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## OUTCOME OF THE COUNCIL MEETING

3490th Council meeting

### Justice and Home Affairs

Luxembourg, 13 and 14 October 2016

Presidents **Robert Kaliňák**  
Deputy Prime Minister and Minister for the Interior of  
Slovakia  
**Lucia Žitňanská**  
Deputy Prime Minister and Minister for Justice of  
Slovakia

# P R E S S

**CONTENTS**<sup>1</sup>**ITEMS DEBATED**

HOME AFFAIRS .....	4
European Border and Coast Guard .....	4
IT measures related to border management .....	4
Migration.....	5
Reform of the Common European Asylum System.....	5
Other business .....	6
MIXED COMMITTEE.....	7
JUSTICE .....	8
Fight against fraud to the Union's financial interests ("PIF" directive) .....	8
European Public Prosecutor's Office.....	9
Other business .....	9

<sup>1</sup>

- 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.

**OTHER ITEMS APPROVED***JUSTICE AND HOME AFFAIRS*

–	European travel document for returns .....	10
–	Legal aid .....	10
–	Insolvency proceedings .....	10
–	Organised domestic burglary .....	10
–	CEPOL five-year report .....	11
–	EU Football Handbook.....	11
–	Good practices for police liaison with supporters in international football matches .....	11
–	Schengen Evaluation .....	12
–	China - Europol Agreement.....	13

*FOREIGN AFFAIRS*

–	EU-Republic of Moldova Association Agreement - Trade .....	13
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*AGRICULTURE*

–	International Organisation for Vine and Wine - EU position .....	13
–	Natural gas and electricity prices.....	13
–	Transparency - Public access to documents .....	14

## **ITEMS DEBATED**

### **HOME AFFAIRS**

#### **European Border and Coast Guard**

The Council took note of the information provided by the Commission and the European Border and Coast Guard Agency (Frontex) on the implementation of the recently adopted regulation establishing a European Border and Coast Guard.

The European Border and Coast Guard regulation was adopted on 14 September 2016 and entered into force on 6 October 2016. The provisions related to the setting up of the reserve and technical equipment pools will enter into force on 7 December 2016 and those related to the return pools on 7 January 2016.

For more information:

- [Council website: Strengthening the EU's external borders](#)
- [European Border and Coast Guard: final approval](#)
- [Frontex](#)

#### **IT measures related to border management**

The Council took note of a progress report ([12661/16](#)) on several files regarding information technology (IT) measures related to border management. Ministers had the opportunity to exchange views on the use of such measures and agreed to ensure a coherent approach.

Regarding the Commission proposal to reinforce the systematic checks at the external borders, Ministers stressed the importance of the security element and the appropriateness of the balance of the Council text between security and circulation. They expressed their hope that an agreement would be reached with the European Parliament as soon as possible along these lines.

The Commission announced that it would present a proposal on a European Travel Information and Authorisation System (ETIAS) by the end of this month.

The Bratislava Declaration and Roadmap, agreed by the leaders of the 27 member states on 16 September 2016, includes the following concrete measures:

- adoption of the necessary measures to ensure that all persons, including nationals from EU member states, crossing the Union's external borders will be checked against the relevant databases that must be interconnected;

- setting up of a European Travel Information and Authorisation System (ETIAS) to allow for advance checks and, if necessary, deny entry to visa-exempt travellers.

For more information:

- [Council website: Strengthening the EU's external borders](#)
- [Council website: Response to foreign terrorist fighters and recent terrorist attacks in Europe](#)
- [Council agrees its negotiating position to reinforce checks at external borders](#)
- [High-Level Expert Group on Information Systems and Interoperability](#)
- [Informal meeting of the 27 heads of state or government, 16/09/2016](#)

## **Migration**

Home affairs ministers discussed the shortfalls in the implementation of the different migration measures adopted so far. They paid particular attention to the implementation of the EU-Turkey Statement and the situation in Italy and Greece, as well as to the state of play on relocation, resettlement, and the calls by the agencies for experts.

Ministers took good note of the recommendations proposed by the presidency and undertook in particular to increase the number of experts provided by member states to the agencies (especially EASO).

For more information:

- [Council website: Finding solutions to migratory pressures](#)

## **Reform of the Common European Asylum System**

The Council took note of the state of play of the current examination of the proposals on the reform of the Common European Asylum System on the basis of a progress report prepared by the Presidency ([12724/16](#)).

Ministers endorsed the three-track approach suggested by the Presidency for the examination of the CEAS reform package proposals during its term:

- focusing on the examination of the Eurodac regulation and on the European Union Agency for Asylum regulation with the aim of achieving progress towards a Council general approach by the end of its term;

- in parallel, holding discussions on the Dublin regulation and the Asylum Procedures regulation, Reception Conditions directive and Qualification regulation;
- simultaneously, initiating the technical examination of the regulation establishing a Union Resettlement Framework.

The Council held a policy debate on the Eurodac regulation and the European Union Agency for Asylum regulation, on the basis of a note prepared by the Presidency ([12726/16](#)).

