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Justice and Home Affairs

Luxembourg, 9 and 10 June 2016

Presidents **Ard van der Steur**
Minister for Security and Justice
Klaas Dijkhoff
Minister for Migration

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- 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.

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ITEMS DEBATED

JUSTICE

Digital single market strategy

The Council held a policy debate ([9768/16](#)) on the ongoing work on the proposal for a directive on certain aspects concerning contracts for the supply of digital content. After discussions, ministers agreed a number of basic principles and endorsed a set of political guidelines for the work to continue at technical level.

Ministers reached a common understanding on:

- the objectives of the proposed directive: ministers agreed on the main political objectives which should guide the forthcoming negotiations. They emphasised the need for coherence with other legislation, such as the legislation regarding the sale of goods, the Consumer Rights Directive and the General Data Protection Regulation. Finally, they recalled that the aim should be to achieve full harmonisation to the largest extent possible bearing in mind however that a final decision on this aspect could only be taken once the negotiation was more advanced.
- the scope of the directive: ministers agreed, in particular, that the definition of digital content should be drafted in a way that covers a very large range of the digital content that currently exists on the market whilst remaining open to future technical developments.
- the need to ensure that the new rules strike a good balance between consumers' and suppliers' interests: ministers agreed that while the rules should ensure a high level of protection for consumers, they should, at the same time, create a business-friendly environment for EU entrepreneurs and should also be technologically neutral, effective and user-friendly.

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 as it covers: 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 incorporating digital content (e.g. CDs and DVDs).

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 distance sales of goods.

For more information:

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

Matrimonial property regimes and registered partnerships

The Council adopted, without discussion, a decision ([8112/16](#)) authorising enhanced cooperation on matrimonial property regimes and registered partnerships.

The Council also reached a general approach on the two proposals for regulations ([8115/16](#) + [8118/16](#)) implementing enhanced cooperation in the area of matrimonial property regimes, on the one side, and on the property consequences of registered partnerships, on the other side.

For more information:

[Press release on the enhanced cooperation in the area of matrimonial property regimes and registered partnerships](#)

European Public Prosecutor's Office

The Council continued the discussion on the proposed regulation. Ministers expressed broad conceptual support for the latest set of articles discussed at expert level ([9799/16](#)). These articles cover the rules on the case management system and data protection, simplified prosecution procedures, general provisions and financial and staff provisions.

Taking note of the overall progress made but keeping in mind reservations expressed by some delegations, and noting that nothing could be considered to have been agreed before an overall agreement on the text was reached, ministers invited experts to continue negotiations.

The proposed regulation aims to help combat crimes against the EU's financial interests by introducing a European Public Prosecutor's Office with competence in that area. The proposed regulation requires unanimous support in the Council adopting it after having obtained the consent of the European Parliament. The proposal was presented by the Commission on 17 July 2013.

In previous meetings, the Council had already reached a provisional agreement on a number of articles, including the structure and organisation of the Office, and the rules on investigation and prosecution.

For more information:

- [Outcome of the Council meeting, October 2015](#)
- [Outcome of the Council meeting, December 2015](#)
- [Outcome of the Council meeting, March 2016](#)

Fight against fraud to the Union's financial interests ('PIF' directive)

The Council discussed the state of play and way forward after the work carried out at working level during the Netherlands presidency.

Ministers reflected in particular on the issue of the possible inclusion of some aspects of fraud with VAT within the scope of the directive, which is the key issue on which Council and Parliament could not agree at the latest trilogue meeting in June 2015.

After the debate, the presidency took note of the positions expressed by member states and concluded that as things stood there was neither consensus on the issue of the inclusion of VAT in the scope of the directive, nor on the modalities of a possible inclusion. For this reason, efforts to find a solution must continue under the incoming Slovak presidency.

The objective of the so-called 'PIF' directive is to deter fraudsters, improve the prosecution and sanctioning of crimes against the EU budget, and facilitate the recovery of misused EU funds thereby increasing the protection of EU taxpayers' money.

The proposed directive provides common definitions of a number of offences against the EU budget, such as fraud, other fraud-related crimes such as active and passive corruption, the misappropriation of funds, and money laundering, and minimum rules on prescription periods, within which the case must be investigated and prosecuted, as well as minimum rules on sanctions, including imprisonment for the most serious cases to strengthen the deterrent effect. These common rules should help to ensure a level playing field and improved investigation and prosecution across the EU.

The Council adopted its general approach ([10232/13](#)) at first reading on the draft directive in June 2013.

