



JUSTICE and HOME AFFAIRS COUNCIL **Monday 27 and Tuesday 28 March in Brussels**

On Monday, the meeting will be chaired by **Carmelo Abela**, Minister for Home Affairs and National Security and, on Tuesday, by **Owen Bonnici**, Minister for Justice, Culture and Local Government.

On **Monday, Home Affairs** ministers will exchange views on **migration policy**, focusing on the implementation of the Malta declaration of 3 February 2017. They will also discuss **return policy**, on the basis of the latest communication and recommendation presented by the Commission.

The Council will take stock of work on the proposals to **reform the common European asylum system**, as well as the proposal on a European travel and information authorisation system (**ETIAS**) and the proposals on an **entry/exit system**. The Council will also be updated on the state of play regarding the implementation of the **European Border and Coast Guard**. It will briefly assess the state of play on the **radicalisation awareness network**.

In the margins of the Council, the **Mixed Committee** (EU plus Iceland, Liechtenstein, Norway, Switzerland) will take stock of work on the proposals on ETIAS and on an entry/exit system. It will also be updated on the implementation of the European Border and Coast Guard. Exceptionally, the Schengen associated states will be present in the discussions on migration and return policy.

Over lunch, ministers will discuss other aspects of migration policy, focusing on deployment of resources by the member states and on relocation.

On **Tuesday, Justice** ministers will be updated on the progress made at technical level on several legislative proposals, namely the **directive on certain aspects concerning contracts for the supply of digital content**, the **directive on countering money laundering** by criminal law and the **regulation on mutual recognition of freezing and confiscation orders**.

Ministers will discuss the state of play and way forward on the topic of **criminal justice in cyberspace** and will be updated by the presidency on the issue of **data retention**. Ministers are also expected to exchange views on policy options for the criminal justice response to the issue of **foreign terrorist fighter returnees**.

Over lunch, ministers will exchange views on possible further action at EU level to strengthen whistleblower protection.

Press conferences:

- **Home Affairs Council** (**Monday**, +/- 17:00)
- **Justice Council** (**Tuesday**, +/- 14:30)

*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/91273>*

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

HOME AFFAIRS

Migration policy

Ministers will exchange views on **migration policy**, focusing on the implementation of the Malta declaration of 3 February 2017. They will also discuss the results of the Valletta joint action plan senior officials meeting, which took place on 8-9 February 2017, and the synergies between the action plan and the Malta declaration.

On 3 February 2017, EU leaders adopted the Malta declaration, which includes a series of measures to stem the flow of irregular migrants from Libya to Italy. With spring approaching, leaders decided to take additional action to significantly reduce migratory flows, break the business model of smugglers and save lives. In particular, they agreed to step up cooperation with the Libyan authorities as well as with Libyan regional and local communities and international organisations active in the country.

The priorities include:

- training, equipping and supporting the Libyan national coast guard and other relevant agencies
- further efforts to disrupt the business model of smugglers through enhanced operational action by involving Libya and relevant international partners
- improving the socio-economic situation of local communities in Libya, especially in coastal areas and at Libyan land borders on the migratory routes
- seeking to ensure adequate reception capacities and conditions in Libya for migrants, together with UNHCR and IOM
- supporting IOM in stepping up voluntary return activities
- enhancing information campaigns aimed at migrants
- helping to reduce the pressure on Libya's land border

Following this agreement, the Maltese Presidency presented a concrete plan for the implementation of the Malta declaration to the Committee of Permanent Representatives, in close cooperation with the European Commission and the High Representative.

At the European Council of 9 March, the Maltese Prime Minister briefed EU leaders on progress in implementing operational measures agreed.

The Valletta joint action plan was agreed in November 2015 at a summit bringing together European and African heads of state and government. It seeks to address the root causes of illegal migration, enhance cooperation on legal migration, reinforce the protection of migrants and asylum seekers, prevent illegal migration and migrant smuggling, and improve cooperation on return, readmission and reintegration.

For more information:

- [Malta Declaration by the members of the European Council on the external aspects of migration: addressing the Central Mediterranean route](#)

Return policy

The Council will discuss return policy, based on the Commission communication on a more effective return policy and the Commission recommendation on making returns more effective when implementing directive 2008/115/EC ("return directive").

The Commission communication sets out a renewed action plan on return, building on the action plan adopted in 2015. This renewed action plan aims to improve the efficiency of the EU return system and to increase return rates. It outlines two areas where action is required: making national administrative systems and return procedures more effective and overcoming the challenges of readmission.

The Commission recommendation contains a series of measures aimed at improving the return system through a more uniform implementation of the return directive by member states.

