

JUSTICE and HOME AFFAIRS COUNCIL **Thursday 8 and Friday 9 March in Brussels**

On Thursday, the meeting will be chaired by **Valentin Radev**, Minister of Interior and, on Friday, by **Tsetska Tsacheva**, Minister of Justice.

On Thursday, home affairs ministers are expected to focus mainly on **security issues**, including interoperability between EU information systems, cooperation with the Western Balkans in the area of security, the contribution of EU agencies to the fight against terrorism and cooperation between EU justice and home affairs agencies and Common Security and Defence Policy (CSDP) missions. Ministers will exchange views on the ongoing implementation of the Passenger Name Record (PNR) directive.

The Council is also expected to discuss the current state of play on **migration**, covering both the implementation of existing migration policies and areas where further work may be needed.

Over lunch, home affairs ministers will exchange views on **terrorism content online**.

In the margins of the Council, the **Mixed Committee** (EU plus Iceland, Liechtenstein, Norway and Switzerland) will discuss the proposals on interoperability between EU information systems. Exceptionally, the Schengen associated states will be present at the discussions on cooperation with the Western Balkans in the area of security, the contribution of EU agencies to the fight against terrorism and the current state of play on migration.

On Friday, Justice ministers will discuss, in public session, the so called **Brussels IIa regulation** on matrimonial matters and parental responsibility as well as the **non-cash fraud directive**. They are expected to reach a general approach on the latter.

Ministers will also exchange views on how to **improve cross-border access to e-evidence**, pending the presentation by the Commission of a draft legislation.

The Council will also be informed on the state of play of the **implementation of the European Public Prosecutor's Office** regulation (EPPO).

Finally, over lunch, ministers will exchange views on the issue of radicalisation in prisons.

Press conferences:

- **Home Affairs Council** (*Thursday*, +/- 18:00)
- **Justice Council** (*Friday*, +/- 15:00)

*Press conferences and public events by video streaming: <http://video.consilium.europa.eu>
Video coverage in broadcast quality (MPEG4) and photo gallery on:
<https://tvnewsroom.consilium.europa.eu/permalink/105569>*

¹ This note has been drawn up under the responsibility of the press office.

HOME AFFAIRS

Cooperation with the Western Balkans in the area of internal security and counter terrorism

Ministers will exchange views on the cooperation with the Western Balkans in the area of security and counter-terrorism. On 6 February 2018, the Commission submitted a communication on "a credible enlargement perspective for and enhanced EU engagement with the Western Balkans", setting out an overall strategy for the Western Balkans. This communication sets out six EU flagship initiatives, including one on reinforcing engagement on security and migration which is accompanied by a specific action plan of 14 actions envisaged for 2018-2020.

Ministers will be invited to address the specific measures proposed in this communication on reinforcement engagement on security and migration and to discuss possible short-term deliverables to which priority should be given. The results of this discussion will feed into the upcoming EU-Western Balkans summit, which will take place in Sofia on 17 May.

Work is already ongoing at EU level to help build capacities in the Western Balkans and to facilitate cooperation to counter threats from organised crime and terrorism, including radicalisation leading to violent extremism, the challenge of foreign terrorist fighters and the trafficking of firearms and explosives.

Interoperability between EU information systems

Ministers will discuss the Commission proposals on interoperability. In particular, they will focus on whether the interoperability components proposed adequately address the needs, whether coordination should be provided at EU level to prepare the implementation at national level, whether any additional elements should be considered, and whether the Commission and member states should examine the feasibility of other elements to address the remaining information gaps and contribute to the completion of the interoperability landscape.

In December 2017, the Commission presented two legislative proposals on interoperability, proposing to establish the following interoperability components:

- A **European search portal**, which would allow competent authorities to search multiple information systems simultaneously, using both biographical and biometric data.
- A **shared biometric matching service**, which would enable the searching and comparing of biometric data (fingerprints and facial images) from several systems.
- A **common identity repository**, which would contain biographical and biometric identity data of third-country nationals available in several EU information systems.
- A **multiple identity detector**, which checks whether the biographical identity data contained in the search exists in other systems covered, to enable the detection of multiple identities linked to the same set of biometric data.

In June 2017, the Council adopted conclusions on improving information exchange and ensuring interoperability of EU information systems. These conclusions followed the final report by the High Level Expert Group on Information Systems and Interoperability, set up by the Commission in June 2016. The group examined the ways in which the use of existing systems could be improved, the need to develop new information systems to address existing information gaps as well as ways to ensure interoperability between the systems.

The Council conclusions in particular invited the Commission to work on the creation of a European search portal and to explore the future implementation of a shared biometric matching service for all types of biometric data as well as the future establishment of a common identity repository.