European Criminal Records Information System (ECRIS)

Ministers took stock of the progress made at working level ([9798/16](#)) on the proposed amendment to the European Criminal Records Information System (ECRIS), which aims to make the exchange of information on convicted third country nationals more effective.

Ministers supported a change of approach from a decentralised system, as proposed by the Commission, to a centralised automated system for the exchange and storage of both fingerprints and alphanumeric data of convicted third country nationals. They invited experts to continue the discussion on the technical details of such a system, particularly with regard to data protection and the possibility of complementing the automated features with manual checks performed at national level.

ECRIS was established in 2012. It aims to support an efficient exchange of information between member states regarding criminal convictions in the EU. It takes the form of an electronic interconnection of criminal records databases which enables the central authorities to provide judges and prosecutors with comprehensive information on the criminal history of persons concerned, regardless of the member states in which that person has been convicted in the past. This system removes the possibility for offenders to escape their criminal past by moving from one EU country to another. At the moment, most information exchanged is on EU citizens. Although it is already possible to exchange information on third country nationals through ECRIS, there is currently no common European procedure or mechanism in place to do so effectively.

Criminal justice in cyberspace

Under the non-legislative items, ministers adopted conclusions on improving criminal justice in cyberspace, as well as on the European judicial cybercrime network. They also held a policy debate on some open issues related to criminal justice in cyberspace.

For more information:

[Press release on criminal justice in the cyberspace](#)

HOME AFFAIRS

Weapons

The Council agreed its negotiating position ([9841/16](#)) on the proposal for a directive on control of acquisition and possession of weapons, which reviews and completes existing directive 91/477/EEC.

On the basis of this mandate, the presidency will start negotiations with the European Parliament as soon as the latter has adopted its position.

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

Roadmap to enhance information exchange and information management

The Council endorsed a roadmap to enhance information exchange and information management including interoperability solutions in the Justice and Home Affairs area.

The recent terrorist attacks in Paris and Brussels, recurrent terrorist incidents outside the EU and the ongoing migration crisis have shown the importance of investing in swift, effective and qualitative information management, information exchange and accompanying follow-up of information to tackle migratory, terrorist and crime-related challenges.

The presidency took the initiative to set up a roadmap with necessary actions to improve information management and the cross-border exchange of information, including the interoperability of systems. The purpose is to support operational investigations, especially in counter-terrorism, and to swiftly provide front-line practitioners such as police officers, border guards, public prosecutors, immigration officers and others with comprehensive, topical and high-quality information to cooperate and act effectively.

The roadmap sets out a framework for a more integrated EU information architecture and specific, practical short and medium-term- actions as well as long-term goals to enhance information management and information exchange in the JHA area. The roadmap is a living document and its implementation will be closely monitored.

Fight against terrorism - feeding and consultation of databases

Ministers discussed the systematic feeding and consistent use of European and international databases, in particular Europol and Eurojust, following up on the ministerial statement of 24 March 2016 and the discussion that took place during the Justice and Home Affairs Council on 21 April 2016.

The EU Counter-Terrorism Coordinator presented a new document setting out average data for the Union as a whole by way of a benchmark. This document outlines the best practices of member states in the area of feeding of databases and the obstacles encountered, and it attempts to put forward several recommendations. It also tries to identify examples where the cooperation with Europol and Eurojust presented a clear added value.

The systematic feeding and consistent use of databases constitutes a key component in the EU's efforts to improve the exchange of information.

Renewed EU Internal Security Strategy

The Council took note of the state of play of the implementation of the Renewed EU Internal Security Strategy (2015 - 2020) on the basis of a presidency report. The report gives an overview of the progress achieved in the implementation of the renewed strategy during the first semester of 2016.

The Renewed EU Internal Security Strategy (2015-2020) was approved by the Council in June 2015 in the form of [Council conclusions](#). These conclusions stressed the importance of developing, in close cooperation with the Commission and, where appropriate, other relevant actors, a well-targeted implementation document with a list of priority actions for the implementation of the Renewed European Union Internal Security Strategy 2015-2020.

European Border Guard

The Council was briefed by the presidency on the state of play as regards the proposed regulation establishing a European Border Guard ([9716/1/16 REV 1](#)).

The aim of the presidency is to reach an agreement between the two co-legislators by the end of June, as requested by the European Council.

Visa policy

Ministers held a general debate on visa liberalisation in the light of the recent proposals by the Commission related to Georgia, Ukraine, Kosovo¹ and Turkey.

