-border cases, etc.

The creation of this informal network stems from the Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. In particular, its Article 26 (1) provides that member states shall take appropriate action to facilitate cooperation between them to improve the access of victims to the rights set out in the Directive and under national law.

**Trafficking in human beings**

The Council adopted conclusions on addressing trafficking in human beings (THB) for labour exploitation ([9373/16](#)).

The conclusions aim to strengthen multidisciplinary cooperation against trafficking in human beings (THB) for labour exploitation and to provide input regarding THB for labour exploitation for the post-2016 anti-trafficking strategy that the Commission intends to develop.

## **Return and readmission**

The Council adopted conclusions on the return and readmission of illegally staying third-country nationals (9459/16).

## **Financial investigation**

The Council adopted conclusions and action plan on the way forward with regard to financial investigation ([8777/16](#)).

## **Europol's 2015 report**

The Council endorsed the general report on the European Police Office (Europol) activities in 2015 ([8961/16](#)) and forwarded it to the European Parliament for information.

This report is prepared each year by Europol's management board, describing Europol's activities during the previous year, including the results achieved on the priorities set by the Council.

## **CEPOL 2015 report**

The Council took note and endorsed the CEPOL (European Police College) report for the year 2015 ([8973/16](#)), following its adoption by the Governing Board, as required by decision 2005/681/JHA<sup>1</sup>.

The report will be forwarded to the European Parliament and to the Commission for information.

## **Relocation - Sweden**

The Council adopted a decision establishing provisional measures in the area of international protection for the benefit of Sweden in accordance with Article 9 of [Decision \(EU\) 2015/1523](#) and Article 9 of [Decision \(EU\) 2015/1601](#) establishing provisional measures in the area of international protection for the benefit of Italy and Greece.

The Commission submitted its proposal to the Council on 15 December 2015. This proposal responded to a formal request by Sweden, of 8 December 2015, for a suspension of its obligations under Council decisions (EU) 2015/1523 and (EU) 2015/1601.

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<sup>1</sup> Decision establishing the European Police College (*OJ L 256, 1.10.2005*)

The aim of the decision is to suspend obligations of Sweden under the above-mentioned decisions for a period of one year, in order to help it to alleviate the significant pressure Sweden is confronted, taking into account the emergency situation characterised by a sudden inflow of nationals of third countries in its territory.

### **Third Ministerial Conference of the Prague Process**

The Council took note of the lines of approach of the draft Joint Declaration of the third Ministerial Conference of the Prague Process that will take place in Bratislava on 19-20 September 2016. And authorised the Presidency, in cooperation with Poland, to continue negotiating the text on that basis, with a view to its adoption at the Ministerial Conference.

The Prague Process intends to support the application of the Global Approach to Migration and Mobility to the Eastern and South-Eastern Regions neighbouring the EU and to support further advancement and strengthening of the political commitments and third country ownership.

Partners of the Prague Process are the Member States of the European Union (EU), the European Commission, Norway, Switzerland, Iceland and Lichtenstein, the countries neighbouring the EU on the East, the Western Balkan countries and Turkey.

### **Best practices on videoconferencing with third countries**

The Council endorsed the suggestions for best practices concerning videoconferencing with third countries ([9337/16](#)) proposed by the expert group on cross-border videoconferencing in the context of the Working Party on e-Law (e-Justice).

It also took note of existing agreements between the Member States and third countries as set out in document ([9488/16](#)).

### **E-justice**

The Council adopted the report on the mid-term review of the Multiannual European e-Justice Action Plan 2014-2018 ([9806/16](#)).

the e-Justice Action plan 2014-2018 was adopted in June 2014 by the Council. It aims at putting in practice the strategy on e-justice through the implementation of practical projects. This list of projects includes measures relating to access to information in the field of justice, access to courts and extrajudicial procedures in cross-border situations, and communication between judicial authorities.

E-Justice is a policy development tool through which access to information on justice is being simplified and improved and cross-border legal procedures are being digitalised. e-Justice is not limited to one particular field of law. It is a horizontal domain encompassing all fields of law which have cross-border dimensions in the areas of civil, criminal and administrative law.

### **Eurojust Annual Report 2015**

The Council has adopted conclusions on the Eurojust Annual Report 2015 ([9037/16](#)).

In its conclusions, the Council welcomes Eurojust Annual Report and notes that most of the objectives for 2015 as set out in the Annual Report for 2014 have been met or are being significantly progressed.

Ministers also confirms the need for Eurojust to continue to treat terrorism, illegal migration and cybercrime as a priority, linked with the Council's agenda, supporting and strengthening action by the competent authorities of the Member States.

### **Prüm Decisions - Switzerland and Liechtenstein**

The Council adopted a decision authorising the negotiations for the conclusion of agreements between the European Union, on the one part, and the Swiss confederation and the Principality of Liechtenstein, on the other part, on the application of certain provisions of the "Prüm Decisions<sup>1</sup>" and the "Forensic Decision<sup>2</sup>". ([9370/1/16 REV 1](#))

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<sup>1</sup> Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, of Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime

<sup>2</sup> Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities

## **Application of the EU Charter of fundamental rights in 2015**

The Council adopted conclusions on the application of the EU Charter of fundamental rights ([8946/16](#)).

These conclusions have been drafted taking note of the [2015 Commission report on the application of the EU Charter of Fundamental Rights](#) as well as the [Fundamental Rights Report 2016](#) of the EU Agency for Fundamental Rights (further referred to as the Agency).

## **Amending budget for SISNET**

The Council endorsed the amending budget No1 for the installation and the functioning of the communication infrastructure for the Schengen environment (SISNET) for 2016 (9282/16)

## **Matrimonial property regimes and registered partnerships**

The Council adopted, without discussion, a decision ([8112/16](#)) authorising enhanced cooperation on matrimonial property regimes and registered partnerships. In accordance with the rules on enhanced cooperation, all Member States took part in the vote on the decision.

The eighteen member states participating in the enhanced cooperation are Belgium, Bulgaria, Cyprus, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italia, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden. Other member states are free to join the cooperation at any time after its adoption.

For more information:

[Press release on the enhanced cooperation in the area of matrimonial property regimes and registered partnerships](#)

## **European Forensic Science Area**

The Council adopted conclusions and action plan on the way forward in view of the creation of an European Forensic Science Area ([8770/16](#)).

**FOREIGN AFFAIRS**

**Lifting of sanctions against Ivory Coast**

The Council repealed Decision 2010/656/CFSP, thereby lifting restrictive measures directed against certain persons and entities and related to the supply of assistance in military activities in Ivory Coast.

In light of the recent developments in Ivory Coast, as well as the lifting of UN sanctions through UN Security Council resolution 2283 (2016), the Council decided the revocation of its own (additional) restrictive measures against the country .

**ECONOMIC AND FINANCIAL AFFAIRS**

**Bank recovery and resolution**

The Council decided not to object to a Commission regulation supplementing directive 2014/59/EU on the recovery and resolution of failing banks ([9621/16](#) + [8826/16](#)).

The regulation sets out, on the basis of draft standards submitted by the European Banking Authority:

- the minimum elements that should be included in a business reorganisation plan;
- the minimum contents of reports on implementation of the business reorganisation plan.

The regulation is a delegated act pursuant to article 290 of the Treaty on the Functioning of the European Union. It can now enter into force, unless the European Parliament objects.

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