- [Presidency note for policy debate](#)
- [Infographic - Making Europe more secure: connecting databases](#)
- [Response to foreign terrorist fighters and recent terrorist attacks in Europe \(background information\)](#)

EU JHA agencies' role in counter-terrorism

Ministers will hold a debate on the increasing role of EU justice and home affairs (JHA) agencies in counter-terrorism. They will be invited to share their experiences with the use of the agencies and to provide strategic direction for the way ahead.

Over the past three years, since the Charlie Hebdo terrorist attacks in January 2015, EU JHA agencies have had an increasing role in the fight against terrorism in support of member states. Several EU agencies, including Europol, Eurojust, the European Border and Coast Guard Agency (Frontex), the European Union Agency for Law Enforcement Training (CEPOL) and the Fundamental Rights Agency (FRA) contribute to the implementation of EU policies in this field and support cooperation between the EU and national governments by pooling technical and specialist expertise.

Cooperation between CSDP missions/operations and EU JHA agencies

Ministers will also cover cooperation between EU justice and home affairs agencies and Common Security and Defence Policy (CSDP) missions/operations, in particular the approach for a pilot project of a crime information cell in EU NAVFOR Med Operation Sophia.

The need to enhance cooperation between CSDP missions and operations and JHA agencies in order to combat terrorism and organised crime, including human trafficking and smuggling, has been highlighted at different levels. In May 2017, defence and home affairs ministers discussed how to improve cooperation and information exchange between military and law enforcement structures in relation to terrorism. In its conclusions of October 2017, the European Council called for enhancing information and data sharing within the EU, between member states, JHA agencies and CSDP missions and operations to address trafficking and smuggling networks.

In December 2017, ministers were informed of ongoing work to enhance cooperation in this field. This included the possibility of creating a pilot project for a crime information cell in a CSDP operation, in particular EU NAVFOR Med Operation Sophia, for which both the Commission and the EEAS pledged their support in principle. The Council invited the relevant actors to develop this pilot project.

PNR Directive

Ministers will exchange views on the ongoing implementation of the passenger name record (PNR) directive. The PNR directive was adopted in 2016 and has implementation deadline of 28 May 2018.

The directive regulates the transfer from the airlines to the member states of PNR data of passengers of international flights, as well as the processing of this data by the competent authorities. The directive establishes that PNR data collected may only be processed for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

- [Council adopts EU Passenger Name Record \(PNR\) directive \(press release, 21 April 2016\)](#)

Migration

Ministers will discuss the state of play and next steps regarding migration.

The actions taken by the EU and member states in 2017 to protect the external borders and to manage migration flows resulted in tangible results. In 2017, the number of irregular border crossing into the EU was 60% lower than in 2016.

Work continues at EU level to further strengthen the external borders, speed up returns, and ensure effective cooperation with transit countries and provide the necessary support to the countries of origin to fight the root causes of migration.

- [Finding solutions to migratory pressures \(background information\)](#)

JUSTICE

Revision of Brussels IIa : Recognition and enforcement of decisions in matrimonial matters and parental responsibility

The Council will have a policy debate ([6300/18](#)) on the revision of so called Brussels IIa Regulation (regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction).

Ministers will be asked to express their views on the role and tasks of central authorities. In particular, they will be invited to discuss how to ensure that central authorities are provided with enough financial and human resources in order to perform efficiently their obligations under the revised regulation.

Central authorities perform various tasks in cross-border cases in matters of parental responsibility. For example, they have a crucial role in intra-EU child abduction cases. Considering the steady increase in the number of international couples, it is likely that cross-border child related cases will increase in the years to come.

It will be the third policy debate on this Regulation. In [June 2017](#), the Council debated on the issue of the hearing of the child during proceedings while in [December 2017](#) ministers touched on the issue of the abolition of exequatur. Exequatur is a legal procedure by which one applies to the relevant court in the Member state where enforcement is required for a declaration that a judgment from a foreign court is enforceable.

The proposal was presented by the Commission on 30 June 2016. It aims at improving the current legal EU rules that protect children in the context of cross-border parental responsibility disputes such as custody, access rights or child abduction. A key objective of the new rules is to ensure quicker overall procedures given that time is of the essence in order to protect the best interests of the child in these cross-border parental responsibility disputes.

The proposed regulation is subject to the special legislative procedure which foresees the need to have unanimity of the Council after consultation of the European Parliament. The [opinion of the Parliament](#) was delivered on 18 January 2018. All Member states, except Denmark, are participating to this legislation.

For more information:

- [Commission website : new rules to better protect children in cross-border family proceedings](#)

Directive on combating fraud and counterfeiting of non-cash means of payment

The Council is expected to adopt its position on the so called non-cash fraud directive.