The Presidency concluded that there was not yet enough support for the adoption of a mandate to start negotiations with the European Parliament on the proposal regarding visa liberalisation for Georgia. Several member states expressed their dissatisfaction with this situation and their hope that a mandate would be approved as soon as possible.

The four proposals that are currently on the table (namely Georgia, Ukraine, Kosovo¹ and Turkey) will be examined further in the coming weeks in the relevant bodies of the Council.

Ministers stressed that visa requirements could only be lifted when previously agreed benchmarks were fulfilled. Ministers also noted that the decision would be taken in a strict and fair manner on the basis of the assessment by the Commission as to whether the benchmarks had been fulfilled.

Migration

The Council discussed the current migratory situation and in particular the implementation of the 18 March EU-Turkey Statement and the migratory flows in the central Mediterranean.

Ministers reaffirmed that returns to Turkey from Greece should be stepped up; for this, action was urgently needed in Greece. The EU's assistance, through Frontex and EASO, should also prioritise its contributions to these returns, through efficient admissibility and eligibility support. Member states supported the steps taken by the Greek authorities to address the issues of return to Turkey;

Ministers stressed that asylum capacity must increase and living conditions must be improved; including by an increase of the reception capacity.

Participating states were invited to speed up the resettlement of Syrian refugees from Turkey under the one-for-one scheme and prepare for the Voluntary Humanitarian Admission Scheme. They were also urged to accelerate the relocation of asylum seekers from Greece and Italy, in accordance with the Council decisions of September 2015.

¹ This designation is without prejudice to position on status, and is in line with UN Security Council Resolution 1244/99 and the International Court of Justice Opinion on the Kosovo declaration of independence

Furthermore, it was also agreed to continue to closely monitor any opening of or increase in other migratory routes. Particular attention would be paid to the development of the situation in the central Mediterranean.

Member states called upon the Commission to find ways to address the issue of unaccompanied minors up to and including the age of 10 years old from Greece.

Other business

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

The Commission presented the code of conduct on countering illegal hate speech online recently agreed by Facebook, Microsoft, Twitter and YouTube ('the IT companies'). The Council welcomed this important progress in the fight against hate speech online.

Through this code of conduct, the IT companies support the Commission and member states in their efforts to ensure that online platforms do not offer opportunities for illegal hate speech to spread virally. The code of conduct is not binding and does not replace national legislation, but supplements it in order to provide a common approach at EU level.

Justice and Home Affairs ministers were updated by the presidency on the outcomes of the latest EU-US JHA ministerial meeting which took place in Amsterdam on 1-2 June. During that meeting, the European Union and the United States of America signed the so-called "Umbrella Agreement" which puts in place a comprehensive high-level data protection framework for criminal law enforcement cooperation. For more information, see [press release](#).

The presidency briefed the Council on the results of the high-level meeting on "cyber security" that took place in Amsterdam on 12-13 May 2016 ([8861/16](#)).

The Council took note of the presentation by the Commission of a package of legislative proposals on the reform of the Common European Asylum System; namely the Dublin Regulation, a proposal amending the current Eurodac Regulation and a proposal on the European Union Agency for Asylum.

The Slovak Justice Minister Lucia Zitnanska informed the Council about the priorities of the upcoming Slovak EU presidency in the justice area, in which the presidency intends to cooperate extensively with the European Commission and the European Parliament.

The Slovak presidency is set to devote its efforts to all legislative proposals currently being discussed. Attention will be paid to the regulation establishing a European public prosecutor's office in order to maximise progress in on-going negotiations. In this context, the Slovak Presidency is also committed to reinvigorating negotiations on the directive on the fight against fraud to the EU's financial interests by means of criminal law (the so-called PIF directive).

The Slovak presidency will also place great importance on the directive on the exchange of information on third-country nationals in the context of the European Criminal Records Information System (ECRIS). The presidency's ambition is to reach a Council agreement. Similarly, an agreement on the directive on combating terrorism is to be sought.

In line with the Slovak presidency's overall ambition to deliver tangible results for EU citizens, intensive efforts will be put into digital contract rules, especially the proposal for a directive on the supply of digital content.

The Slovak Interior Minister Robert Kalinak informed the Council about the priorities of the upcoming Slovak EU Presidency in the area of home affairs, in which the presidency intends to cooperate extensively with the European Commission and the European Parliament.

