OUTCOME OF THE COUNCIL MEETING

3717th Council meeting

Justice and Home Affairs

Justice issues

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Minister of Justice
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¹ Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in
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ITEMS DEBATED

EU action against corruption

The Council exchanged views on the topic of EU action against corruption. Ministers were asked whether they see a need for action at EU level to ensure a coordinated, comprehensive and coherent approach to preventing and fighting corruption in the EU institutions and member states. They were also be invited to consider whether an EU-wide instrument of assessment of anti-corruption policies would be of value. Finally, ministers were asked to reflect on how the EU could strengthen its role in the global fight against corruption.

The overall majority of ministers supported the principle of a new comprehensive EU strategy or action plan to fight and prevent corruption both in the EU institutions and the MS. In this respect, delegations emphasised the need to focus on areas where the EU work can bring added value and to look for possible synergies with existing international instruments, in order to avoid parallel actions in this field. Finally, the presidency concluded there is a clear majority towards the EU becoming a full member of the Council of Europe's Group of States against Corruption (GRECO) in the future and underlined there should be discussions on what this would mean in practice for the Union.

The Union has a general right to act in the field of anti-corruption policies within the limits established by the Treaty on the Functioning of the European Union (TFEU). EU anti-corruption legislation currently consists of numerous instruments and may seem fragmented. The debate will therefore give ministers the opportunity to consider whether the current legislation needs to be streamlined and modernised.

Moreover, there has been no comprehensive mechanism to assess anti-corruption efforts in the member states since the Commission discontinued its anti-corruption reporting mechanism in 2007. Since then the assessment on anti-corruption efforts has been part of the European semester, but is not carried out for every member state. In July 2019, the Commission argued that the monitoring of the effectiveness of anti-corruption measures should be incorporated into the proposed rule-of-law evaluation.

Corruption is a challenge that affects all member states. It can be a threat to security and a drag on economic growth, and ultimately undermines citizens' trust in democratic institutions and the rule of law. According to the Eurobarometer on corruption (2017), over two thirds of citizens and companies state that corruption is widespread in their country. Nearly four out of ten companies consider corruption to be a problem when doing business.
The EU’s current legislative framework to combat corruption includes, for example, the 2003 framework decision on criminalisation of corruption in the private sector, the directive on the protection of the Union’s financial interests (PIF directive), anti-money-laundering legislation or the new whistleblowers directive. The new European public prosecutor’s office (EPPO) will also play an important role in fighting corruption. Finally, since 2015, the EU has had a programme for member states to share their experiences of combating corruption.

For more information:

European Commission on fighting corruption
The Council adopted conclusions on Eurojust (12285/19) following the presentation of Eurojust’s 2018 annual report.

In the conclusions, the Council stresses the importance of Eurojust as a crucial actor in the area of freedom, security and justice and underlines its importance as a cooperative structure with the member states’ authorities as well as with other bodies such as Europol and the future European public prosecutor’s office (EPPO).

It underlines the need for Eurojust to make full use of the technical progress achieved in the field of digital justice and, in particular, to consider modernising its Case Management System (CMS). The Council also notes that Eurojust should be given adequate resources to face new challenges posed by technological developments and the evolving security threat landscape.

During the meeting, Eurojust also presented its new judicial counter-terrorism register (CTR). The CTR centralises key judicial information to establish links in proceedings against persons suspected of terrorist offences. It will help prosecutors to coordinate their efforts more actively and to identify the suspects or networks that are being investigated in specific cases with potential cross-border implications.

Eurojust (the European Union agency for criminal justice cooperation) was created in 2002. It was set up to improve the coordination and cooperation between member states in investigations and prosecutions. It deals with serious cross-border and organised crime. In 2018, Eurojust provided practical support to more than 6,500 investigations into serious organised crime.

In 2018, the Council adopted rules to improve Eurojust’s functioning and structure so as to increase its operational effectiveness, update its data protection framework and reinforce its transparency and democratic oversight.

