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LIMITE

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NOTE

From: Presidency
To: Delegations

Subject: Agenda for the EU - Western Balkans Ministerial videoconference on
Justice and Home Affairs on 22 October 2020
– Information from the Presidency

Delegations will find attached the agenda of the above-mentioned meeting.

EU - Western Balkans Ministerial videoconference

22 October 2020

Annotated agenda

HOME AFFAIRS

Welcome and introductions

1- Increasing information exchange and cooperation for better migration management

Goal: to garner political support to increase regional information exchange between Western Balkans partners, notably in the field of registration of migrants, and to identify how the EU can support the partners in developing their migration management capacity, including for increasing return and readmission rates to countries of origin.

The partial lifting of COVID-19 restrictive measures was followed by an increased number of migrants present in or transiting through the Western Balkans, requiring continued vigilance. In that context, the difficult situation regarding reception conditions and capacities gives rise to a number of humanitarian and protection challenges. The outcome of the written consultation of the EU - Western Balkans Senior Officials Meeting (SOM) of June 2020 highlighted a number of gaps revealed by the COVID-19 crisis and allowed to identify core areas of operational and policy support in the area of asylum, reception conditions, border management, return and readmission, and information exchange to achieve sustainable and comprehensive solutions. It is now necessary to take steps for further and more convergent actions. On 15 July, Frontex launched an operation in Montenegro, its second outside the European Union. Frontex deployed officers to support Montenegro's border guards at the border with Croatia and will expand its presence to border control activities at sea, including support in search and rescue. The operation marks a new step in the growing border cooperation between Frontex and the Western Balkans¹. Operational cooperation, exchange of information and practical support will be viewed in this vein.

Developing biometric registration/data systems for asylum and border management and encouraging regional exchange and connectivity are also key objectives, which can be furthered through the development, operationalization and efficient cooperation of National Coordination

¹ Last year, Frontex launched its first operation in the region in Albania.

Centres (NCCs) across the region. Frontex is also strongly engaged in tangible work in the Western Balkans including Joint Operations, capacity building projects and supporting them in setting up their National Cooperation Centres in a similar structure to the Member States, which will allow for better cooperation. It is furthermore crucial to enhance the sharing of data, information and insight through existing channels.

a) Intensifying regional information exchange and improving information systems

After a presentation by the Presidency and the Commission, Ministers will be invited to exchange on:

- *setting up information systems in Western Balkans to allow them to record personal information data on migrants following the standards applied in EU information systems and in particular the collection of biometrics following the model of EURODAC*

b) Enhancing migration management capacity

After a presentation by the Presidency and the Commission, Ministers will be invited to exchange on:

- *current gaps of their migration systems, notably regarding reception and asylum capacities and return/readmission of irregular migrants to countries of origin*
- *how the EU and Member States can support progress*

2- Terrorism and violent extremism: implementing the priority actions

Goal: discussion and update on current challenges, including the impact of Covid-19 on implementing counter-terrorism policies; reaffirming the commitment to fulfil the objectives of the Joint Action Plan beyond 2020, identify the main needs on P-CVE to better steer the EU support, including through the Radicalisation Awareness Network (RAN)

The EU Security Union Strategy adopted by the Commission on 24 July 2020² highlighted that cooperation with third countries and at global level to address common challenges is central to an effective and comprehensive response, with stability and security in the EU's neighbourhood critical to the EU's own security. Continued efforts on counter-terrorism and preventing and countering radicalization leading to violent extremism and terrorism are of key importance for regional as well as the EU's internal security.

