



**COUNCIL OF  
THE EUROPEAN UNION**



7095/14

(OR. en)

**PROVISIONAL VERSION**

PRESSE 106  
PR CO 11

## **PRESS RELEASE**

3298th Council meeting

### **Justice and Home Affairs**

Brussels, 3 and 4 March 2014

Presidents

**Yiannis Michelakis**

Minister for Interior of Greece

**Nikos Dendias**

Minister for Public Order and Citizen Protection of Greece

**Haralambos Athanassiou**

Minister of Justice, Transparency and Human Rights of  
Greece

# **P R E S S**

---

Rue de la Loi 175 B – 1048 BRUSSELS Tel.: +32 (0)2 281 6319 / 6319 Fax: +32 (0)2 281 8026  
[press.office@consilium.europa.eu](mailto:press.office@consilium.europa.eu) <http://www.consilium.europa.eu/press>

7095/14

1  
**EN**

## ***Main results of the Council***

### **HOME AFFAIRS**

#### ***Migratory pressures (trends and outlook)***

*The Council and the mixed committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) took note of the information provided by the Commission and the agencies on the latest developments and trends concerning migratory flows towards Europe.*

*The Council agreed to follow these developments closely. It also invited the Commission and the agencies to continue monitoring the situation closely and to inform the Council as regards new developments and trends.*

#### ***Task Force Mediterranean***

*The Council and the mixed committee welcomed the progress achieved so far in the five key areas listed in the Commission communication on the work carried out by the Task Force for the Mediterranean and invited all relevant stakeholders to continue to actively participate in the implementation of the operational actions. It also invited the Commission to present a comprehensive report of the activities carried out at the JHA Council in June.*

#### ***EUROPOL Regulation***

*The Council had a policy debate on the proposal for a regulation on the European Agency for Law Enforcement Cooperation and Training (Europol). Given that a very large majority of delegations oppose the merger of Europol and CEPOL (European Police College) proposed by the Commission, the draft Europol regulation will be modified accordingly.*

*Member states agreed on the need to update the existing CEPOL decision in the light of the Treaties post-Lisbon and invited the Commission to present a legislative proposal on the new legal basis for CEPOL as soon as possible.*

#### ***Other business***

*The Council was informed by the Presidency about the agreements reached with the European Parliament on a number of legislative proposals, including:*

- the regulation establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex).*
- the directive on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.*

## **JUSTICE**

### **Future of the JHA Area**

*Justice ministers heard a presentation by the Commission on the main aspects of its forthcoming communication on the future development of the Justice and Home Affairs area and expressed their opinions and priorities.*

*“Democracy, rule of law and fundamental rights are non-negotiable principles and values of the EU. The JHA Council in June will consider the opinions of member states, the position of the European Parliament, the Commission’s communication and the public consultation so as to prepare a substantial contribution in view of the meeting of the European Council the same month”, said the President of the Council and Minister of Justice, Transparency and Human Rights Haralambos Athanassiou.*

### **Data Protection Regulation**

*The Council had a policy debate on certain issues of the proposal for a regulation setting out a general EU framework for data protection.*

*Ministers broadly supported the draft provisions as regards the territorial scope of the regulation and confirmed its understanding that international transfers of personal data to third countries should take place on the basis of key principles contained in chapter V of the draft regulation. Ministers agreed that more technical work will need to be done on important aspects of this chapter and that the question of alternative models for international data transfer will need to be studied in-depth.*

*The Council confirmed that the work will continue at technical level on the basis of the progress achieved so far on: pseudonymisation as an element of the risk-based approach, portability of personal data for the private sector and obligations of controllers and processors.*

*Whilst a majority of delegations appeared to be of the opinion that the scope of the profiling provision in the future regulation should, like the current Directive 95/46/EC, limit itself to regulating automated decision-making that has legal effects or significantly affects individuals, some other delegations pleaded in favour of specific provisions on profiling. Work at technical level should therefore continue on that basis.*

### **European Public Prosecutor**

*The Council had a policy debate on the proposal regarding the setting up of a European Public Prosecutor's Office. Ministers expressed their views on the structure of the Office, on the delimitation of its tasks and competences and on the regime of procedural rights applicable to suspects and victims.*

***Procedural safeguards for children in criminal proceedings***

*The Council had a policy debate on the proposal for a directive on procedural safeguards for children who are suspected or accused in criminal proceedings. The proposal aims at ensuring that children are able to understand and follow the criminal proceedings to which they are subject, and that they can exercise their right to a fair trial.*

*The debate provided guidance for further work.*

***Civil and commercial justice systems***

*The Council adopted conclusions on the civil and commercial justice systems of the member states.*

***Other business***

*The Council was informed by the Presidency about the agreements reached with the European Parliament on a number of legislative proposals, including:*