The directive aims at updating the current rules to ensure a clear, robust and technology neutral legal framework is in place in order to tackle successfully various kinds of fraud with non-cash means of payment. It also eliminates operational obstacles that hamper investigation and prosecution as well as foresees actions to enhance public awareness of fraudulent techniques such as phishing or skimming.

The directive includes in particular provisions on:

- Expanding the scope of the offences to include, for example, transactions through virtual currencies;
- Harmonising the definitions of some online crime offences, such as hacking a victim's computer or phishing
- Introducing minimum level for the highest penalties
- Clarifying the scope of jurisdiction to ensure cross border frauds are better dealt with;

- Improving EU-wide criminal justice cooperation.

Reducing fraud in non-cash payments will contribute to cutting part of the funding of well-structured and globally active organised crimes groups. The new rules, as they should strengthen the protection of non-cash payments, will also help enhancing customers' trust in new payment technologies, hence supporting the development of the digital single market.

In 2013, it is estimated that €1.44 billion were gained by criminals through non-cash payment fraud. Around 36 billion of phishing messages are sent every year to European citizens.

The directive was proposed by the Commission in September 2017 as part of the EU's response to the challenge of cybersecurity. It updates the Council framework decision 2001/413/JHA dating back to 2001.

For more information:

- [Factsheet on combating fraud and counterfeiting of non-cash means of payment](#)
- [Proposal for a Directive on combating fraud and counterfeiting of non-cash means of payment](#)

Improving cross-border access to e-evidence

Following an update from the Commission on the current state of preparation of the legislative proposal to be tabled on cross-border access to e-evidence, ministers will exchange views on the subject, in particular on the recent international developments. They will also be invited to share any relevant national developments, emerging needs or new challenges stemming from on-going investigations and criminal proceedings.

In June 2016, the Council adopted conclusions on improving criminal justice in cyberspace. The conclusions set out concrete measures for future follow-up and action to streamline mutual legal assistance (MLA) proceedings, enhance cooperation with service providers and review the rules on enforcement jurisdiction in cyberspace.

In December 2017, the Commission presented an intermediary report on the implementation of the Council conclusions. It indicated that it will work to put forward practical measures, such as a secure e-platform, as well as legislative initiatives to form a common approach on e-evidence. Member states have reiterated their positive view on establishing a legal framework that would allow national authorities to directly request or compel a service provider in another Member state to disclose e-evidence processed in the EU on the basis of certain conditions and safeguards. A legislative proposal is due to be presented shortly by the Commission.

In the meantime, developments are taking place at international level.

First, the Council of Europe decided to draft an additional protocol to the Budapest Convention of Cybercrime in order to lay down provisions for a more simplified mutual legal assistance (MLA) regime and for provisions allowing for direct cooperation with service providers in other jurisdictions. The objective is to finish the drafting by December 2019 while coordinating closely with the preparation of the relevant legal instruments at EU level.

Second, a new bill has been introduced in the US Congress, the CLOUD act (Clarifying Lawful Overseas Use of Data). This bill, if adopted, would in particular set an obligation for US service providers to comply with US orders to disclose content data irrespective of where such data is stored. This bill also foresees the possibility for the US administration to conclude executive agreements which would allow US service providers to deliver content data to a partner foreign government, without the need for an MLA request.

For more information:

- [Press release on the fight against criminal activities in cyberspace, June 2016](#)
- [Council of Europe - Towards a Protocol to the Budapest Convention](#)

European Public Prosecutor's Office (EPPO regulation)

Justice ministers will be informed on the state of play of the implementation of the EPPO regulation ([6467/18](#)) as well as on the issue of the cooperation between the EPPO and other relevant EU bodies and agencies, namely Eurojust, OLAF and Europol.

Since the formal adoption of the EPPO regulation, the Commission has taken a number of steps foreseen for the creation of the Office. Those concern notably: the appointment of the interim Administrative Director, the setting up of the EPPO Expert Group, the delegated Act listing the categories of operational personal data and the categories of data subjects, the selection and appointment of the European Chief Prosecutor, the vacancy notice for the European Chief Prosecutor, the selection of the European Prosecutors, the Case Management System, the budget.

The EPPO will have the authority, under certain conditions, to investigate and prosecute EU-fraud and other crimes affecting the Union's financial interests. It will bring together European and national law-enforcement efforts to counter EU fraud.

The EPPO central office will be based in Luxembourg. The date on which the EPPO will assume its investigative and prosecutorial tasks will be set by the Commission on the basis of a proposal from the European Chief Prosecutor once the EPPO has been set up. This date will not be earlier than three years after the entry into force of this Regulation.

20 Member states have so far formally decided to join the EPPO under the procedure for enhanced cooperation.

For more information:

- [Council press release on the agreement of the EPPO regulation](#)
- [Commission Q&A on the EPPO](#)
