



15252/18

(OR. en)

PROVISIONAL VERSION

PRESSE 70
PR CO 70

OUTCOME OF THE COUNCIL MEETING

3661st Council meeting

Justice and Home Affairs

Home Affairs

Brussels, 6 December 2018

President **Herbert Kickl**
Federal Minister of the Interior of Austria

P R E S S

CONTENTS¹

ITEMS DEBATED

HOME AFFAIRS	4
European Border and Coast Guard	4
Return directive.....	5
Terrorist content online.....	6
Reform of the Common European Asylum System and resettlement	7
Migrant smuggling.....	8
Multiannual financial framework: justice and home affairs priorities.....	9
Any other business	10
– Current legislative proposals	10
– Regional ministerial forum on counteraction of internal corruption	10
– EU-US Justice and Home Affairs ministerial meeting.....	10
– High-Level Conference "European values, rule of law and security"	10
– Vienna process	11
– Work programme of the incoming Presidency	11
Migration.....	11
MIXED COMMITTEE.....	12
– European Border and Coast Guard	12
– Return directive	12
– Any other business	12

¹

- 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.

OTHER ITEMS APPROVED

JUSTICE AND HOME AFFAIRS

- Council Declaration on the Fight against antisemitism 13
- Strategy and action plan on e-Justice 2019-2023 13
- Strategic direction on internal security - Council conclusions 13
- Amended regulation on the electronic publication of the Official Journal of the EU 13
- Council's conclusions on alternative development 14

FOREIGN AFFAIRS

- CTA - Members of the executive board 14
- CDE discharge procedure 2013-2016..... 14

ECONOMIC AND FINANCIAL AFFAIRS

- SSM Chair appointment 15

TRANSPORT

- Revision of regulation on wet-lease 15

ITEMS DEBATED

HOME AFFAIRS

European Border and Coast Guard

The Council today agreed a partial general approach on a proposal on the European Border and Coast Guard, covering the provisions linked to return and cooperation with third countries. This agreement does not allow for the start of negotiations with the European Parliament, and is on the understanding that nothing is agreed until everything is agreed.

The proposed rules will allow Frontex to provide technical and operational support to member states in return operations. They will also contribute to strengthening cooperation with third countries, by giving the agency wider scope for action and not limiting its possibilities for cooperation to neighbouring countries.

The proposal was presented by the Commission on 12 September 2018. In addition to the provisions agreed today, it aims to strengthen the agency in terms of staff and equipment in order to provide further support to member states, including by setting up a European Border and Coast Guard standing corps of 10000 operational staff with executive powers. It also incorporates the European Border Surveillance System (EUROSUR) into the Frontex framework, to improve its functioning.

During the discussion, ministers also confirmed that further work is needed on the other aspects of the regulation, namely on the proposed establishment of an EBCG standing corps. This includes the size, composition, tasks and powers of the proposed EBCG standing corps, as well as the timeframe needed to establish the corps. Discussions on these aspects will continue at technical level.

[European Border and Coast Guard: Council reaches partial agreement on returns and cooperation with third countries \(press release\)](#)

[Proposal for a regulation on the European Border and Coast Guard - partial general approach](#)

[Strengthening the EU's external borders \(background information\)](#)

Return directive

The presidency reported on progress regarding the Commission proposal to reform the return directive, on which intensive discussions have been held in different Council bodies ([14859/18](#)).

The discussions held so far indicate by and large a consensus on the direction of the revised Return Directive towards having a more stringent approach to returns. Significant progress has been achieved in moving towards an agreement as regards the list of factors indicating the risk of absconding, the obligation for third country nationals to cooperate with national authorities as well as the consequences for non-cooperation, the adoption of the return decision, granting of voluntary departure, the possibility to issue the entry ban without issuing a return decision, design and modalities of the return management system as well as national voluntary return and reintegration programmes.

At the same time, a number of issues require a further in-depth discussion with a view of moving towards consensus. Debate should still take place on the possibility to return a third country national to any safe third country and not only the country of origin or transit. Another possibility not provided in the Commission proposal for a revised Return Directive, but which has also been addressed by some delegations is the principle of mutual recognition of return decisions issued by other Member States. Article 16 on remedies and Article 22 on border procedures also require further in-depth discussions.