- the directive on the protection of the euro and others currencies against counterfeiting by criminal law.*
- the regulation creating a European Account Preservation Order to facilitate cross border debt recovery in civil and commercial matters.*
- the regulation amending regulation 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the so-called "Brussels I" regulation).*

**CONTENTS**<sup>1</sup>

**PARTICIPANTS**..... 7

**ITEMS DEBATED**

**HOME AFFAIRS** ..... 9

Europol..... 9

Migratory pressures: trends and outlook..... 9

Task Force Mediterranean ..... 9

**MIXED COMMITTEE** ..... 12

Data protection directive ..... 12

Migratory pressures: trends and outlook..... 12

Task Force Mediterranean ..... 12

Other business ..... 12

**JUSTICE** ..... 15

Data protection regulation..... 15

Data protection directive ..... 16

European Public Prosecutor's Office..... 16

Procedural safeguards for children in criminal proceedings..... 18

Civil and commercial justice systems of the member states - conclusions ..... 19

2014 Justice Scoreboard..... 19

Future development of the JHA Area ..... 20

Other business ..... 21

In the margins of the Council..... 25

<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*

- CEPOL's evaluation report..... 26

*GENERAL AFFAIRS*

- Equivalence of security rules for protecting classified information ..... 26

*COMMON SECURITY AND DEFENCE POLICY*

- Ratification of the Arms Trade Treaty..... 26

*ECONOMIC AND FINANCIAL AFFAIRS*

- Deposit guarantee schemes..... 27

*TRADE POLICY*

- Dual use items ..... 27

*INTERNAL MARKET*

- Motor vehicles - International harmonised requirements ..... 27

*FISHERIES*

- Incidental catches of cetaceans in fisheries - Alignment on the Lisbon Treaty..... 28

*FOOD LAW*

- Food additive..... 28

*TRANSPORT*

- Civil aviation aircrew - requirements and procedures ..... 29
- Connecting Europe Facility - transport funding priorities..... 29

**PARTICIPANTS**

**Belgium:**

Ms Annemie TURTELBOOM  
Ms Maggie DE BLOCK

Minister for Justice  
State Secretary for Asylum and Migration, Social  
Integration and the Fight against Poverty, attached to the  
Minister for Justice

**Bulgaria:**

Mr Tsvetlin YOVCHEV  
Mr Dimiter TZANTCHEV

Deputy Prime Minister and Minister for the Interior  
Permanent Representative

**Czech Republic:**

Ms Helena VÁLKOVÁ  
Mr Martin POVEJŠIL

Minister for Justice  
Permanent Representative

**Denmark:**

Ms Karen HÆKKERUP

Minister for Justice

**Germany:**

Ms Emily HABER  
Ms Stefanie HUBIG

State Secretary, Ministry of Foreign Affairs  
State Secretary to the Federal Minister for Justice and  
Consumer Protection

**Estonia:**

Mr Hanno PEVKUR  
Mr Matti MAASIKAS

Minister for Justice  
Permanent Representative

**Ireland:**

Mr Alan SHATTER

Minister for Justice and Equality; Minister for Defence

**Greece:**

Mr Charalambos ATHANASIOU  
Mr Nikolaos DENDIAS  
Mr Ioannis MICHELAKIS

Minister for Justice, Transparency and Human Rights  
Minister for Public Order and Protection of the Citizen  
Minister for the Interior

**Spain:**

Mr Jorge FERNÁNDEZ DIAZ  
Mr Alberto RUIZ-GALLARDÓN  
Mr Alfonso DASTIS QUECEDO  
Ms Marina DEL CORRAL TÉLLEZ

Minister for the Interior  
Minister for Justice  
Permanent Representative  
Secretary General of Immigration and Emigration