For more information:

- [Commission recommendation on making returns more effective when implementing directive 2008/115/EC](#)
- [Commission communication on a more effective return policy in the EU - a renewed action plan](#)
- [Managing migration flows and curbing migrant smugglers \(Council website\)](#)

Reform of the common European asylum system and resettlement

The Council will take stock of work 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 common European asylum system, 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 abuses and prevent secondary movements of the applicants within the EU

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 would also become a database for wider immigration purposes, facilitating return and the fight against irregular migration. On 9 December 2016, the Council endorsed a mandate for negotiations with the European Parliament on the recast of the Eurodac regulation.

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 20 December 2016, the Permanent Representatives Committee (Coreper) endorsed, on behalf of the Council, a mandate for negotiations with the European Parliament on the regulation on the European Agency for Asylum.

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
- 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
- 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 rights of the child, and to decrease secondary movements
- a regulation establishing a **Union resettlement framework**, which will establish 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

For more information:

- [Progress report - reform of the common European asylum system and resettlement](#)
- [Reforming the common European asylum system \(Council website\)](#)

Entry/Exit System (EES)*

The Council will take stock of work on the proposal to establish an entry/exit system (EES). This proposal aims to speed up, facilitate and reinforce border check procedures for non-EU nationals travelling to the EU. On 2 March 2017, the Permanent Representatives Committee (Coreper) agreed on a negotiating mandate to start negotiations with the European Parliament.

The proposal was submitted by the Commission in April 2016. It will help reduce border check delays and improve the quality of checks by automatically calculating the authorised stay of each traveller. It will also ensure the systematic and reliable identification of overstayers and those who no longer fulfil the conditions of entry. It will strengthen internal security and the fight against terrorism by allowing law enforcement authorities access to travel history records.

The entry-exit system will apply to third country nationals, both those requiring a visa and those who are visa-exempt, admitted for a short stay of 90 days in any 180-day period. It will register entry, exit and refusal of entry. It will also store information on identity and travel documents as well as biometric data.

The proposal foresees appropriate data protection safeguards and strict access rights in accordance with EU data protection rules. It also establishes the interoperability between the EES and the VIS (Visa Information System).

The package also includes a revised proposal for a regulation amending the Schengen Borders Code to integrate the technical changes that result from the proposed EES. These changes will make self-service systems and e-gates accessible to third country nationals, enabling automated processing of certain steps of the control process and enabling the creation of national facilitation programmes by member states who wish to implement them.

The proposed regulation is a revised version of a legislative package presented by the Commission in February 2013. After the co-legislators voiced technical, financial and operational concerns on certain aspects of the 2013 package, the Commission carried out a technical study, followed by a pilot project entrusted to eu-LISA, the EU agency for the operational management of large scale IT systems. On the basis of the results of this preparatory phase, the Commission presented a revised proposal on 6 April 2016.

For more information:

- [Entry-exit system: Council agrees on its negotiating mandate \(press release\)](#)
- [Strengthening the EU's external borders \(Council website\)](#)

European travel information and authorisation system (ETIAS)*

The Council will take stock of work on the proposal on a European travel and information authorisation system (ETIAS).

This proposal, submitted by the Commission in November 2016, will allow for advance checks of visa-exempt travellers and, if necessary, deny authorisation to travel. It will contribute to improving internal security and reducing border delays by identifying persons who may pose a security risk or a risk of illegal migration before they arrive at the external borders.

Under this system, third country nationals who do not need a visa to travel to the EU will have to obtain a travel authorisation before their trip, via an online application. The information submitted

* This item will be discussed by the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland), in the margins of the Council.

will be verified and each application will be automatically processed against other EU databases to determine whether there are reasonable grounds to issue or refuse a travel authorisation. If no hits or elements requiring further analysis are identified, the travel authorisation will be issued automatically. If there is a hit or an element requiring analysis, the application will be handled manually by the competent authorities.

For more information:

- [Proposal for a regulation establishing a European travel information and authorisation system](#)

European Border and Coast Guard*

The Council will be updated on the state of play regarding the implementation of the European Border and Coast Guard.

The regulation on a European Border and Coast Guard was adopted on 14 September 2016. Its main role is to help provide integrated border management at the external borders. It consists of a European Border and Coast Guard Agency (the former Frontex agency with expanded tasks) and those national authorities responsible for border management. The European Border and Coast Guard started its activities on 6 October 2016.

On 2 March 2017, the European Commission presented the second report on the operationalisation of the European Border and Coast Guard.

For more information:

- [Second report from the Commission on the operationalisation of the European Border and Coast Guard](#)

Radicalisation awareness network

The Council will briefly assess the state of play on the radicalisation awareness network (RAN).

The RAN was launched in 2011 as a network to connect individuals working to prevent radicalisation and violent extremism in the EU member states and Norway. It is structured around thematic working groups, which are guided and supported by the RAN centre of excellence, established in 2015.

On 2 February 2017, the Commission launched a network of prevent coordinators, as announced in its communication on radicalisation of 14 June 2016. This network aims to strengthen and structure the exchange of expertise on prevention and to ensure a closer involvement of member states in RAN activities.