Regarding the Eurodac regulation, Ministers confirmed their support for a broader and simplified access by law enforcement authorities to Eurodac. As regards the EU Asylum Agency, some delegations expressed concerns about the Commission proposal and indicated that the Agency should not assume the role of the Commission in monitoring the implementation of EU law, but should instead support the asylum systems of member states. Some delegations agreed that the monitoring mechanism for the future Agency could be similar to the vulnerability assessment in the European Border and Coast Guard Regulation.

In both files, the Council tasked experts with examining possible ways of making the appropriate changes to these proposals, taking duly into account the results of the discussions.

Ministers also held a debate on the Union Resettlement Framework regulation on the basis of a note prepared by the Presidency ([12717/16](#)).

The Council tasked experts with continuing the examination of this proposal, taking into account the different views expressed during the debate.

### **Other business**

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

The presidency reported to the Council on the results of the third Ministerial Conference of the Prague Process entitled "Addressing challenges together", which took place in Bratislava on 19-20 September 2016.

## **MIXED COMMITTEE**

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

### **European Border Guard**

See above.

### **IT measures related to border management**

See above.

### **Migration**

See above.

### **Other business**

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

The Belgian delegation informed the committee about an EURES-CRIM project on returns.

## **JUSTICE**

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

The Council continued the discussion ([12686/1/16 REV 1](#)) on the PIF directive. The discussion focused on the possible inclusion of some aspects of VAT fraud 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.

A majority of ministers agreed that at least certain serious forms of cross-border VAT fraud (e.g. VAT carousels) should be included in the directive. In that respect, the text presented by the presidency was deemed as a good basis for further work and work will continue at working level, in particular with regards to the definition of VAT fraud (definition of the cross border element, of the threshold to qualify as a serious VAT fraud, etc.).

Once this is done, the Slovak presidency can revive trilogue negotiations with the Parliament with a view of finding a final agreement.

Ahead of the discussions at the Justice and Home affairs Council, the ECOFIN Council had held an exchange of views on this topic during its meeting on 11 October, as VAT matters are usually the responsibility of Finance ministries. (see [outcome of the ECOFIN Council meeting](#)).

The objective of the so-called PIF directive is to make criminal law enforcement more effective in cases involving the EU's budget so to deter fraudsters, improve the prosecution and sanctioning of crimes against the EU budget, and facilitate the recovery of misused EU funds.

The proposed directive provides common definitions of a number of offences against the EU budget, such as fraud, and other fraud related crimes such as active and passive corruption, the misappropriation of funds, 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 has adopted its general approach at first reading on the draft directive in June 2013([10232/13](#)). At the latest trilogue in June 2015, the Parliament and the Council came close to an agreement. However, the two institutions concluded that they were still in disagreement on one key issue, namely the inclusion or not of VAT related fraud in the scope of the directive.



## European Public Prosecutor's Office

The Council continued the discussion on the proposed regulation. As an input in the debate the Commission presented an updated cost-benefit analysis to reflect substantial changes made to the initial text.

The presidency noted there was a broad conceptual support for the last set of articles of the regulation which had not been discussed during previous sessions. Those remaining articles relate to the rules on judicial review, the cooperation with third countries and with non-participating member states, and the relations with Eurojust. However, the presidency noted that some delegations still raised some concerns that will have to be further discussed during the finalisation of the text.

Ministers then had the opportunity to express outstanding substantial concerns on the full text as it stands now. They invited experts to continue negotiations with a view of finding a definitive agreement on this regulation.

The proposed regulation aims at helping 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 the unanimous support in the Council which adopts 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 has already reached a provisional agreement on a number of articles, including the structure and organisation of the Office, the rules on investigation and prosecution, the case management system and data protection, simplified prosecution procedures, general provisions and financial and staff provisions.

For more information:

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

## Other business

The presidency updated the Council on the state of play of a number of legislative proposals. In this context, the Commission mentioned its intention to present an amended version of the so-called ECRIS (exchange of criminal records) proposal at the December meeting of the Council.

The Commission raised the issue hate crimes in the EU and underlined the importance of ensuring correct transposition and effective implementation of the framework decision on combating racism and xenophobia.

## **OTHER ITEMS APPROVED**

### **JUSTICE AND HOME AFFAIRS**

#### **European travel document for returns**

The Council adopted a regulation on the establishment of a European travel document for the return of illegally staying third-country nationals, and repealing the Council Recommendation of 30 November 1994.

For more information [see press release](#)

#### **Legal aid**

The Council adopted a directive on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.

For more information [press release](#)

#### **Insolvency proceedings**

The Council adopted a general approach on the proposal for a regulation replacing the lists of insolvency proceedings and insolvency practitioners (2016/0159).

The Council also adopted an implementing regulation ([11451/1/16 REV 1](#)) replacing the lists of insolvency proceedings, winding-up proceedings and liquidators in Annexes A, B and C to Regulation (EC) No 1346/2000.

These modifications are the result of Poland's notification to the Commission of a reform of its domestic law on restructuring.