**France:**

Mr Manuel VALLS  
Ms Christiane TAUBIRA

Minister for the Interior  
Keeper of the Seals, Minister for Justice

**Croatia:**

Mr Ranko OSTOJIĆ  
Mr Mato ŠKRABALO

Deputy Prime Minister and Minister for the Interior  
Permanent Representative

**Italy:**

Mr Filippo BUBBICO  
Ms Andrea ORLANDO

Deputy Minister for the Interior  
Minister for Justice

**Cyprus:**

Mr Ionas NICOLAOU  
Mr Socrates HASIKOS

Minister for Justice and Public Order  
Minister for the Interior

**Latvia:**

Ms Baiba BROKA  
Ms Ilze PĒTERSONE-GODMANE

Minister for Justice  
State Secretary, Ministry of the Interior

**Lithuania:**

Mr Paulius GRICIŪNAS  
Mr Elvinas JANKEVICIUS

Deputy Minister of Justice  
Deputy Minister for the Interior

**Luxembourg:**

Mr Etienne SCHNEIDER

Mr Félix BRAZ

**Hungary:**

Mr Tibor NAVRACSICS

Mr László FELKAI

**Malta:**

Mr Emanuel MALLIA

Mr Owen BONNICI

**Netherlands:**

Mr Fred TEEVEN

Mr Pieter DE GOOIJER

**Austria:**

Ms Johanna MIKL-LEITNER

Mr Wolfgang BRANDSTETTER

**Poland:**

Mr Rafał TRZASKOWSKI

Mr Michał KRÓLIKOWSKI

Mr Marek PRAWDA

**Portugal:**

Mr Fernando ALEXANDRE

Mr António COSTA MOURA

**Romania:**

Mr Bogdan TOHĂNEANU

Mr Mihnea MOTOC

**Slovenia:**

Mr Gregor VIRANT

Ms Tina BRECELJ

**Slovakia:**

Mr Tomáš BOREC

Mr Ivan KORČOK

**Finland:**

Ms Anna-Maja HENRIKSSON

Ms Päivi RÄSÄNEN

**Sweden:**

Ms Beatrice ASK

Mr Tobias BILLSTRÖM

Mr Martin VALFRIDSSON

**United Kingdom:**

Mr Chris GRAYLING

Ms Theresa MAY

Mr Frank MULHOLLAND

Deputy Prime Minister and Minister for Economic Affairs,  
Internal Security and Defence  
Minister for Justice

Deputy Prime Minister and Minister for Public  
Administration and Justice  
Permanent Secretary, Ministry of the Interior

Minister for Home Affairs and National Security  
Parliamentary Secretary for Justice within the Ministry for  
Home Affairs and National Security

Minister for Immigration  
(also charged with Security and Justice issues)  
Permanent Representative

Federal Minister for the Interior  
Federal Minister for Justice

Minister for Administration and Digitalisation  
Deputy State Secretary, Ministry of Justice  
Permanent Representative

State Secretary attached to the Minister for the Interior  
State Secretary of Justice

State Secretary, Ministry of Internal Affairs  
Permanent Representative

Deputy Prime Minister, Minister for the Interior  
State Secretary at the Ministry of Justice

Minister for Justice  
Permanent Representative

Minister for Justice  
Minister for the Interior

Minister for Justice  
Minister for Migration  
State Secretary, Ministry of Justice (responsible for  
criminal law issues)

Lord Chancellor and Secretary of State for Justice  
Secretary of State for the Home Department  
Lord Advocate

**Commission:**

Ms Viviane REDING

Ms Cecilia MALMSTRÖM

Vice President  
Member



**ITEMS DEBATED**

**HOME AFFAIRS**

**Europol**

The Council was informed about the state of play on the proposal for a regulation on the European Agency for Law Enforcement Cooperation and Training (Europol) ([8229/13](#)). One of the aims of the Commission's proposal was for Europol to take over and build on the tasks currently carried out by CEPOL (European Police College), creating a single European law enforcement agency and repealing the existing decisions on Europol<sup>1</sup> and CEPOL<sup>2</sup>.

Given that a very large majority of delegations oppose to the merger of Europol and CEPOL, all the provisions linked to this idea will be removed from the draft Europol regulation.

The Council also held an orientation debate on the future of CEPOL. Member states agreed on the need to update the existing decision in the light of the Treaties post-Lisbon and invited the Commission to present a legislative proposal on the new legal basis for CEPOL as soon as possible.

**Migratory pressures: trends and outlook**

The Council took note of the information provided by the Commission, the EEAS, FRONTEX and EASO on the latest developments and trends concerning the migratory flows towards Europe.

The Council agreed to follow these developments closely and invited its preparatory bodies to keep the situation under constant review. It also invited the Commission and the Agencies to continue monitoring the situation closely and to inform the Council as regards new developments and trends of illegal immigration to the EU.

**Task Force Mediterranean**

The Council took note of the report of the Commission in relation to the implementation of the communication which resulted from the work carried out by the Task Force for the Mediterranean and welcomed the progress achieved so far in the five key areas listed in the Commission communication.

---

<sup>1</sup> Decision 2009/371/JHA. ([OJ L 121, 15/05/2009, p. 37](#))

<sup>2</sup> Decision 2005/681/JHA. ([OJ L 256, 1/10/2005, p. 63](#))

The Council invited all relevant stakeholders to continue to actively participate in the implementation of the operational actions outlined in the communication. It also invited the Commission to continue to inform its preparatory bodies on the progress achieved in this field and to present a comprehensive report of the activities carried out at the JHA Council in June.

The Task Force Mediterranean was set up following the JHA Council of 7-8 October 2013 in order to identify the tools which the EU has at its disposal and which could be used in a more effective way to avoid the tragic events that had occurred off the coast of Lampedusa.

At its meeting on 24-25 October, the European Council agreed to take the appropriate measures in order to prevent and avoid such tragedies happening again, based on the imperative of prevention and protection and guided by the principle of solidarity and fair sharing of responsibility.