For more information:

- [Radicalisation awareness network \(European Commission website\)](#)

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JUSTICE

Digital single market strategy - Supply of digital content

Ministers will hear a progress report ([7429/17](#)) on the work done at technical level regarding the proposal for a directive on certain aspects concerning contracts for the supply of digital content.

Based on the work of previous presidencies, the Maltese presidency has focused its work on finding compromises on the main concepts and key issues, such as the rules on conformity and remedies.

Noting the excellent spirit of compromise among the member states, the Maltese presidency is confident that a Council position could be adopted by June in order to start negotiations with the Parliament.

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.

The directive on digital content aims to regulate contracts for the supply of digital content in business-to-consumer (B2C) contracts. The scope of the proposal is broad, covering: 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 the sharing of data (e.g. Facebook, YouTube, etc.) and any durable medium used exclusively as a carrier of digital content (e.g. DVDs).

For more information:

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

Combatting financial crime and terrorist financing

Ministers will hear a progress report ([7435/17](#)) on the work carried out at expert level on the regulation on the mutual recognition of freezing and confiscation orders as well as on the directive on countering money laundering by criminal law.

The two proposals were tabled by the Commission in December 2016 and are part of the EU plan to strengthen the fight against terrorist financing and financial crimes. The overall objective is to further disrupt the sources of revenue used by terrorist organisations, as well as to improve the tracing of terrorists through financial movements.

The proposal for a regulation on the mutual recognition of freezing and confiscation orders aims to facilitate the freezing and confiscation of financial assets that could be moved across borders by terrorists or other criminals.

The regulation will simplify the current framework by providing a single legal instrument with a broader scope of cross-border recognition rules. The speed and efficiency of freezing and confiscation orders will also be improved through the standardisation of documents and procedures. Lastly, the text ensures that victims' rights to compensation and restitution are respected in cross-border cases.

The objective of the proposal for a directive on countering money laundering by criminal law is to establish minimum rules concerning the definition of criminal offences and sanctions relating to money laundering, supplementing the fourth anti-money laundering directive. This directive will also bring EU rules into line with international obligations, in particular the Council of Europe Warsaw Convention and the relevant Financial Action Task Force recommendations.

For more information:

- [Council website: Fight against money laundering and terrorist financing](#)

Data retention

The presidency will inform ministers on the ongoing work towards facilitating a common reflection process at EU level in light of recent European court of justice case-law. The reflection process in the Council will allow for synergies with the work undertaken by the Commission to provide guidance on bringing national data retention laws into line with the Tele 2 Judgment.

Criminal justice in cyberspace

Under the non-legislative items, ministers will be invited to debate and exchange good practices on how to ensure cross-sector coordination and collaboration at national level in the context of improving criminal justice in cyberspace. They will also be asked to share their views on how to improve coordination at EU level to create the necessary synergies among the different stakeholders involved and respond to the diverse range of needs and challenges related to this topic.

In June 2016, the Council adopted conclusions on improving criminal justice in cyberspace. Since the adoption of these conclusions, the Commission has been carrying out work at expert level, in particular on access to and exchange of electronic evidence and on the role of encryption in criminal investigations. The Commission will update ministers on this ongoing work.

The Council conclusions on improving criminal justice in cyberspace set out concrete measures for future follow-up and action with the aim of streamlining mutual legal assistance (MLA) proceedings, enhancing cooperation with service providers and reviewing the rules on enforcement jurisdiction in cyberspace.

For more information:

- [Press release on the fight against criminal activities in cyberspace, June 2016](#)

Foreign terrorist fighter returnees

The Council will hold a policy debate on options for the criminal justice response to the issue of foreign terrorist fighter returnees.

Ministers will exchange views on the basis of the report presented by the EU counter-terrorism coordinator to Home Affairs ministers in December 2016. The report lists areas where the EU could support member states or where common action could be considered.

Ministers will be invited to reflect on possible policy actions, in particular regarding information exchange with Eurojust, risk assessment tools and rehabilitation/reintegration programmes in prisons and judicial cooperation with third states. They will also discuss possible actions to facilitate bringing Daesh to justice.

The issue of returnees is being considered closely by the group of 13 member states, together with Norway and Switzerland (known as the G15), which are most affected by the phenomenon of foreign terrorist fighters.

For more information:

- [Council website: Response to foreign terrorist fighters and recent terrorist attacks in Europe](#)

European Public Prosecutor's Office (EPPO Regulation)

On the same day, before the start of the Justice ministerial Council meeting, ministers will informally discuss the way forward towards a possible establishment of on the EPPO.

On 9 March 2017, following a request from 17 member states, the European Council discussed the issue and opened the way for a group of at least nine member states to establish a possible enhanced cooperation. Possible negotiations on enhanced cooperation can only start once such a group has formally notified its intention to the three Institutions.