For more information:

Council press release on new rules for Eurojust

Eurojust press release on the judicial counter-terrorism register

Eurojust annual report 2018
E-evidence: negotiations on a second additional protocol to the Budapest Convention and on an agreement between the EU and the US

The Commission updated the Council on the state of play in the negotiations for an EU-US agreement on cross-border access to e-evidence, on the one hand, and on a second additional Protocol to the Budapest Convention, on the other hand.

On the EU-US negotiations, the Commission informed a first negotiating session took place in September. Both parties expressed their initial positions. For the EU, it is based on the mandate adopted by the Council in June 2019. Another session will be organised in November before the EU-US JHA ministerial meeting taking place on 10-11 December.

On the negotiations on a second additional protocol to the Budapest Convention, the work is ongoing and will continue in the coming months. The objective of the Council of Europe is to finalise the protocol by the end of 2020.

If concluded, those agreements will complement the EU framework on access to e-evidence currently being discussed by the EU institutions and on which the Council adopted its position in December 2018 and subsequently in March 2019. Police and judicial authorities would thus be equipped with the appropriate tool to access e-evidence stored inside or outside the EU.

EU-US agreement on cross-border access to e-evidence for the purpose of judicial cooperation in criminal matters

In June 2018, justice ministers reaffirmed that, given the EU’s competence in the matter, the EU, rather than individual member states, should seek to conclude an agreement with the US to facilitate access to e-evidence.

Currently, US-based service providers cooperate with European law enforcement authorities on a voluntary basis and are not always allowed, under US law, to respond directly to European requests for access to electronic evidence. An EU-US agreement would provide a framework for cooperation with the US, including for direct cooperation with service providers. It would also ensure strong mechanisms were in place to protect fundamental rights.
Second additional protocol to the Budapest Convention

In September 2017, the Council of Europe undertook to prepare a second additional protocol to the Budapest Convention on Cybercrime. The objective of the protocol is to lay down provisions for a more effective and simplified mutual legal assistance (MLA) regime, allowing direct cooperation with service providers in other state parties to the Convention and for searches to be extended across borders. The protocol will include strong safeguards and data protection requirements. The advantage of such an agreement is its potential to apply across the globe. Currently, 62 countries are party to the Convention, including 26 EU member states.

For more information:

Council press release - Council gives mandate to Commission to negotiate international agreements on e-evidence in criminal matters

Council press release - Regulation on cross border access to e-evidence: Council agrees its position
European Public Prosecutor's Office (EPPO)

Justice ministers were informed by the Commission about the state of play in the implementation of the EPPO regulation.

The Commission informed that a large majority of member states submitted their nominations for the posts of European Prosecutor and urged those which have not yet done so to send their candidates as soon as possible. It also updated the Council on the other strands of preparation such as the creation of the case management system (CMS), the budget of the Office, the internal rules of procedures and other human resources issues.

The Commission informed on actions taken to facilitate the preparedness of participating member states to the new EPPO work. Finally, it underlined the need for the directive on the protection of the EU financial interests (PIF directive) to be fully implemented by member states.

The EPPO will have the authority, under certain conditions, to investigate and prosecute in cases of 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. So far, 22 member states have formally decided to join the EPPO.

The EPPO's 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 the regulation. The presidency is committed to contribute to the timely setting up of the EPPO.

For more information:

Council press release on the agreement on the EPPO regulation

Commission Q&A on the EPPO
EU accession to the European Convention on Human Rights (ECHR)

The Council reaffirmed its commitment to EU accession to the European Convention on Human Rights (ECHR).

The Council agreed to supplementary negotiating directives in order to allow for a swift resumption of the negotiations with the Council of Europe. Those amended negotiating directives are designed to take into account the Court of Justice’s opinion of 2014.