The European Council invited the Task Force Mediterranean, lead by the Commission and involving member states, the EEAS and a number of EU Agencies, to identify priority actions for a more efficient short-term use of European policies and tools.

On 4 December 2013 the Council had a discussion on the communication of the Commission on the work of the Task Force Mediterranean ([17398/13](#)) and welcomed the set of actions contained in the document.

The task force identified five main areas of action which will be pursued actively during the coming months:

- Actions in cooperation with third countries.
- Regional protection, resettlement and reinforced legal avenues to Europe.
- Fight against trafficking, smuggling and organised crime.
- Reinforced border surveillance contributing to enhancing the maritime situational picture and to the protection and saving of lives of migrants in the Mediterranean.
- Assistance and solidarity with member states dealing with high migration pressure.

The Presidency reported to the European Council on 20 December on this matter. In its [conclusions](#), the European Council welcomed the Commission communication and called for the mobilisation of all efforts in order to implement actions proposed in the communication with a clear timeframe to be indicated by the Commission.

It was considered that increased engagement with third countries in order to avoid that migrants embark on hazardous journeys towards the EU should be a priority. Information campaigns, regional protection programmes, mobility partnerships and an effective return policy were also considered important components of this comprehensive approach.

The European Council reiterated the importance it attaches to resettlement for persons in need of protection and to contributing to global efforts in this field. It also called for the reinforcement of FRONTEX border surveillance operations and actions to fight smuggling and human trafficking, as well as to ensure that appropriate solidarity is shown to all Member States under high migration pressure.

The European Council invited also the Council to regularly monitor the implementation of the actions and indicated that it will return to the issue of asylum and migration in June 2014 in a broader and longer term policy perspective, when strategic guidelines for further legislative and operational planning in the area of freedom, security and justice will be defined ("post-Stockholm"). Ahead of that meeting the Commission is invited to report to the Council on the implementation of the actions set out in its communication.

## **MIXED COMMITTEE**

### **Data protection directive**

The committee was briefed by the Presidency on the state of play ([6799/14](#)) of the proposal for a directive on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data.

### **Migratory pressures: trends and outlook**

The committee was briefed by the Commission, the EEAS, FRONTEX and EASO on the latest developments and trends concerning the migratory flows towards Europe.

For more information see item above

### **Task Force Mediterranean**

The committee was briefed by the Commission about the implementation of the communication which resulted from the work carried out by the Task Force for the Mediterranean and welcomed the progress achieved so far in the five key areas listed in the Commission communication.

For more information see item above

### **Other business**

Under other business, the committee was informed about the agreements reached with the European Parliament on a number of legislative proposals, including:

- the decision introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Croatia and Cyprus of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period;

This decision will make possible for Bulgaria, Croatia, Cyprus and Romania to recognise Schengen visas for the purpose of transit or short stay in their territories.

On 27 February, the European Parliament voted in plenary on a provisional version of the text (no legal and linguistic revision) and is likely to vote a corrigendum during its April II session, which will make it possible for the Council to adopt it formally and signed by the two co-legislators before the May 2014 elections.

- the regulation amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (amendment to Annexes);

The agreement was reached at the beginning of February and it implies the transfer of 19 third countries (16 Caribbean countries, Colombia, Peru and the United Arab Emirates) from the negative list to the positive list, providing visa liberalisation for these countries regarding short stay Schengen visas. However, visa liberalisation will not apply straight away, as visa waiver agreements need to be negotiated with each of these countries first. As regard Colombia and Peru, the Commission will carry out an assessment of these countries in advance of such negotiations.

On 27 February, the European Parliament voted in plenary on a provisional version of the text (no legal and linguistic revision) and is likely to vote a corrigendum during its April II session, which will make it possible for the Council to adopt it formally and signed by the two co-legislators before the May 2014 elections.

For more information see press release ([6143/14](#))

- the regulation amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (Moldova)

This agreement provides for granting visa liberalisation to Moldova. The European Parliament adopted the text on 27 February, so that it now can be adopted also formally by the Council and signed very soon.

- the regulation establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union;

The regulation provides member states participating in FRONTEX operations with clearer, updated and binding rules to be applied in the course of these operations. This will result in greater effectiveness and legal certainty in operations at the external sea borders.

This regulation is one of the actions contained in the communication of the Commission on the work of the Task Force Mediterranean and it will be one of the key tools which the EU has at its disposal to improve the surveillance of the external sea borders and to contribute to preventing, for example, tragedies at sea such as the recent ones in the Southern Mediterranean.

It is expected that the formal adoption of the Regulation will take place in April 2014.

For more information see press release ([6463/14](#)).

The Presidency also informed the committee about the state of play of the Smart Borders Package.