Several member states welcomed the progress made on this file and reiterated the need to continue work both on the proposed directive and on cooperation with third countries on return and readmission.

[How the EU manages migration flows \(background information\)](#)

Terrorist content online

The Council agreed its negotiating position on the proposed regulation on preventing the dissemination of terrorist content online. On the basis of this mandate, the Council Presidency will start negotiations with the European Parliament once the latter has adopted its position.

The proposed rules apply to hosting service providers offering services in the EU, whether or not they have their main establishment in the member states. Voluntary cooperation will continue, but this legislation will provide an additional tool for member states to enforce the rapid removal of terrorist content where necessary. Hosting service providers will have to remove terrorist content or disable access to it within one hour from receiving a removal order from authorities.

Furthermore, service providers will have to apply certain duties of care to prevent the dissemination of terrorist content on their services, which may vary depending on the risk and level of exposure of the service to terrorist content. If exposed to terrorist content, they will also have to take effective and proportionate proactive measures to protect their services against the dissemination of terrorist content.

This proposal was submitted by the European Commission on 12 September 2018, following a call by EU leaders in June. It builds on the work of the EU Internet Forum, launched in December 2015 as a framework of voluntary cooperation between member states and representatives of major internet companies to detect and address online terrorist content. Cooperation through this forum, which includes also the Europol internet referral unit, has helped in addressing the problem. However, terrorist groups have adapted to the steps taken and the voluntary approach is no longer sufficient on its own due to, among other things, the ever increasing speed of dissemination of illegal terrorist content over an ever increasing range of platforms. Crucially, this includes many platforms that are not yet involved in the cooperation through the EU Internet Forum.

[Terrorist content online: Council adopts negotiating position on new rules to prevent dissemination \(press release\)](#)

[Proposal for a regulation on preventing the dissemination of terrorist content online - general approach](#)

[Response to the terrorist threat and recent terrorist attacks in Europe \(background information\)](#)

Reform of the Common European Asylum System and resettlement

The presidency presented a progress report on the reform of the Common European Asylum System (CEAS). ([14597/18](#))

On the Dublin regulation the Austrian presidency has continued to look for possible solutions to ensure an overall balance between solidarity and responsibility.

On the asylum procedure regulation, discussions are ongoing at the Council.

On the European fingerprinting system (Eurodac) inter-institutional negotiations with the European Parliament (trilogues) started on 6 September 2017 and significant progress has already been achieved.

On the EU asylum agency, a provisional agreement with the European Parliament was reached in 2017, excluding the parts of the text related to other legislative proposals in the package. In September 2018, the European Commission presented an amended proposal, which builds on the existing agreement and aims to reinforce the operational support provided by the agency and the cooperation with other relevant experts. Discussions on this amended proposal are ongoing at the Council.

On the qualification regulation, the reception conditions directive and the resettlement regulation, a provisional agreement was reached between the presidency and the rapporteur in June. However, this provisional agreement did not achieve the necessary support from member states. Discussions within the Council continued with a view to identifying the minimum amendments required to achieve the necessary support from both institutions.

[Reforming the Common European Asylum System \(background information\)](#)

Migrant smuggling

Ministers approved a comprehensive and operational set of measures with a law enforcement focus to step up the fight against migrant smuggling networks. This follows a call by EU leaders at their meeting in October.

These measures build on ongoing efforts at EU and national level, for example as part of the EU action plan against migrant smuggling (2015-2020). The concrete actions draw on:

- enhanced inter-agency approach both at EU and national level
- making the best use of synergies between the operational tools available
- maximising the use of the external assets of the EU

The objective is to disrupt migrant smuggling networks both inside and outside the EU, taking into account their high level of adaptability and the increased interlinking of different criminal activities (including drug trafficking, money laundering).

[Migrant smuggling: Council approves a set of measures to fight smuggling networks \(press release\)](#)

Multiannual financial framework: justice and home affairs priorities

The Council discussed the justice and home affairs priorities for the next multiannual financial framework.

As part of the next multiannual financial framework (MFF) package, the Commission issued its proposals for the area of justice and home affairs last June. Under these proposals, decentralised JHA agencies and JHA funds are assigned to three different headings: cohesion and values; migration and border management; and security and defence. Transfers of funds between agencies or towards funds under different headings are not provided for, while JHA agencies are spread between three headings under the new proposed MFF. It is therefore important to ensure the budgetary priorities within the JHA field are clearly set before the adoption of the next MFF.