Negotiations on an agreement with the Council of Europe started in 2010. In 2013, a draft agreement was submitted by the Commission to the Court of Justice for an opinion on its compatibility with the EU Treaties. At the end of 2014, the Court stated that the draft agreement was not compatible with the Treaties on a number of points. In October 2015, the Council reaffirmed the EU’s commitment to accede to the ECHR and invited the Commission to work on an analysis of all legal issues raised by the Court. Last May, the Commission submitted to the Council a written contribution which comprehensively addresses all of the objections raised by the Court of Justice.

The Treaty on European Union provides for the accession of the EU to the ECHR. The objective is to reinforce the common values of the Union, improve the effectiveness of EU law and enhance the coherence of fundamental rights protection in Europe.

For more information:

Opinion 2/13 of the Court on the draft international agreement on the accession of the European Union to the ECHR

Council website - policy pages on the protection and promotion of human rights
Conclusions on Fundamental rights

The Council adopted conclusions on the Charter of Fundamental Rights, as this year marks the 10th anniversary of its entry into force (12357/19).

For more information, see press release.
Fundamental rights challenges in 2020 and beyond

Ministers exchanged views, in public session, on current fundamental rights challenges with the director of the Fundamental Rights Agency (FRA).

In conclusion, the presidency said the debate allowed to identify some of the challenges and map out future work in this area. Among others, ministers mentioned the importance to raise awareness on the implementation of the Charter, the impact of artificial intelligence and of digitalisation in fundamental rights, the shrinking space for civil society as well as the challenges of hate speech, hate crimes and discrimination. Finally, the presidency welcomed the work of the FRA and concluded that the agency has an important role to play in providing objective and reliable data on fundamental rights.

The ministers’ discussion was based on questions put forward by the presidency and input provided by the FRA on the fundamental rights challenges in the area of justice in 2020 and beyond (12352/19).

Two reports are annually produced on fundamental rights:

– a Commission report which outlines the initiatives taken by the EU to strengthen fundamental rights in the EU in 2018, and analyses how and to what extent these rights are applied across a range of EU policies and in the member states. It also marks the 10th anniversary of the Charter’s entry into force. The report shows that the Charter is living up to its promise as the most modern, sophisticated and comprehensive legally binding fundamental rights instrument.

– a FRA report which focuses on the progress achieved in 2018 and the remaining fundamental rights challenges, and presents the FRA’s opinions on the main developments in the thematic areas covered by the report.

For more information:

Fundamental Rights Agency - Fundamental Rights Report 2019

European Commission - Annual reports on the application of the Charter
**Hate speech online: assessment of the code of conduct**

Justice ministers were informed by the Commission on the progress made on combating hate speech online through the EU code of conduct. The 4th monitoring of the code of conduct on hate speech showed continuous good results with more than 70% of notifications leading to the removal of the notified content.

The code of conduct on countering illegal hate speech online was launched in May 2016 in an effort to respond to the proliferation of racist and xenophobic hate speech online. Its aim is to make sure requests to remove content are dealt quickly. When companies receive a request to remove content deemed to be illegal, they have assess this request against their rules and community guidelines and, where necessary, national laws. The companies have committed to reviewing the majority of these requests in less than 24 hours and to removing the content if necessary, while respecting the fundamental principle of freedom of speech.

The code was initially launched together with four major IT companies. Today, nine companies in total adhered to the code: Facebook, YouTube, Twitter, Microsoft, Instagram, Google+, Dailymotion, Snapchat and Webedia (jeuxvideo.com).

From data reported by some of the IT Companies following the code, the amount of notices on hate speech content seems to be in the range of 17-30% of the total content online. Facebook reports having removed 3.3 million pieces of content for violating hate speech policies in the last quarter of 2018 and 4 million in the first quarter of 2019. In 2018, more than 6.2 million Twitter accounts were signaled for containing hateful conduct and the platform took action on approximately 536,000.