Moreover, the Commission informed the committee about the implementation of the financial programmes 2014-2020 for Home Affairs.

Finally, the committee took note of the information provided by the Swiss delegation on the outcome of the constitutional referendum entitled "Against mass immigration" held on 9 February 2014.

## **JUSTICE**

### **Data protection regulation**

The Council held an orientation debate on certain issues of the proposal for a regulation setting out a general EU framework for data protection on the basis of a document prepared by the Presidency ([6762/1/14 REV 1](#)).

Ministers broadly supported the draft provisions as regards the territorial scope of the regulation and confirmed its understanding that international transfers of personal data to third countries should take place on the basis of key principles contained in chapter V. Ministers agreed that more technical work will need to be done on important aspects of this chapter and that the question of alternative models for international data transfer will need to be studied in-depth.

The Council confirmed that the work will continue at technical level on the basis of the progress achieved so far on: pseudonymisation as an element of the risk-based approach, portability of personal data for the private sector and obligations of controllers and processors.

Whilst a majority of delegations appeared to be of the opinion that the scope of the profiling provision in the future regulation should, like the current Directive 95/46/EC, limit itself to regulating automated decision-making that has legal effects or significantly affects individuals, some other delegations pleaded in favour of specific provisions on profiling. Work at technical level should therefore continue on that basis.

In January 2012, in the light of rapid technological developments and globalisation, the European Commission presented a legislative package to update and modernise the principles enshrined in the 1995 Data Protection Directive (Directive 95/46/EC)<sup>1</sup>, to guarantee data protection rights in the future. The package includes a policy communication setting out the Commission's objectives ([5852/12](#)), and two legislative proposals: a regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) ([5853/12](#)) and a directive on protecting personal data processed for the purposes of prevention, detection, investigation or prosecution of criminal offences and related judicial activities ([5833/12](#)).

These proposals are aimed at building a stronger and more coherent data protection framework in the EU, backed by strong enforcement that will allow the digital economy to develop across the internal market, put individuals in control of their own data and reinforce legal and practical certainty for economic operators and public authorities. Data protection in the European Union is a fundamental right. Europe already has the highest level of data protection in the world. The EU data protection reform seeks to ensure a very high level of protection of personal data.

---

<sup>1</sup> Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data ([OJ L 281, 23.11.1995](#))

**Data protection directive**

The Council was briefed by the Presidency on the state of play ([6799/14](#)) of the proposal for a directive on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data.

This proposal is part of the comprehensive data protection package which was adopted by the Commission on 25 January 2012. The package comprises two legislative proposals, one for a General Data Protection Regulation ([5853/12](#)), which is intended to replace the 1995 Data Protection Directive<sup>1</sup> (former first pillar), and one for a directive ([5833/12](#)) on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, which is intended to replace the 2008 Data Protection Framework Decision<sup>2</sup> (DFPD) (former third pillar).

The proposed directive aims to ensure a consistent and high level of data protection in this field, enhancing mutual trust between police and judicial authorities of different member states and facilitating the free flow of data and co-operation between police and judicial authorities. The European Parliament is for the first time co-legislator with respect to the areas covered by this Directive.

**European Public Prosecutor's Office**

The Council was briefed by the Presidency on the state of play on the proposal regarding the setting up of a European Public Prosecutor's Office. On the basis of a document prepared by the Presidency ([6490/1/14 REV 1](#)), Ministers had the opportunity to express their views on the structure of the Office, on the delimitation of its tasks and competences and on the regime of procedural rights applicable to suspects and victims.

The Commission proposal foresees that a European Public Prosecutor, appointed at European level, shall lead the EPPO and give instructions to European Delegated Prosecutors based in member states. However, a majority of member states consider that that the EPPO must be organised around a College representing participating member states. The debate focused on how an EPPO with a College can be organised while still ensuring that the it can work efficiently and independently.

---

<sup>1</sup> Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data ([OJ L 281, 23/11/1995](#))

<sup>2</sup> Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters ([OJ L 350, 30/12/2008, p. 60](#))



Most Member States do not agree with giving the EPPO exclusive competence for all offences against the Union's financial interests and consider that at least minor cases of offences should be possible to prosecute at national level. However, some delegations think it must be possible for the EPPO to intervene in cross border situations.

Some member states fully support the approach of the Commission in putting explicit references in the regulation to existing and proposed rights in EU law while others argue that references to safeguards foreseen in national law would suffice. This question will be examined further at technical level.

According to the Commission proposal, the European Public Prosecutor's Office will be a decentralised prosecution office of the European Union with exclusive competence for investigating, prosecuting and bringing to judgment the perpetrators of, and accomplices in offences against the EU financial interests. The proposal foresees that it will have uniform investigation powers throughout the Union based on and integrated into the national law systems of the member states.

