

## **JUSTICE and HOME AFFAIRS COUNCIL**

### **Monday 4 and Tuesday 5 June in Luxembourg**

On Monday morning, the meeting of justice ministers will be chaired by **Tsetska Tsacheva**, Minister of Justice. On Tuesday, the meeting will be chaired by **Valentin Radev**, Minister of Interior. On Monday afternoon, the joint meeting of Justice and home affairs ministers will be under the chairmanship of both ministers.

Justice ministers will discuss, in public session, the **Brussels IIa** regulation on matrimonial matters and parental responsibility as well as the **sales of goods directive**. They also expected to reach a partial general approach on the **Directive on insolvency, restructuring and second chance**.

The presidency will finally inform ministers on the **new strategy of e-justice** for 2019-2023 while the Commission will update the Council on the implementation of the **European public prosecutor's office** (EPPO).

On Monday afternoon, justice and home affairs ministers will meet jointly, in public session, to discuss the new proposals on **e-evidence**.

On Tuesday, home affairs ministers will discuss the proposal to reform the **Visa Code**. They will also be briefed by the Presidency on progress regarding the reform of the **common European asylum system** (CEAS).

In the afternoon, the Council will focus on security issues and the fight against terrorism, in particular enhancing cooperation on **counter terrorism**, the **EU policy cycle for organised and serious crime** and the setting up of a pilot project on a **crime information cell** in EU NAVFOR MED Operation Sophia.

Before the meeting, home affairs ministers are expected to have an informal discussion on the application of the principles of **responsibility and solidarity** in the context of the Common European Asylum Reform.

Over lunch, home affairs ministers will exchange views on **migration**.

In the margins of the Council, the **Mixed Committee** (EU plus Iceland, Liechtenstein, Norway and Switzerland) will discuss the proposal on the Visa Code. Exceptionally, the Schengen associated states will be present at the discussions on the current state of play on migration and on enhancing cooperation on counter terrorism.

#### **Press conferences:**

- **Justice Council** (**Monday**, +/- 17:30)
- **Home Affairs Council** (**Tuesday**, +/- 18:00)

Press conferences and public events by video streaming: <http://video.consilium.europa.eu>

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<https://tvnewsroom.consilium.europa.eu/permalink/110003>

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<sup>1</sup> This note has been drawn up under the responsibility of the press office.

# JUSTICE

## Contract law - Sales of goods directive

The Council will hold a policy debate on the sales of goods directive ([9261/18](#)).

This directive is closely linked to the digital content directive (DCD) on which the Council adopted its [general approach in June 2017](#) and for which negotiations with the Parliament are ongoing.

Ministers will be asked to provide political guidance on the interrelationship and consistency between both proposals in order to ensure further progress in the negotiations.

Ministers will be asked in particular to discuss the following issues :

- Whether goods with embedded digital content or services should be included within the DCD or the sales of goods directive;
- The type of remedies and conditions to claim them for consumers;
- The level of harmonisation regarding legal guarantee periods.

Both directives are part of the 'Digital Single Market Strategy for Europe' presented by the Commission in December 2015. The proposed sales of goods directive, initially limited online and other distance sales, was modified by the Commission in 2017 to also include face-to-face sales.

## Directive on Insolvency, Restructuring and Second Chance

The Council is expected to reach a partial general approach on the directive on insolvency, restructuring and second chance ([9236/18 + ADD 1](#)).

The partial agreement would cover the articles of titles Title III (Discharge of debts and disqualifications), Title IV (Measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt) and Title V (Monitoring of procedures concerning restructuring, insolvency and discharge of debt) as well as key related recitals.

The proposal was presented by the Commission on 22 November 2016. It aims to provide access for viable enterprises in financial difficulties to national insolvency frameworks that enable them to restructure at an early stage with a view of preventing their insolvency. It also aims at giving honest bankrupt entrepreneurs a second chance across the Union and introduces measures to increase the efficiency of restructuring, insolvency and discharge procedures.