For more information:

- [Factsheet on the fourth evaluation of the implementation of the code of conduct](#)
- [Commission webpage on the code of conduct](#)
**Any other business**

– *Communication on data protection rules as a trust-enabler in the EU and beyond*

The Commission presented to ministers its communication which consist of an assessment of the situation in the EU one year after the entry into application of the general data protection regulation (11535/19).

The report concludes that most Member States have set up the necessary legal framework, and that the new system strengthening the enforcement of the data protection rules is falling into place. Businesses are developing a compliance culture, while citizens are becoming more aware of their rights. At the same time, convergence towards high data protection standards is progressing at international level.

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

– *Conference on advancing LGBTI equality in the EU*

The presidency provided some information about the Conference on LGBTI Equality in the EU which took place on 23 September in Brussels and was organised jointly by the European Commission and the Finnish Presidency.

The aim of the conference was to assess past actions, re-evaluate the situation of LGBTI people in today’s EU, identify ongoing and new challenges and discuss how to tackle them. According to the presidency, the issues raised at the conference will feed into future policies aiming at advancing LGBTI equality in the EU.

For more information: [Finland presidency website](#).
Conference on democracy, rule of law, Fundamental Rights

The presidency informed the Council about the conference on the rule of law which took place in Helsinki on 10-11 September. According to the presidency, the conference made clear that democracy, the rule of law and fundamental rights are interlinked, interdependent and mutually reinforcing. Shortcomings in this area make our societies and the Union more vulnerable both internally and externally. The presidency concluded that there was a clear support for strengthening the rule of law.

For more information: Finland presidency website
OTHER ITEMS APPROVED

JUSTICE

Directive on whistleblowers protection

The Council adopted the directive on whistleblowers protection (PE-CONS 78/19).

The new rules will require the creation of safe channels for reporting both within an organisation - private or public - and to public authorities. It will also provide a high level of protection to whistleblowers against retaliation, and require national authorities to adequately inform citizens and train public officials on how to deal with whistle-blowing.

For more information, see press release

Council conclusions on the European case law identifier (ECLI)

The Council adopted conclusions on the European case law identifier (ECLI) and a minimum set of uniform metadata for case law - Including ECLI 2.0 (12087/19 REV 1)

The objective is to further improve cross-border access to national case law to enable the national judges to fulfil their role in the European legal order.

For more information, see e-justice portal on ECLI

Report on the implementation of the 2014-2018 e-Justice action plan

The Council took note of the report on the implementation of the 2014-2018 e-Justice action plan (12092/19).

The 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, see e-justice portal
**HOME AFFAIRS**

**Council conclusions - 'heads of single point of contact (SPOC)' network**

The Council adopted conclusions on establishing a network of the heads of the single point of contact (SPOC). (12093/19) SPOCs are one stop shop-units in the member states which act as a single point of contact for international police cooperation.

The conclusions invite the member states and Schengen associated countries to establish a network of heads of SPOC, which shall meet at least two times a year to address matters of common interest.

**Prüm decisions - Ireland**

The Council adopted an implementing decision determining that, for the purposes of automated searching of vehicle registration data, Ireland is entitled to receive and supply personal data pursuant to Article 12 of Decision 2008/615/JHA as from date of the entry into force of the implementing decision. (7290/19)

**Schengen evaluation - Estonia**

The Council adopted an implementing decision setting out a recommendation on addressing the deficiencies identified in the 2018 evaluation of Estonia on the application of the Schengen acquis in the field of return.