The legal basis and the rules for the set-up of the European Public Prosecutor's Office are laid down in Article 86 of the Treaty on the Functioning of the European Union (TFEU). The proposed regulation will be adopted in accordance with a special legislative procedure: the Council will decide unanimously after obtaining the consent of the European Parliament. If unanimity cannot be reached in the Council, the Treaties foresee that a group of at least nine member states may enter into an enhanced cooperation.

The Commission presented its proposal on 17 July 2013 ([12558/13](#)).

## **Procedural safeguards for children in criminal proceedings**

The Council had a policy debate on the proposal for a directive on procedural safeguards for children who are suspected or accused in criminal proceedings ([17633/13](#)). The proposal aims at ensuring that children are able to understand and follow the criminal proceedings to which they are subject, and that they can exercise their right to a fair trial. The proposal also seeks to prevent re-offending by children and foster their social integration.

The debate was focused on the following issues ([6403/14](#)):

- the scope: According to the proposal, the directive applies also to suspects and accused persons who are adults, if these persons were children when they committed the criminal offence and the criminal proceedings started when they were children. While certain member states consider that the directive should not apply anymore when the suspect or accused person becomes of age, other member states consider that certain rights should continue to apply in that situation.
- the right of access to a lawyer: According to the proposal member states shall ensure that children are assisted by a lawyer throughout the criminal proceedings in accordance with Directive 2013/48/EU and that the right of access to a lawyer cannot be waived. A large majority of member states confirmed that children should not be able to waive their right of access to a lawyer, independently whether they are deprived of liberty or not. Some exceptions for minor cases should however apply.
- the right to protection of privacy: According to the proposal member states shall ensure that criminal proceedings involving children take place in the absence of the public, unless, after due consideration of the best interest of the child, exceptional circumstances justify a derogation. A large majority of member states favour or can at least accept the option according to which the directive should not contain any principle on the issue of the protection of privacy, but that member states should ensure such privacy, taking the interests of children duly into account.

On the basis of this guidance, the preparatory bodies of the Council will continue the work on the proposal. The Presidency aims at reaching a general approach on the text in June, which will then constitute the basis for the negotiations with the European Parliament.

## **Civil and commercial justice systems of the member states - conclusions**

The Council adopted conclusions on the civil and commercial justice systems of the member states ([6771/14](#)).

The conclusions underline the concerns expressed by member states about the methodology and system explored by the European Commission in 2013 with its Communication on a 2013 Justice Scoreboard; and especially highlight concerns about duplication of work and the importance of contextualisation when considering the analysis of any data in this area.

It also acknowledges that some areas of judicial work are very difficult to measure because of the

fact that the most important aspect of its functioning is the quality of the judicial decisions which is difficult to quantify. According to the text, any work in this area must be objective and treat all member states equally, taking into account the specific characteristics of national justice systems. Moreover, the results of any such exercise should in any case be of a non-binding, non-compulsory nature and should not lead to any kind of ranking of the member states.

The conclusions also invite member states, the Council and the European Commission to further consider better mechanisms, in line with the Treaties and whilst respecting the competences of the European Union and its member states, for taking forward the discussion on the functioning of civil and commercial justice systems with the aim of improving their effectiveness.

### **2014 Justice Scoreboard**

The Council took note of the presentation made by the Commission of the 2014 Justice scoreboard, scheduled to be adopted mid-March.

In April 2013 the Commission prepared the EU Justice Scoreboard, a tool to promote effective justice and growth ([8201/13](#)). Its objective is to assist the EU and the member states in achieving more effective justice by providing objective, reliable and comparable data on the functioning of the justice systems.

**Future development of the JHA Area**

Justice and Home Affairs ministers heard a presentation by the Commission on the main aspects of its forthcoming communication on the future development of the Justice and Home Affairs area and expressed their opinions and priorities. The Presidency concluded that it will reflect on how to bring things further in view of the JHA Council in June.

In December 2009, the European Council adopted the [Stockholm Programme](#), a multi-annual instrument for the development of an area of freedom, security and justice for the years 2010-2014.

Since the Lisbon Treaty introduced major changes in the freedom, security and justice area, future developments on this field should be discussed in the light of Article 68 TFUE which provides that the European Council "shall define the strategic guidelines for legislative and operational planning" in this regard.

The European Council in its 27-28 June 2013 conclusions mandated the future Presidencies to start discussions on the future strategic guidelines in the area of freedom, security and justice with a view to its June 2014 meeting. The Lithuanian Presidency, being the first to take office after the conclusions were adopted, started this discussion by holding a ministerial debate on 18-19 July 2013 at the informal ministerial meeting in Vilnius. The Greek Presidency continued this debate at the informal ministerial meeting in Athens on 23-24 January.

**Other business**

Under other business, the Council was informed about the agreements reached with the European Parliament on a number of legislative proposals, including:

- the directive on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.