#### **Organised domestic burglary**

The Council adopted conclusions on organised domestic burglary ([12583/16](#))

The conclusions contain a series of measures to address the problem of organised domestic burglary and build upon the work carried out within the framework of the EU Policy Cycle, notably the Operational Action Plan "Organised Property Crime".

### **Automated exchange of vehicle registration data (VRD) and DNA data**

The Council adopted conclusions on the implementation, by Denmark and Greece, of the general provisions on data protection of Council decision 2008/615/JHA (OJ L 210, 6.8.2008).

The Council agreed that the general provisions on data protection are fully implemented both by Denmark ([12206/16](#)) with regard to automated exchange of vehicle registration data (VRD) and by Greece with regard to DNA data ([12210/16](#)).

### **CEPOL five-year report**

The Council took note of a CEPOL five-year report ([10648/16](#)).

On 1 July 2016, regulation (EU) 2015/2219 of the European Parliament and of the Council of 25 November 2015 on the European Union Agency for Law Enforcement Training (CEPOL) and replacing and repealing Council decision 2005/681/JHA entered into force.

Before the regulation became applicable, the Governing Board of CEPOL, in line with Article 21 of Council decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing decision 2000/820/JHA, commissioned an independent five-yearly external evaluation of the implementation of that decision, as well as of the activities carried out by CEPOL.

### **EU Football Handbook**

The Council adopted a resolution concerning an updated handbook ("EU Football Handbook") with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one member state is involved ([12795/16](#)).

### **Good practices for police liaison with supporters in international football matches**

The Council adopted a resolution concerning a handbook with recommendations for preventing and managing violence and disturbances in connection with football matches with an international dimension, in which at least one member state is involved, through the adoption of good practice in respect of police liaison with supporters ([12792/16](#)).

This handbook is complementary to the EU Football Handbook and is designed to ensure that police commanders and partner agencies can benefit from good practices in developing and refining national and local policing football strategies.

## Costs of hosting and deploying police delegations

The Council adopted a resolution concerning the costs of hosting and deploying visiting police delegations in connection with football matches (and other sports events) with an international dimension, in which at least one Member State is involved ([12791/16](#))

## Schengen Evaluation

The Council adopted the following implementing decisions setting out:

- a recommendation on addressing the deficiencies identified in the 2016 evaluation of Denmark on the application of the Schengen acquis in the field of the management of the external border (Copenhagen Kastrup Airport);
- a recommendation on addressing the deficiencies identified in the 2016 evaluation of Luxembourg on the application of the Schengen acquis in the field of management of the external border;
- a recommendation on addressing the deficiencies identified in the 2015 evaluation of the Netherlands on the application of the Schengen acquis in the field of data protection;
- a recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of absence of border control at the internal border by Switzerland;
- a recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of police cooperation by Liechtenstein;
- a recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of police cooperation by the Netherlands;
- a recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of the Schengen Information System by Liechtenstein;
- a recommendation on addressing the deficiencies identified in the 2016 evaluation of Luxembourg on the application of the Schengen acquis in the field of the common visa policy.

## **China - Europol Agreement**

The Council adopted an implementing decision approving the conclusion by the European Police Office (Europol) of the Agreement on Strategic Cooperation between the Ministry of Public Security of the People's Republic of China and Europol. ([8364/1/16 REV 1](#))

## **FOREIGN AFFAIRS**

### **EU-Republic of Moldova Association Agreement - Trade**

The Council approved the position to be taken by the EU within the EU-Republic of Moldova Association Committee for the updating of trade-related annexes to the EU-Republic of Moldova Association Agreement ([12031/16](#)).

## **AGRICULTURE**

### **International Organisation for Vine and Wine - EU position**

The Council adopted a decision establishing the position that the EU will take with regard to certain resolutions to be voted in the framework of the International Organisation for Vine and Wine's general assembly - OIV. The next OIV general assembly will take place in Bento Gonçalves, Brazil, on 28 October 2016.

In accordance with this decision, the coordination of the EU position on OIV will be formalised for the draft resolutions falling within the EU's field of competence. This proposal is based on Article 218(9) of the Lisbon Treaty concerning international agreements.

The OIV is an intergovernmental scientific and technical organisation made up of members, observers and international organisations with a particular status active in the vines, wine, wine-based drinks, table grapes, raisins and other vine products sectors. The OIV has 45 members among which are 20 member states of the EU. However, the EU is currently not a member of the OIV.

## **ENERGY**

### **Natural gas and electricity prices**

The Council approved the European Parliament's position on a regulation on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC. ([PE CONS 28/16](#)).

The regulation establishes a common framework for the development, production and dissemination of comparable European statistics on natural gas and electricity prices for household and final non-household customers in the Union.

Following the Council's approval, the legislative act will be adopted and published in the Official Journal of the European Union, after being signed by the President of the European Parliament and the President of the Council.

## **WRITTEN PROCEDURE**

### **Transparency - Public access to documents**

On 13 October 2016, the Council adopted by written procedure the reply to confirmatory application No 20/c/06/16 (see document [11764/1/16 REV 1](#)).

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