

Justice and Home Affairs Council

Monday 7 and Tuesday 8 October in Luxembourg

The Council will be chaired by Anna-Maja Henriksson, Finland's Minister of Justice, on Monday and by Maria Ohisalo, Finland's Minister of the Interior, on Tuesday.

On Monday, justice ministers will debate **EU action against corruption**. They will be invited to discuss whether additional action should be taken at EU level to fight corruption, and what role the EU should play in this field internationally.

Ministers will also exchange views on **fundamental rights challenges in 2020 and beyond**. In addition, they will adopt conclusions on the **application of the EU Charter of Fundamental Rights** on the occasion of the 10th anniversary of the Charter becoming legally binding.

They will also be invited to adopt supplementary negotiating directives in order to resume negotiations with the Council of Europe on the **accession of the EU to the European Convention on Human Rights** (ECHR).

The Council will then hear reports on the state of play on a number of issues, including the current international **negotiations on e-evidence with the US** and in the framework of the Budapest Convention, as well as on the assessment of the code of conduct on **hate speech online**, and on the setting up of the **European public prosecutor's office** (EPPO).

Eurojust will be invited to present to ministers its **new judicial counter-terrorism register**. The Council will also adopt conclusions on Eurojust.

Over lunch, ministers will discuss the rights of crime victims.

On Tuesday, home affairs ministers will have a debate on **right-wing violent extremism and terrorism**. They will also discuss the challenges and opportunities of **new technologies** in the area of internal security. Ministers will then hold a debate on **hybrid threats and internal security**.

The Council is also expected to adopt **conclusions on combatting the sexual abuse of children** and to have an exchange of views on the **implementation of the interoperability regulations**.

Over lunch, ministers will discuss the **state of play on migration**, with a general overview of the migration situation in the EU.

In the margins of the Council, the **Mixed Committee** (EU plus Iceland, Liechtenstein, Norway and Switzerland) will discuss the implementation of the interoperability regulations. Exceptionally, the Schengen associated states will be present for the lunch discussion on migration.

Press conferences:

- **Justice Council (Monday +/-16.45)**
- **Home Affairs Council (Tuesday +/-16.15)**

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

JUSTICE

EU action against corruption

The Council will be invited to exchange views on the topic of EU action against corruption. Ministers will be 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 will also be invited to consider whether an EU-wide instrument of assessment of anti-corruption policies would be of value. Finally, ministers will be asked to reflect on how the EU could strengthen its role in the global fight against corruption.

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](#)

Eurojust

The Council will be invited to agree on conclusions on Eurojust ([12285/19](#)) following the presentation of Eurojust's 2018 annual report.

In the draft 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 will also present 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](#)

Negotiations on a second additional protocol to the Budapest Convention and on an agreement between the EU and the US on facilitating access to e-evidence

The Commission will update 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.

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:

[Commission press release - Commission recommends negotiating international rules for obtaining electronic evidence](#)

[Council press release - Council agrees its position on rules to appoint legal representatives for the gathering of evidence](#)

[Council press release - Regulation on cross border access to e-evidence: Council agrees its position](#)

European Public Prosecutor's Office (EPPO regulation)

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

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)

Ministers will discuss the latest developments concerning the EU's accession to the ECHR and will be asked to express their commitment to the swift resumption of the negotiations with the Council of Europe. To this end, the Council will be asked to agree to supplementary negotiating directives. 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](#)

Fundamental rights

As usual during the October meeting, ministers will exchange views on current fundamental rights challenges with the director of the Fundamental Rights Agency (FRA). Ministers are also expected to adopt conclusions on the Charter of Fundamental Rights, as this year marks the 10th anniversary of its entry into force ([12357/19](#)).

The ministers' discussion will be 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](#)).

The Commission report 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. The FRA report also 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](#)

HOME AFFAIRS

Right-wing violent extremism and terrorism

Home affairs ministers will have a debate on right-wing violent extremism and terrorism.

While jihadist terrorism remains the main terrorist threat in the European Union, the threat posed by right-wing violent extremism is growing. Recent and foiled attacks in the EU and beyond have shown that there is a need to further strengthen the EU's approach in tackling right-wing extremist violence and the terrorist threat.

The primary responsibility in the fight against terrorism lies with the member states. However, the EU plays a supportive role that helps respond to the cross-border nature of the threat.

Ministers will focus on analysing the nature of the threat and the existing response, as well as on possible next steps at national or EU level in order to:

- create a better situational overview of right-wing violent extremism and terrorism
- continue to develop and share good practices to strengthen the prevention, detection and addressing of all forms of violent extremism and terrorism
- address the spread of unlawful extremist content online and offline
- cooperate with key third countries

For more information:

[EU fight against terrorism \(background information\)](#)

New technologies and internal security

Ministers will discuss the challenges and opportunities brought by new technologies in the area of internal security. These include developments such as 5G mobile networks, artificial intelligence, the internet of things, drones, anonymisation and encryption, 3D printing and biotechnologies.