The text agreed is currently being reviewed by the lawyer-linguists of the European Parliament and of the Council. Once that review has been finalised the European Parliament will adopt the text as its position at first reading, if possible at the plenary in April. The Justice and Home Affairs Council will then be in a position to adopt the regulation at its meeting in June.

The proposed directive is a proposal of major importance in the framework of the European policy on legal migration aimed at creating an EU's wide scheme for attracting highly-qualified managers, specialists and trainee employees in the framework of transfers from an undertaking outside the EU to an entity of that undertaking established in a member state.

- the directive on the protection of the euro and others currencies against counterfeiting by criminal law;

The text agreed is currently being reviewed by the lawyer-linguists of the European Parliament and of the Council. Once that review has been finalised the European Parliament will adopt the text as its position at first reading at the plenary in April. The Council will then be in a position to formally adopt the text.

The proposed directive was tabled by the Commission on 5 February 2013 and will replace Framework Decision 2000/383/JHA. It aims at establishing minimum rules concerning the definition of criminal offences and sanctions in the area of counterfeiting of the euro and other currencies. It also introduces common provisions to strengthen the fight against those offences and to improve their investigation.

Ireland has decided to take part in the adoption of the directive. The United Kingdom and Denmark will not participate.

- the regulation creating a European Account Preservation Order to facilitate cross border debt recovery in civil and commercial matters;

The agreement with the European Parliament was reached at the beginning of February. The text is currently being reviewed by the lawyer-linguists of the European Parliament and of the Council. Once that review has been finalised the European Parliament will adopt the text as its position at first reading at the plenary in April. The Justice and Home Affairs Council will then be in a position to adopt the regulation at its meeting in June.

The aim of the proposed regulation is to facilitate cross-border debt recovery by creating a European procedure leading to the issue of a European Account Preservation Order ("Preservation Order" or "Order"). This European procedure will be available to citizens and businesses as an alternative to national procedures, but will not replace national procedures. It will apply only to cross-border cases.

By way of this new European procedure a creditor will be able to obtain a preservation order which will block funds held by the debtor in a bank account in a member state and thereby prevent the debtor from dissipating such funds with the aim of frustrating the creditor's efforts to recover his debt.

The Preservation Order will be available to the creditor in two situations: (1) before he obtains a judgment (that is, both before he initiates proceedings on the substance of the matter and during such proceedings) and (2) after he has obtained a title on the substance of the matter.

Under specific conditions, it will also be possible for a creditor to obtain information on the existence of account(s) of the debtor in a specific member state.

In order to ensure the surprise effect of the Preservation Order the Order will be issued in *ex parte* proceedings, that is without a prior hearing of the debtor. In order to counterbalance this lack of prior hearing of the debtor the proposed regulation will make a series of remedies available to the debtor so that he can challenge the Order as soon as he is informed of the blocking of his accounts. Moreover, as further safeguards against a possible abuse of the Preservation Order the proposed regulation will contain rules on the provision of a security by the creditor and on the creditor's liability for any damage caused by the Preservation Order to the debtor.

- the regulation amending regulation 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the so-called "Brussels I" regulation).

The agreement with the European Parliament was reached on 29 January. The text is currently being reviewed by the lawyer-linguists of the European Parliament and of the Council. Once that review has been finalised the European Parliament will adopt the text as its position at first reading at the plenary in April. The Council will then be in a position to adopt the regulation at its meeting in June

The aim of the proposal is to amend regulation 1215/2012 (Brussels I) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters so as to allow the rules of that regulation to be applied also by two courts common to several member states: the Unified Patent Court and the Benelux Court of Justice. Those two Courts established by international agreements may exercise jurisdiction in matters falling within the scope of regulation 1215/2012.

On 12 December 2012 the Council and the European Parliament adopted regulation 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ([see press release](#)). The purpose of this regulation is to make the circulation of judgments in civil and commercial matters easier and faster within the Union, in line with the principle of mutual recognition and the Stockholm Programme guidelines.

On 19 February 2013, 25 member states signed an Agreement on a Unified Patent Court ([see press release](#)). The creation of such a court was made necessary by the adoption of two regulations with a view to implementing enhanced cooperation in the area of the creation of unitary patent protection and its translation arrangements ([see press release](#)).

Article 31 of the UPC Agreement states that the international jurisdiction of the Unified Patent Court is to be established in accordance with regulation 1215/2012, or, where applicable, the 2007 Lugano Convention. Article 89 of the UPC Agreement links the entry into force of that Agreement to the entry into force of the amendments to regulation 1215/2012 concerning the relationship between those two instruments. It was therefore necessary to amend regulation 1215/2012, in particular to insert provisions which determine how the Unified Patent Court can exercise its international jurisdiction.