Efforts will be made to achieve maximal progress in all legislative proposals, while seeking and maintaining consensus in the Council. The Slovak presidency is set to provide an adequate response to any emergency that may occur.

The return to a fully functioning Schengen area is of utmost importance to the Slovak presidency, as the passport-free travel zone is essential for the internal market to flourish and for EU citizens to exercise their freedoms.

The Slovak presidency will strive to activate the newly-established European Border Guard to life, to build a consensus on the Smart Borders package, and to maximise progress on the new results-oriented Migration Partnership Framework for reinforced cooperation with third countries in the area of migration.

Legislative proposals under the reform of the Common European Asylum System will be dealt comprehensively.

The Slovak presidency is committed to treating the internal security of the EU as a matter of priority, with an emphasis on enhanced information sharing as well as an effective use of existing frameworks.

MIXED COMMITTEE

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

Weapons

See item above.

Migration

See item above.

Visa Policy

See item above.

European Border Guard

See item above.

OTHER ITEMS APPROVED

JUSTICE AND HOME AFFAIRS

Fighting serious and organised crime - Council conclusions

The Council adopted conclusions on the administrative approach to prevent and fight serious and organised crime ([9061/16](#)).

The conclusions encourage the member states to prevent that persons involved in criminal activities from using the legal administrative infrastructure for criminal purposes.

European Network on Victim's Rights

The Council adopted conclusions on the establishment of an Informal European Network on Victim's Rights ([8960/16](#)).

The network should facilitate and contribute to enhancing cooperation between the competent authorities responsible for victims' rights in the member states with a view to enhancing victims' access to their rights. In practice, the network should facilitate the exchange of best practices and experiences, cooperation between competent authorities in cross-border cases, etc.

The creation of this informal network stems from the directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. In particular, its article 26 (1) provides that member states shall take appropriate action to facilitate cooperation between them to improve victims' access to the rights set out in the directive and under national law.

Trafficking in human beings

The Council adopted conclusions on addressing trafficking in human beings (THB) for labour exploitation ([9373/16](#)).

The conclusions aim to strengthen multidisciplinary cooperation against trafficking in human beings (THB) for labour exploitation and to provide input regarding THB for labour exploitation for the post-2016 anti-trafficking strategy that the Commission intends to develop.

Return and readmission

The Council adopted conclusions on the return and readmission of illegally staying third-country nationals ([10020/16](#)).

Financial investigation

The Council adopted conclusions and an action plan on the way forward with regard to financial investigation ([8777/16](#)).

Europol's 2015 report

The Council endorsed the general report on the European Police Office (Europol) activities in 2015 ([8961/16](#)) and forwarded it to the European Parliament for information.

This report is prepared each year by Europol's management board, describing Europol's activities during the previous year, including the results achieved on the priorities set by the Council.

CEPOL 2015 report

The Council took note and endorsed the CEPOL (European Police College) report for the year 2015 ([8973/16](#)), following its adoption by the governing board, as required by decision 2005/681/JHA¹.

The report will be forwarded to the European Parliament and to the Commission for information.

Relocation - Sweden

The Council adopted a decision (5626/16) establishing provisional measures in the area of international protection for the benefit of Sweden in accordance with article 9 of [decision \(EU\) 2015/1523](#) and article 9 of [decision \(EU\) 2015/1601](#) establishing provisional measures in the area of international protection for the benefit of Italy and Greece.

The Commission submitted its proposal to the Council on 15 December 2015. This proposal responded to a formal request by Sweden, of 8 December 2015, for a suspension of its obligations under Council decisions (EU) 2015/1523 and (EU) 2015/1601.

¹ Decision establishing the European Police College (*OJL 256, 1.10.2005*)

The aim of the decision is to suspend the obligations of Sweden under the above-mentioned decisions for the period of one year, in order to help the country to alleviate the significant pressure it is confronted with, taking into account the emergency situation characterised by a sudden inflow of nationals of third countries into its territory.

Third Ministerial Conference of the Prague Process

The Council took note of the lines of approach of the draft joint declaration of the third Ministerial Conference of the Prague Process that will take place in Bratislava on 19-20 September 2016, and authorised the presidency, in cooperation with Poland, to continue negotiating the text on that basis, with a view to its adoption at the Ministerial Conference.

The Prague Process intends to support the application of the Global Approach to Migration and Mobility to the eastern and south-eastern regions neighbouring the EU and to support further advancement and strengthening of the political commitments and third country ownership.