The Joint Action Plan on Counter-terrorism for the Western Balkans, signed on 5 October 2018 by the European Commission and six Western Balkans partners, identifies priority actions in the Western Balkans for counter-terrorism (CT) and on preventing/countering violent extremism (P/CVE). This was further confirmed in the Council Conclusions on EU External Action on preventing and countering terrorism and violent extremism 16 June 2020³. The Commission, with the support of the EEAS has been monitoring the implementation of the Joint Action Plan by the Western Balkan partners. The Council and the Commission's assessment is that the five objectives in the Joint Action Plan remain important and valid, covering a broad spectrum of CT and P/CVE matter, and the implementation of the Action Plan should continue. While there is engagement and

² COM(2020)605 final

³ <https://www.consilium.europa.eu/media/44446/st08868-en20.pdf>

progress, several actions remain outstanding and require sustained commitment by the Western Balkan partners. Preventing radicalisation leading to violent extremism and terrorism should continue to be considered a key priority, and a clear identification of the main challenges and needs of the region will allow to better steer the EU support, including through the Radicalisation Awareness Network. The outcome of the SOM consultation indicated the wish for stronger cooperation with Europol and highlighted some initiatives undertaken with CEPOL in this area.

Presentation

Short presentation by Europol on the ongoing cooperation on counter-terrorism in the region

Matters to discuss

- Progress on the implementation of the Joint Action Plan on Counter-terrorism for the Western Balkans

After an introduction by the Presidency and the Commission on progress regarding the Action Plan and an intervention by the Counter-Terrorism Coordinator, Ministers will be invited to:

- *briefly exchange views on the current challenges each partner faces in these domains, with a special focus on the return of national foreign terrorist fighters; reaffirm their continuing commitment to fulfil the objectives as set out in the Joint Action Plan beyond 2020; identify each partner main needs on Preventing - Countering Violent Extremism to better steer the EU support, including through the Radicalisation Awareness Network.*

3- Enhancing operational cooperation to tackle organised crime - information point

a) Enhancing the Western Balkans' engagement with EMPACT

Goal: to reaffirm the importance of Western Balkans partners increased participation in operational actions on drug trafficking, as well as in other relevant EMPACT crime priorities (notably the fight against trafficking in human beings, criminal finances, environmental crime, document fraud, cybercrime)

A significant step forward has been achieved through joint actions with the Western Balkans partners in the region and via EU support to dismantle criminal networks and prevent criminal infiltration in the political and economic system of the Western Balkans partners. The EU policy cycle for serious and international organised crime (EMPACT), provides an intelligence-led methodology for competent authorities to jointly tackle the most important criminal threats affecting the EU. It has resulted in important operational results in the past years, such as in 2019, involving also Western Balkans partners. However, concerns remain as regards corruption, money laundering and activities of criminal organizations engaged in among others migrant smuggling, trafficking of drugs and firearms, trafficking in human beings and organised property crime, which are still a threat to security and the rule of law in the region. All these challenges will require further sustained commitment by the Western Balkans partners and increased cooperation with the EU, through the EMPACT and together with EU agencies such as Europol, Eurojust, Frontex, CEPOL, etc. Support to the law enforcement and judicial authorities in the Western Balkans to effectively fight cybercrime and fully implement the Council of Europe Budapest Convention should also continue.

After an introduction by the Presidency, presentation by the Commission on the current state of play and on the EU's expectations for enhanced participation of Western Balkan partners in EMPACT actions (no discussion expected).

- b) Reiterating the importance of the Budapest Convention on cybercrime

Goal: to reaffirm that it is the reference framework on cybercrime and invite the partners to align with the EU's position in the UN process

After an introduction by the Presidency, the Commission will provide a state of play of the negotiations at UN level and reiterate the EU's position (no discussion expected).

- c) Short presentation by the Commission of the EU Action Plan on firearms trafficking 2020-2025

JUSTICE

1- The EU and the Western Balkans during the COVID-19 pandemic: impact on the justice systems and fundamental rights

Goal: to share experiences on the actions implemented to mitigate the impact of the crisis, lessons-learned to protect fundamental and judicial rights while special measures to contain the pandemic are in place

The COVID-19 pandemic has affected the judiciary, authorities and legal practitioners, but also businesses and citizens. Disruption has included the complete or partial suspension of the work of courts. The expiry of procedural deadlines risked depriving citizens or courts of the possibility to take procedural steps, such as appealing against a decision, with irreversible consequences. This has raised questions as to how to guarantee the right to a fair trial and the rights of the defence, as well as how to take into account the particular needs of vulnerable people, during a pandemic. With the rise in domestic violence following the measures taken to mitigate the impact of the pandemic, support and protection of victims of crime deserves particular attention in this difficult context.