The overall objective of the text is to reduce the most significant barriers to the free flow of capital stemming from differences in member states' restructuring and insolvency frameworks and to enhance the rescue culture in the EU. In doing so, the proposal aims to strike an appropriate balance between the interests of the debtors and the creditors.

The text is a minimum harmonization directive. It introduces a set of principles along with more targeted rules in some specific cases, while allowing member states to go further when transposing the rules into national law.

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

The Council will hold a policy debate ([9227/18](#)) on the revision of 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 three topics:

- the ***circulation of provisional, including protective, measures in urgent cases***. This issue refers to urgent cases where such provisional measures are ordered outside the member state having jurisdiction over the substance of parental responsibility. Ministers are asked to express their views on whether those measures should be recognized and enforced in another member state where they aim to facilitate the return of an abducted child;

- the **placement of a child in another member state**. This issue relates to the need for consent from the member state where a child is to be placed, regardless of the role of public authorities in that member state for domestic cases of such child placement;
- the **way forward on how to complete the abolition of exequatur**. In December 2017, the Council agreed on the abolition of exequatur, subject to appropriate safeguards. As a follow-up to discussion that took place at technical level, ministers will be invited to share views on whether it is appropriate to introduce one system of recognition and enforcement of decisions in matters of parental responsibility with special rules for "privileged" decisions ("privileged" decision is a decision given in a Member State to be recognised in another Member State without any special procedure being required and without any possibility of opposing its recognition).

It will be by the fourth policy debate on this Regulation. In [March 2018](#), the Council debated on the issue of the role and tasks of central authorities. In [June 2017](#), the Council exchanged views 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.

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 related to custody, access rights and 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.

For more information:

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

### **European Public Prosecutor's Office (EPPO regulation)**

Justice ministers will be informed by the Commission on the state of play of the implementation of the EPPO regulation.

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.

20 Member states have so far formally decided to join the EPPO. On top of these, the Netherlands has officially notified its wish to join the EPPO while the Maltese government announced its intention to do so during the last Justice Council in March.

For more information:

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

### **Strategy and action plan on e-justice**

Justice ministers will be informed by the presidency ([8990/18](#)) on the state of play regarding the preparation of the strategy and action plan on e-justice for the period 2019-2023.

e-justice is a policy development tool through which access to justice is being simplified and improved while 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.

The current 2014-2018 e-justice action plan aimed to build upon the work already undertaken and to continue this necessary development towards modernisation of justice at national and European level. The work in the action plan focused on access to information in the field of justice, access to courts and extrajudicial procedures and, finally, communication between judicial authorities.

For more information:

- [E-justice portal](#)
- [E-justice strategy 2014-2018](#)

## JOINT SESSION JUSTICE & HOME AFFAIRS

### Improving cross-border access to e-evidence

The Council will hold a policy debate on the new e-evidence package tabled by the Commission in April 2018.

The package is made of two legislative proposals: a regulation on European production and preservation orders for electronic evidence in criminal matters and a directive laying down harmonised rules on the appointment of legal representatives for the purposes of gathering evidence in criminal proceedings.

The objective of the proposals is to improve cross-border access to e-evidence by creating a legal framework for judicial orders addressed directly to legal representatives of service providers in another member states, without the intervention of an authority in the other member state.

During the debate, ministers will be invited to exchange views on:

- the scope of the directive and, in particular, whether the issues of direct access to e-evidence and real-time interception should be consider as part of the future EU legal framework;
- the current international developments on e-evidence and, in particular, the impact of the US CLOUD Act adopted in March 2018.

For more information:

- [Commission - press release on the new e-evidence proposals](#)
- [Commission - Factsheet: Facilitating Access to electronic evidence](#)
- [Press release on the fight against criminal activities in cyberspace, June 2016](#)
- [Council of Europe - Towards a Protocol to the Budapest Convention](#)

### Victims of terrorism

Ministers will be invited to discuss aspects related to the protection and support of victims of terrorism ([9225/18](#)). Those could include issues such as the implementation and use of legislations and tools available at EU level as well the funding of such tools or actions, and any other activities that could be developed to further improve the support provided to victims of terrorism. .