Partners of the Prague Process are the member states of the European Union (EU), the European Commission, Norway, Switzerland, Iceland and Liechtenstein, the countries neighbouring the EU onto the east, the Western Balkan countries and Turkey.

Best practices on videoconferencing with third countries

The Council endorsed the suggestions for best practices concerning videoconferencing with third countries ([9337/16](#)) proposed by the expert group on cross-border videoconferencing in the context of the Working Party on e-Law (e-Justice).

It also took note of existing agreements between the member states and third countries ([9488/16](#)).

E-justice

The Council adopted the report on the mid-term review of the Multiannual European e-Justice Action Plan 2014-2018 ([9806/16](#)).

The e-Justice Action Plan 2014-2018 was adopted in June 2014 by the Council. It aims to put in practice the strategy on e-justice through the implementation of practical projects. This list of projects includes measures relating to access to information in the field of justice, access to courts and extrajudicial procedures in cross-border situations, and communication between judicial authorities.

E-Justice is a policy development tool through which access to information on justice is being simplified and improved and 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.

Eurojust Annual Report 2015

The Council adopted conclusions on the Eurojust Annual Report 2015 ([9037/16](#)).

In its conclusions, the Council welcomes the Eurojust Annual Report and notes that most of the objectives for 2015 as set out in the Annual Report for 2014 have been met or have progressed significantly.

Ministers also confirmed the need for Eurojust to continue to treat terrorism, illegal migration and cybercrime as a priority, linked to the Council's agenda, supporting and strengthening action by the competent authorities of the member states.

Prüm Decisions - Switzerland and Liechtenstein

The Council adopted a decision authorising negotiations for the conclusion of agreements between the European Union, on the one part, and the Swiss confederation and the Principality of Liechtenstein, on the other part, on the application of certain provisions of the 'Prüm Decisions'¹ and the 'Forensic Decision'². ([9370/1/16 REV 1](#))

¹ Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, and Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime

² Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities

Application of the EU Charter of Fundamental Rights in 2015

The Council adopted conclusions on the application of the EU Charter of Fundamental Rights ([8946/16](#)).

These conclusions were drafted taking note of the [2015 Commission report on the application of the EU Charter of Fundamental Rights](#) as well as the [Fundamental Rights Report 2016](#) of the EU Agency for Fundamental Rights (further referred to as the Agency).

Amending budget for SISNET

The Council endorsed the amending budget No1 for the installation and the functioning of the communication infrastructure for the Schengen environment (SISNET) for 2016 ([9282/16](#)).

Matrimonial property regimes and registered partnerships

The Council adopted, without discussion, a decision ([8112/16](#)) authorising enhanced cooperation on matrimonial property regimes and registered partnerships. In accordance with the rules on enhanced cooperation, all member states took part in the vote on the decision.

The eighteen member states participating in the enhanced cooperation are Belgium, Bulgaria, Cyprus, the Czech Republic, Germany, Greece, Spain, France, Croatia, Italy, Luxembourg, Malta, Netherlands, Austria, Portugal, Slovenia, Finland and Sweden. Other member states are free to join the cooperation at any time after its adoption.

For more information:

[Press release on the enhanced cooperation in the area of matrimonial property regimes and registered partnerships](#)

European Forensic Science Area

The Council adopted conclusions and an action plan on the way forward in view of the creation of an European Forensic Science Area ([8770/16](#)).

FOREIGN AFFAIRS

Lifting of sanctions against Ivory Coast

The Council repealed decision 2010/656/CFSP, thereby lifting restrictive measures directed against certain persons and entities and related to the supply of assistance in military activities in Ivory Coast.

In light of the recent developments in Ivory Coast, as well as the lifting of UN sanctions through UN Security Council resolution 2283 (2016), the Council decided the revocation of its own (additional) restrictive measures against the country .

ECONOMIC AND FINANCIAL AFFAIRS

Bank recovery and resolution

The Council decided not to object to a Commission regulation supplementing directive 2014/59/EU on the recovery and resolution of failing banks ([9621/16](#) + [8826/16](#)).

The regulation sets out, on the basis of draft standards submitted by the European Banking Authority:

- the minimum elements that should be included in a business reorganisation plan;
- the minimum content of reports on the implementation of the business reorganisation plan.

The regulation is a delegated act pursuant to article 290 of the Treaty on the Functioning of the European Union. It can now enter into force, unless the European Parliament objects.

TRANSPARENCY

Public access to documents

On 9 June 2016, the Council approved:

- the reply to confirmatory application No 09/c/03/16 ([7511/16](#))
-