Presentations:

- a) State of play of the impact of COVID-19 on judicial cooperation in criminal matters:
Presentation by Eurojust

- b) State of play of the impact of COVID-19 on fundamental rights: Presentation by FRA

Matters to discuss:

After an introduction by the Presidency and the European Commission, Ministers will be invited to discuss:

Urgent actions were implemented to mitigate the impact of the crisis on the functioning of the judiciary. Some of them posed challenges as to ensuring the rights of the parties. Specific attention should be given to:

- *use of distance communication technologies (videoconferencing) to conduct remote hearings in the light of the right to a fair trial;*
- *how to ensure the rights of the defence, notably the right of access to a lawyer and free legal assistance, taking into account the needs of particularly vulnerable persons;*
- *how to ensure support and protection for victims of crime, in particular victims of domestic violence*
- *which procedures have proven to be effective in order to uphold rule-of-law principles?*
- *which efforts were made to ensure that the measures taken to mitigate the impact of the crisis, including those measures restricting citizens' rights, were proportionate?*

2 - Access to justice in the digital age

Goal: to identify how to safeguard and enforce basic judicial rights and procedural principles when digital technologies and applications are used, and to have an exchange on the implications of the digital transformation in terms of access to justice

Digital policy constitutes one of the main priorities of the EU and justice systems need to keep pace with the process of digital transformation. Digitalisation of justice can increase the quality and efficiency of justice systems. Effective justice systems are also crucial in attracting business and enabling economic growth. In this sense, digitalisation will play an important role in the economic recovery following the pandemic. Recent Council Conclusions on shaping Europe's digital future also acknowledged that the digitalisation of the justice systems has the potential to facilitate and improve access to justice. Ensuring that the digitalisation of justice is conducted in full compliance with fundamental rights, such as the right to the protection of personal data, the right to a fair trial and the right of access to justice is a fundamental element in the process.

Matters to discuss:

After an introduction by the Presidency and the European Commission, Ministers will be invited to discuss:

- *Remaining obstacles to the digitalisation of judicial services, including use of online databases and public access to judicial decisions, and to the establishment of fully operational computerised Case Management Systems;*

- *How to guarantee judicial rights and procedural principles when employing digital solutions instead of the traditional channels?*
- *How can digital applications help in safeguarding and enforcing rule-of-law principles? How can we ensure that digital tools and algorithmic systems are used in a way that respect fundamental rights and freedoms?*
- *How can we ensure that all citizens benefit from the digital revolution and have an equal chance of getting effective access to justice (regardless of where they live, or how much they earn)?*

3- Rule of law and judicial reforms: key developments

Goal: to give an update on the latest developments regarding the rule of law in the European Union

In the Zagreb Summit Final declaration of May 2020, the EU welcomed the strong commitment by the Western Balkans partners to the primacy of democracy and the rule of law. The Commission Communication of 5 February on enhancing the accession process also reiterates the central importance of progress on the rule of law in the accession process, including progress on key reforms in the area of the judiciary. In particular, the Communication refers to the importance of objective, precise, clear, strict and measurable conditionality in the area of justice system reform. Better measuring of results in justice reform is one of the essential elements in the efforts to strengthen the rule of law. In the past the JHA ministerial has discussed two projects which the European Commission has initiated in this respect: the “Dashboard” project implemented by the Council of Europe and the justice surveys project implemented by the World Bank.

After an introduction by the Presidency, the Commission will provide a summary of recent European Court of Justice case law on judicial independence, as this Court has recently issued a number of important judgements on the rule of law and judicial independence, defining in further detail the requirements of effective judicial protection and the guarantees of independence and impartiality. The Commission will also provide information on the state of play of the Western Balkans dashboard and the regional survey projects.