On the same day, the Council will adopt conclusions on victims of terrorism ([9118/18](#)). The objective of these conclusion will be to promote effective cooperation between the authorities and entities responsible for the protection of victims of terrorism in order to facilitate the rapid exchange of information and assistance in the event of a terrorist attack.

The solidarity, assistance and compensation of the victims of terrorism and their families constitutes an integral part of the response to terrorism at national and European level. The EU is committed to support and protect victims across Europe through the EU-wide access to compensation schemes, the victims rights' directive and the directive on combatting terrorism

The directive on combating terrorism provides for the protection and assistance of the victims and their families by ensuring support services addressing the specific needs of victims of terrorism are and that they are available for victims of terrorism, regardless of their nationality, immediately after a terrorist attack and for as long as necessary.

# HOME AFFAIRS

## Visa Code

Home affairs ministers will hold a policy debate on the proposal to reform the visa code and, in particular, on the link between visa policy and readmission. They are expected to focus on:

- the approach (negative incentives or a mix of positive and negative incentives)
- the indicators to assess cooperation by a third country
- the triggering of the mechanism leading to the use of visa leverage
- the type of decision (implementing act by Council or Commission) required to apply the measures

In its conclusions of 8 June 2017, the Council considered that stronger coordination should be established between the two areas of return and visa policy to improve cooperation of third countries on return and readmission. On 14 March 2018, the European Commission submitted a legislative proposal amending the Visa Code to adapt it to new security and migration challenges. Among other changes, this proposal codifies the visa policy-readmission link, incorporating a new mechanism which allows to trigger stricter conditions for processing visas when a third country does not cooperate sufficiently on the readmission of irregular migrants.

## Reform of the Common European asylum system and resettlement

The Council will take stock of work carried out so far on the reform of the common European asylum system (CEAS). A progress report on all legislative proposals will be presented by the presidency.

On 4 May 2016, the Commission adopted a first package of proposals to reform the CEAS, namely the recast of the Dublin regulation, the Eurodac regulation and the regulation on the European Agency for Asylum.

The proposal on the recast of the **Dublin regulation** aims to:

- enhance the system's capacity to determine efficiently and effectively a single member state responsible for examining the application for international protection;
- ensure fair sharing of responsibilities between member states by complementing the current system with a corrective allocation mechanism;
- discourage abuse and prevent secondary movements of applicants within the EU.

The Bulgarian Presidency has continued discussions at technical and ambassadors level with the aim of making as much progress as possible to prepare the discussions by leaders at the June European Council.

The **Eurodac** proposal includes the necessary changes to adapt the system to the proposed Dublin rules, in line with its primary objective to serve the implementation of the Dublin regulation. Eurodac shall also become a database for wider immigration purposes, facilitating return and the fight against irregular migration. Inter-institutional negotiations with the European Parliament (trilogues) started on 6 September 2017 and significant progress has already been achieved on this file.

The proposal for a **European Union Agency for Asylum** aims to improve the implementation and functioning of the CEAS by building on the work of the European Asylum Support Office and further developing its responsibilities. On 6 December 2017, the Permanent Representatives Committee (Coreper) took note of the agreement reached between the representatives of the Council and of the European Parliament on the text of the proposal, excluding the parts of the text related to other legislative proposals in the package.

On 13 July 2016, the Commission presented a second package of proposals which contained:

- A regulation on **qualification** of third-country nationals or stateless persons as beneficiaries of international protection (replacing the qualification directive), setting uniform standards for the recognition of persons in need of protection and the rights granted to beneficiaries of international protection. On 19 July 2017, the Permanent Representatives Committee

(Coreper) endorsed, on behalf of the Council, a mandate for negotiations with the European Parliament. Inter-institutional negotiations with the European Parliament (trilogue) are ongoing.

