



EUROPEAN COMMISSION

MEMO

Brussels, 18 November 2013

EU-U.S. Justice and Home Affairs Ministerial meeting: 18 November in Washington, D.C.

The European Union and the United States will meet in Washington, DC on 18 November 2013 to discuss issues of common interest in the field of justice and home affairs. Vice-President Viviane Reding, EU Justice Commissioner, and Cecilia Malmström, EU Commissioner for Home Affairs, will represent the European Commission. The Lithuanian Minister of Justice, Mr Juozas Bernatonis, and the Vice-Minister of the Interior of Lithuania, Elvinas Jankevičius, will attend on behalf of the Presidency of the Council of the European Union. The United States will be represented by Attorney General Eric Holder and by Rand Beers, Acting Secretary of the U.S. Department of Homeland Security.

Main agenda items:

- Data Protection: Negotiations on Umbrella Data Protection Agreement for law enforcement purposes
- Data Protection: update on the ad hoc EU-US working group
- Data Protection: update on data protection legislative processes in the EU and in the US
- Judicial cooperation in criminal matters
- Rights of victims of crime
- Mobility, Migration and Borders
- Counterterrorism and Security
- Cybersecurity / Cyber Crime

1. Data protection: Negotiations on Umbrella Data Protection Agreement for law enforcement purposes

On 3 December 2010, the Council adopted the Commission's negotiating directives for a data protection agreement between the European Union and the United States when cooperating to fight terrorism or crime ([IP/10/1661](#)). The aim is to ensure a high level of protection of personal data such as passenger data or financial information that is transferred as part of transatlantic cooperation in criminal matters. Negotiations on an agreement between the EU and U.S. were launched on 28 March 2011 ([MEMO/11/203](#)) and are on-going. The last negotiation round took place in April 2013 when the U.S. confirmed that it shares the EU's goal of a high level of protection of personal data (see [MEMO/13/304](#)). The EU and U.S. will assess progress made in the negotiations, as well as further outstanding issues. This EU-U.S. Ministerial will be an opportunity to advance in the negotiations.

Vice-President Viviane Reding said ahead of the meeting: *"There have been more than 15 negotiating rounds. But one fundamental issue has not yet been resolved: a meaningful agreement has to give European citizens concrete and enforceable rights, notably the right to judicial redress. Every U.S. citizen in the European Union already enjoys this right, irrespective of whether he or she is resident in the EU. But European citizens who are not resident in the U.S. do not enjoy this right. It is important that a European boarding a plane in Rome or searching the web from his home in Germany has a right of judicial redress in the U.S. whenever their personal data are being processed in the U.S. We need to conclude the umbrella negotiations swiftly, to give citizens confidence – confidence that their rights are protected. This will contribute to restoring trust in transatlantic relations, which is of particular importance at this moment in time."*

2. Data Protection: update on the ad hoc EU-US working group

In June 2013, the existence of a number of U.S. surveillance programmes involving the large-scale collection and processing of personal data was revealed. The programmes concern in particular the collection of personal data from U.S. internet and telecommunication service providers and the monitoring of data flows inside and outside the U.S. At the EU-US Justice and Home Affairs Ministerial Meeting in June 2013, and in letters to their U.S. counterparts, Vice-President Reding and Commissioner Malmström expressed serious concerns regarding the impact of these programmes on the fundamental rights of EU citizens, particularly the fundamental right to protection of personal data (see [SPEECH/13/536](#)). Substantial clarifications were requested from the U.S. authorities on a number of aspects, including the scope of the programmes, the volume of data collected, the existence of judicial and administrative oversight mechanisms and their availability to individuals in the EU, as well as the different levels of protection and procedural safeguards that apply to U.S. and EU citizens.

An ad hoc EU-U.S. Working Group was established in July 2013 to examine these matters. The purpose is to establish the facts about U.S. surveillance programmes and their impact on fundamental rights in the EU and personal data of EU citizens. The working group has met three times since its establishment, in July, September and November 2013. A factual report will be presented to the European Parliament and the Council of Ministers before the end of the year.

3. Data Protection: update on data protection legislative processes in the U.S. and in the EU

The Ministerial will also allow each side to update on the data protection legislative processes. The U.S. is expected to inform the EU about the latest legislative developments on consumer data privacy – following President Obama's announcement for a Privacy Bill of Rights.