[Multiannual financial framework proposals \(European Commission\)](#)

[Multiannual financial framework \(background information\)](#)

Any other business

– ***Current legislative proposals***

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

– ***Regional ministerial forum on counteraction of internal corruption***

Bulgaria updated ministers on the results of the regional ministerial forum on counteraction of internal corruption, which was held in Sofia on 26-27 November 2018.

– ***EU-US Justice and Home Affairs ministerial meeting***

The Presidency updated ministers on the outcome of the EU-US Justice and Home Affairs ministerial meeting, which took place in Washington on 8-9 November 2018

For more information, see [joint press statement](#)

– ***High-Level Conference "European values, rule of law and security"***

The Presidency informed ministers about the high-level conference on European values, rule of law and security, which was held in Vienna on 19-20 November.

For more information, see [Austrian presidency website](#)

– *Vienna process*

The Presidency updated the Council on the results and follow up on the Vienna process, which is a reflection process on current internal security challenges.

– *Work programme of the incoming Presidency*

The Romanian interior minister informed the Council of the priorities of the incoming Romanian Presidency in the area of home affairs.

For more information, see [Romanian presidency website](#)

Migration

Over lunch, ministers discussed the EU's comprehensive approach to migration, including the external and internal aspects and border protection. They focused in particular on the issues of solidarity and responsibility.

MIXED COMMITTEE

The Council in the Mixed Committee format (the EU plus Norway, Iceland, Liechtenstein and Switzerland) discussed the following items:

- ***European Border and Coast Guard***

See above

- ***Return directive***

See above

- ***Any other business***

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

OTHER ITEMS APPROVED

JUSTICE AND HOME AFFAIRS

Council Declaration on the Fight against antisemitism

The Council adopted today a Declaration on the fight against antisemitism ([14966/18](#)).

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

Strategy and action plan on e-Justice 2019-2023

The Council adopted today the strategy and action plan on e-justice 2019-2023 ([12794/3/18](#) & [11724/4/18](#)).

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

Strategic direction on internal security - Council conclusions

The Council adopted conclusions on the future strategic direction in the field of internal security ([14578/18](#)).

Amended regulation on the electronic publication of the Official Journal of the EU

The Council adopted today an amendment to the regulation on the electronic publication of the Official Journal of the EU ([14463/18](#)). The amendment regards the introduction of an authentication by electronic seal as an alternative to qualified electronic signature. This should help accelerate the procedure for the publication of the Official Journal on the EUR-Lex website.

Council's conclusions on alternative development

The Council adopted today conclusions on alternative development: "Towards a new understanding of alternative development and related development centered drug policy interventions - Contributing to the implementation of UNGASS 2016 and the UN Sustainable Development Goals" ([14338/18](#)).

The conclusions aim at supporting the objectives of the European Union drugs strategy 2013-2020. In these Conclusions, alternative development is considered as an important strategy to address the underlying root causes of illicit drug economies through an integrated approach.

FOREIGN AFFAIRS

CTA - Members of the executive board

The Council approved a draft decision of the ACP-EU committee of ambassadors appointing members to the executive board of the Technical Centre for Agricultural and Rural Cooperation (CTA). It decided to forward the draft decision to the ACP side for adoption by the ACP-EU committee of ambassadors by exchange of letters. ([13497/18](#))

CDE discharge procedure 2013-2016

The Council approved a draft decision of the ACP-EU committee of ambassadors giving a discharge to the director of the Centre for the Development of Enterprise (CDE) in respect of the implementation of the budgets of the centre for the financial years 2013-2016. It decided to forward the draft decision to the ACP side for adoption by the ACP-EU committee of ambassadors by exchange of letters. ([14961/18](#))

ECONOMIC AND FINANCIAL AFFAIRS

SSM Chair appointment

The Council today adopted a decision appointing Andrea Enria as head of the supervisory board of the European Central Board. He will hold the position for a period of five years, starting from 1 January 2019.

See [press release](#)

TRANSPORT

Revision of regulation on wet-lease

The Council adopted a regulation amending regulation 1008/2008 on common rules for the operation of air services in the Community ([PE-CONS 61/18](#))