**Bonn agreement**

The Council adopted a decision authorising the Commission to negotiate, on behalf of the EU, the amendments to the agreement for co-operation in dealing with pollution of the North Sea by oil and other harmful substances (Bonn agreement), concerning the accession of Spain and the extension of the scope of application of the agreement. (12187/19 + ADD1)

The Council also adopted a decision on the position to be taken on behalf of the EU at the second ministerial meeting of the Bonn agreement with regard to the strategic action plan 2019-2025 and the ministerial declaration. (12188/19). The EU shall agree to the adoption of the ministerial declaration and the action plan, attached to this decision. (12188/19 ADD1)

The Bonn agreement aims to promote cooperation and mutual assistance in combating pollution of the North Sea area by oil and other harmful substances, in order to protect the marine environment and safeguard coastal areas.
INTERNAL MARKET AND INDUSTRY

Adoption of the Regulation on Union action following accession to the Geneva Act


The regulation lays down the rules that will govern the exercise by the EU of its rights (and the fulfilment of its obligations) under the Geneva act following the EU’s accession to this act.

The regulation is therefore adopted in the wording which corresponds to the position of the European Parliament. (PE-CONS 74/19)(12464/19 ADD 1 + 12464/19 ADD 2 REV 1)

For more information, see press release

Adoption of the Council Decision on the accession of EU to the Geneva Act on geographical indications

The Council adopted a decision authorising the accession of the EU to the Geneva Act of the Lisbon agreement on appellations of origin and geographical indications. The UK delegation abstained. (6929/19) (12384/19 ADD 1 REV 1 + 12384/19 ADD 2)

For more information, see press release

TRADE

Negotiating directives on investment facilitation

The Council adopted a decision supplementing the negotiating directives for the Doha Development Agenda regarding the negotiations of a multilateral framework on investment facilitation. (10973/19 + ADD1).

On 13 December 2017, at the Eleventh Ministerial Conference of the WTO, 70 members of the WTO adopted a joint statement on investment facilitation for development, calling for structured discussions with the aim of developing a multilateral framework on investment facilitation. A first negotiating phase on the matter is likely to begin in the autumn of 2019.
**WTO waiver for the United States for products imported from Central American and Caribbean countries**

The Council adopted a decision authorising the Commission, on behalf of the EU, to agree to the extension of a waiver permitting the United States to provide preferential tariff treatment to eligible products originating in Central American and Caribbean countries and territories under the Caribbean Basin Economic Recovery Act. The waiver has been extended from 1 January 2020 to 30 September 2025. The decision is to be taken at a future General Council meeting of the World Trade Organization (12117/19).

**WTO waiver on preferential tariff treatment for products of least developed countries**

The Council adopted a decision authorising the Commission, on behalf of the EU, to support the extension of a WTO waiver permitting developing country members to provide preferential tariff treatment to products originating in least developed countries. The waiver would be extended from 1 July 2019 to 30 June 2029. The issue is to be discussed at a future General Council meeting of the World Trade Organization (12121/19).

**EU POSITIONS FOR INTERNATIONAL NEGOTIATIONS**

**Relations with Morocco**

The Council adopted the position to be taken on behalf of the EU within the Association Council set up by the Euro-Mediterranean Agreement establishing an association between the EU and Morocco as regards the adoption of a recommendation on the extension of the EU-Morocco Action Plan implementing the advanced status (2013-2017).

**Relations with Ukraine**

The Council adopted the EU position to be taken in the Sanitary and Phytosanitary Management Sub-Committee established by the Association Agreement between the EU and Ukraine.
TRANSPORT

Road infrastructure safety management

The Council adopted a directive amending directive 2008/96/EC on road infrastructure safety management (12463/19, 12463/19 ADD 1, PE-CONS 69/10).

The aim of the revised directive is to promote well-designed and properly maintained and clearly marked and signed roads, thus reducing the number of road accidents in Europe.

For more information, see press release

SOCIAL POLICY AND EMPLOYMENT

Regulation on social statistics

The Council adopted a Regulation of the European Parliament and of the Council establishing a common framework for European statistics relating to persons and households, based on data at individual level collected from samples.

The regulation covers statistics that are organized into the domains and topics detailed in its Annex I. The data collection shall be organized into the following domains (12459/1/19):

– labour market
– income and living conditions
– health
– education and training
– use of information and communication technologies
– time use
– consumption