- A regulation establishing a **common procedure** for international protection in the EU (replacing the asylum procedures directive), in order to create a genuine common procedure, thereby removing incentives for asylum shopping and secondary movements between member states. Discussions on this proposal are ongoing at the Council.
- A recast of the directive for the **reception conditions** of applicants for international protection, further harmonising reception conditions in the EU to ensure that the treatment of applicants is dignified across the EU, in accordance with fundamental rights and the rights of the child, and to decrease secondary movements. On 29 November 2017, the Permanent Representatives Committee (Coreper) endorsed, on behalf of the Council, a mandate for negotiations with the European Parliament. Inter-institutional negotiations are ongoing.
- A regulation establishing an **EU resettlement framework** that will create a common set of standard procedures for the selection of resettlement candidates and a common protection status for persons resettled to the EU to streamline and better focus European resettlement efforts in the future. On 15 November 2017, the Permanent Representatives Committee (Coreper) endorsed, on behalf of the Council, an unanimous mandate for negotiations with the European Parliament. Inter-institutional negotiations are ongoing.

- [Reforming the common European asylum system \(background information\)](#)

## Migration

Ministers will take stock of the situation along the Mediterranean migratory routes and discuss the way forward, both regarding immediate measures and measures to be implemented in the short term. They will consider how to strengthen ongoing work in areas including crisis management, external border controls, returns, resettlement, and cooperation with third countries.

The actions taken by the EU and member states in the past years to protect the external borders and to manage migration flows have resulted in tangible results. In the first four months of 2018, the total number of irregular border crossings dropped 44% compared to 2017. However, the situation remains volatile and continuous monitoring of the different routes is of utmost importance.

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

## Counter-terrorism

Ministers will continue to discuss, in the presence of the counter-terrorism group (CTG), possible opportunities for further cooperation between competent authorities dealing with counter-terrorism.

The counter-terrorism group is an informal group outside the EU framework that gathers the security services of the 28 EU member states, Norway and Switzerland. The most recent exchange between home affairs ministers in the presence of the CTG took place at the December 2017 home affairs Council meeting.

- [Response to foreign terrorist fighters and recent terrorist attacks in Europe \(background information\)](#)

## EU policy cycle for organised and serious crime

Ministers will discuss the impact of the EU policy cycle for organised and serious crime, following the completion of the first EU policy cycle (2014-2017), and reflect on possible areas for further improvement.

They will focus in particular on the impact of one of its key features, the integrated multidisciplinary character, in terms of:

- cooperation between different actors at national, EU and international level
- integration and alignment of the wide range of activities developed to tackle the EU crime priorities, including administrative approaches, prevention campaigns and strategic and operational activities.



They will then discuss how to further strengthen this multidisciplinary approach.

The policy cycle is a methodology adopted by the EU in 2010. It provides a framework for operational cooperation to address the most important criminal threats affecting the EU. Each policy cycle lasts four years and makes it possible to target these threats in a coordinated and structured way.

The policy cycle has achieved solid operational results. Beyond its quantitative results, it has also provided a strong common operational platform for the different actors, enhanced mutual trust, developed flexible and coordinated multiagency structures and shown a capacity of adaptation to the evolving and complex nature of crime.

The EU policy cycle 2014-2017 focused on the following priorities: facilitation of illegal migration, trafficking in human beings, counterfeit goods, excise and missing trader intra community (MTIC) fraud, drugs (synthetic, cocaine, heroine), cybercrime, firearms and organised property crime.

The current policy cycle covers the period 2018-2021.

- [The EU fight against organised crime \(background information\)](#)

### **Cooperation between CSDP missions/operations and EU JHA agencies**

Ministers will be briefed on the latest developments regarding the setting up of a pilot project on a crime information cell in EU NAVFOR MED Operation Sophia.

On 14 May 2018, the Council adopted a decision allowing for the creation of the crime information cell. The cell will be composed of up to 10 staff members from relevant law enforcement authorities of member states and from the EU agencies Frontex and Europol, to improve information sharing. It will be tasked with facilitating the reception, collection and transmission of information on human smuggling and trafficking, the implementation of the UN arms embargo on Libya, illegal trafficking, as well as crimes relevant to the security of the operation itself.

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 March 2018, the Council endorsed the principle of the participation of EU JHA agencies in a pilot project for a crime information cell in operation Sophia.

- [EUNAVFOR MED Operation Sophia: operation to contribute to better information sharing on crime in the Mediterranean \(press release\)](#)