In turn, Vice-President Reding intends to debrief her US counterparts on the latest state of play on the EU's data protection reform, especially following the [European Parliament's vote backing the data protection reform](#) proposed by the European Commission in January 2012 ([IP/12/46](#)) and the European Council of 24 and 25 October 2013 on the Digital Single Market, which underlined the importance of a “[timely](#)” conclusion of the European legislative process on the new data protection legislation.

4. Judicial cooperation in criminal matters

The EU and the U.S. will discuss the implementation of the Mutual Legal Assistance Agreement (MLA) in force since February 2010, and the further development of judicial cooperation in criminal matters on both sides of the Atlantic. The Mutual Legal Assistance Agreement has been in force for over three years now, so the Ministerial will be a good opportunity to take stock of its implementation. The European Commission will also emphasise that this agreement is a useful tool and should be the principal channel used for judicial cooperation in criminal matters, for example when the U.S. would like to request data of EU citizens outside the U.S. territory.

The EU will also update on progress as regards the proposals for Regulations on Europol ([MEMO/13/286](#)), Eurojust and the European Public Prosecutor's Office ([MEMO/13/693](#)).

5. Rights of victims of crime

The rights of victims of crime are an important part of the political agenda of both the EU and the U.S. With the victims' rights package, the EU put in place a comprehensive legislative framework for the protection of victims of crime ([IP/12/1200](#) and [IP/13/510](#)). The U.S. also has a long tradition of statutory and constitutional rights (at both Federal and State level) to guarantee the rights of victims. The aim is thus to bring the two approaches together and establish transatlantic cooperation to further reinforce victims' rights.

The European Commission estimates that in the EU more than 75 million people – at least 15% of the EU population – are victims of serious crime every year. A further 200 million people – the immediate family of victims – also suffer the consequences of those crimes. To help these citizens, the EU adopted a directive that sets out minimum rights for victims, wherever they are in the EU, ensuring that victims are treated with respect, they get information on their rights and their case in a way they understand and that victim support exists in every Member State ([IP/12/1200](#)). Another EU law will ensure that victims of domestic violence do not lose the protection afforded in their home country if they want to travel abroad in the EU ([IP/13/510](#)).

6. Mobility, Migration and Borders

Under this agenda item Commissioner Malmström and her US counterparts will discuss the outcomes of the recent EU-US seminar organised under the EU-US Platform on Migration, on Syria refugee crisis and crisis-induced migratory flows.

The Commission will also reiterate the importance of achieving full visa reciprocity with the U.S. as soon as possible, and enquire about the state of play on the new draft immigration legislation recently introduced in Congress

The Commission will also update the US counterparts on the state of play of the Commission proposal on "Smart Borders" and the European Border Surveillance System EUROSUR.

Negotiations on the Commission proposals for the Entry Exit System (EES) and the Registered Traveller Programme (RTP) are on-going.

EUROSUR will start operations in December ([IP/13/578](#)). It will make an important contribution in protecting our external borders and help in saving lives of those who put themselves in danger to reach Europe's shores. It will strengthen the information exchange and cooperation within and between Member States' authorities, as well as with the EU border agency Frontex. Information on incidents and patrols will be shared immediately by the newly established National Coordination Centres and Frontex. This will increase our possibilities to prevent cross-border crimes, such as drug trafficking or trafficking in human beings, but also to detect and provide assistance to small migrant boats in distress.

7. Counter Terrorism and Security

The U.S. interest in cooperating with the European Commission (and the EU in general) on terrorism issues has considerably increased over the years, allowing to tiding relations and increasing understanding and mutual efforts in the whole spectrum of counter-terrorism issues.

In a follow-up to the last EU-US Ministerial meeting in Dublin in June 2013, the EU and the US will exchange views on the issue of countering violent extremism (CVE), as well as on foreign fighters, both being key priorities for future EU-U.S. cooperation.

They will also discuss continued cooperation endorsed by the explosive experts during the latest round of the EU-US Explosive Experts Seminar held in Washington on 5-7 November 2013.

8. Cybercrime

Discussions at the Ministerial will focus on current work of the EU-US working group on Cybersecurity and Cybercrime and on the recent developments on the Global Alliance.

To step up the fight against child sexual abuse online the [Global Alliance was launched on 5 December 2012](#). This joint initiative by the EU and the US gathers 52 countries from around the world. The Alliance unites Ministers of the Interior and of Justice behind four shared political targets that should result in a larger number of rescued victims, more effective prosecution, more prevention through awareness and an overall reduction in the amount of child sexual abuse images available online.

During the meeting the US and the EU side will also provide an update on their respective progress in adopting legislation and other initiatives in the field of cybersecurity and cybercrime.