At the Justice and Home Affairs Council in June, ministers started discussions on the future of EU internal security and in particular on law enforcement cooperation. They highlighted a number of possible areas for action, including pooling of resources in research and innovation and building a joint innovation lab, to make the most of the opportunities new technologies offer and support the fight against new forms of crime.

Following further discussions at technical level, an innovation lab is planned to be created at Europol. The lab could act as a monitor of new technological developments and driver of innovation, including by developing common technological solutions for member states in the field of internal security. At the Council meeting ministers will discuss possible tasks and objectives for the new innovation lab.

More broadly, ministers are also expected to discuss how the needs of law enforcement can be systematically taken into account when it comes to new developments across relevant sectors of technology, for example in the case of 5G and lawful interception of communications.

For more information:

[How technology shapes the future of crime and law enforcement \(Europol report\)](#)

[Disruptive technologies and internal security and justice \(EU Counter Terrorism Coordinator\)](#)

Hybrid threats and internal security

The Council will hold a debate on hybrid threats and internal security.

Ministers will receive an update on the findings and recommendations of the scenario-based policy discussions held by the Presidency during the informal JHA Council in July. This will be followed by a discussion about how the EU can better support member states in detecting, identifying and countering hybrid threats from an internal security angle. Ministers will also discuss which EU agencies and mechanisms could be relevant to this work.

This discussion is expected to incorporate concrete elements from the internal security perspective into the overall debate on hybrid threats.

The debate is also foreseen to cover disinformation, with ministers considering what action at EU level could contribute to the development of a strategic communication approach, involving a law enforcement perspective, to tackle this phenomenon.

Protecting our societies from malicious cyber activities, hybrid threats and disinformation is one of the priorities set out by EU leaders in the strategic agenda for 2019-2024. The strategic agenda emphasises the need for a comprehensive approach to address these threats, including more cooperation, more coordination, more resources and more technological capacities.

For more information:

[EU strategic agenda for 2019-2024](#)

Combating the sexual abuse of children - conclusions

The Council is expected to adopt conclusions on combating the sexual abuse of children.

In these conclusions, the Council is expected to welcome the announcement of the WeProtect Global Alliance summit to end child sexual exploitation, which will take place in Addis Ababa (Ethiopia) on 11-12 December 2019. Member states are invited to participate in the summit in order to share good practices, learn from others and encourage other countries to subscribe to and implement the shared goals of the alliance.

Furthermore, the draft conclusions mention the existing EU and international tools to fight the sexual abuse of children, invite the EU and member states to assess periodically the effectiveness of existing legislation, welcome the implementation of preventive approaches and highlight the need for specific tools to fight online child abuse.

The WeProtect Global Alliance to end child sexual exploitation online is a global, multi-stakeholder organisation bringing together governments, law enforcement, judicial authorities, industry and civil society to improve the effectiveness of the fight against these crimes worldwide.

For more information:

[We Protect Global Alliance to End Child Sexual Exploitation Online \(European Commission\)](#)

Implementation of interoperability

Ministers will exchange views on the implementation of the interoperability regulations. Political guidance and support is required to ensure that national coordination between the operational users and IT experts is established and has sufficient resources. It is also essential that all national input is collected and conveyed at EU level, where the central development will take place.

The regulations establishing a framework for interoperability between EU information systems in the area of justice and home affairs entered into force on 11 June 2019. Interoperability will allow the systems to complement each other, help facilitate the correct identification of persons and contribute to fighting identity fraud. The interoperability framework will have an impact to the way member states' authorities work in various tasks, such as handling visa applications, performing criminal investigations, registering migrants and carrying out first-line border checks.

For more information:

[Interoperability between EU information systems: Council adopts regulations \(press release, 14 May 2019\)](#)

[How interoperable databases will boost Europe's security \(infographic\)](#)

[IT systems in the area of freedom, security and justice](#)

Migration

Over lunch, ministers will discuss the **state of play on migration**. They will take a general overview on the migration situation in the EU across all routes.

Arrivals to the EU between January and August 2019 were 26% lower than in the same period last year. Arrivals through the Western and Central Mediterranean have dropped (to half and one third respectively). In the Eastern Mediterranean, arrivals have increased by 10% compared to 2018, though the numbers are still far below those in 2015-2016.

For more information:

[Migratory situation - Frontex press release \(16 September 2019\)](#)

[Infographic - migration flows: Eastern, Central and Western Mediterranean routes](#)