On 15 October 2012, three member states (Belgium, Luxembourg and the Netherlands), party to the Treaty of 31 March 1965 concerning the establishment and statute of a Benelux Court of Justice, signed a Protocol amending that Treaty making it possible to transfer jurisdiction to the Benelux Court of Justice in specific matters falling within the scope of regulation 1215/2012.

Moreover, the Council was informed by the Presidency about the state of play of a number of legislative proposals, including:

- the directive on the conditions of entry and residency of third-country nationals for the purpose of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing.

The aim of this proposal is to improve the legal framework applicable to non-EU nationals willing to come and temporarily stay in the EU for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing.

This proposal was presented in March 2013 and several rounds of discussions have already taken place, in particular on the compromise suggestions presented by the Lithuanian and Greek presidencies. A substantive number of important issues are still outstanding including, in particular, the categories of third-country nationals to be included in its scope and the mobility scheme.

- the regulation amending Council regulation 1346/2000 on insolvency proceedings.

The proposed regulation aims at making cross-border insolvency proceedings more efficient and effective with a view to ensuring a smooth functioning of the internal market and its resilience in economic crises. This objective is in line with the European Union's current political priorities to promote economic recovery and sustainable growth, a higher investment rate and the preservation of employment, as set out under the Europe 2020 strategy, and to ensure smooth development and the survival of businesses, as stated in the Small Business Act.

The proposed regulation will also bring the current insolvency regulation in line with developments in national insolvency laws introduced since its entry into force in 2002.

The proposal was submitted by the Commission in December 2012 and was discussed by the Ministers for Justice at the informal Council in Dublin on 18 January 2013. The Council held a public debate on this proposal on 6 June 2013 and agreed on political guidelines for the future work ([10050/13](#)). In December 2013, the Council held a second orientation debate on some key aspects of the proposed regulation and agreed also on some general guidelines ([17304/13](#)).

Furthermore, the Commission presented the 6th annual EU Disability High Level Group Report. This report gives an overview of progress made in ratifying and implementing the UN Convention on the Rights of Persons with Disabilities to which the EU is a party since 2011.

\* \* \*



**In the margins of the Council**

A [joint declaration](#) establishing a mobility partnership between Tunisia and the European Union and its member states (Belgium, Denmark, Germany, Spain, France, Italy, Poland, Portugal, Sweden and the United Kingdom) was signed in the margins of the Council

**OTHER ITEMS APPROVED**

**JUSTICE AND HOME AFFAIRS**

**CEPOL's evaluation report**

The Council took note of the report on the implementation of CEPOL (European Police College) Governing Board's recommendations, on the basis of the five year evaluation of the activities carried out by CEPOL([16694/13](#)), as required by decision 2005/681/JHA<sup>1</sup>.

**GENERAL AFFAIRS**

**Equivalence of security rules for protecting classified information**

The Council decided that equivalence has been reached between the basic principles and minimum standards for protecting classified information in the European Parliament's and in the Council's security rules ([6716/14](#)).

The determination of equivalence is a pre-condition for the Council to provide classified information to the European Parliament, pursuant to the interinstitutional agreement between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of common foreign and security policy. The interinstitutional agreement enters into force once it has been signed by the Presidents of the Council and the European Parliament.

**COMMON SECURITY AND DEFENCE POLICY**

**Ratification of the Arms Trade Treaty**

The Council adopted a decision authorising member states to ratify, in the interests of the European Union, the Arms Trade Treaty adopted by the UN General Assembly on 2 April 2013, with respect to those matters falling under the exclusive competence of the Union.

---

<sup>1</sup> Decision establishing the European Police College (*OJ L 256, 1.10.2005*)

**ECONOMIC AND FINANCIAL AFFAIRS**

**Deposit guarantee schemes**

The Council adopted its position at first reading on a draft directive aimed at further harmonising EU rules on deposit guarantee schemes (DGSs) and enhancing depositor protection ([6707/14](#) + [5199/14](#) + [ADD 1](#)).

For details see [7152/14](#).

**TRADE POLICY**

**Dual use items**

The Council adopted its position at first reading on a draft regulation aimed at enabling the adoption of delegated acts for the purpose of updating certain annexes of regulation 428/2009 on the control of exports, the transfer, brokering and transfer of dual use items ([18086/13](#) + [ADD 1](#) + [6700/14](#)).

This follows an agreement reached with the European Parliament on 17 December. The Parliament will now be able to adopt the text without further amendment at second reading.

**INTERNAL MARKET**

**Motor vehicles - International harmonised requirements**

The Council adopted a decision on the EU's position, to be taken within the United Nations Economic Commission for Europe (UNECE), with a view to adapting to technical progress a number of UNECE regulations, as well as the draft global technical regulations on light-duty vehicle test procedures and on tyres ([6796/14](#)).

The UNECE develops international harmonised requirements intended to remove technical barriers to the trade in motor vehicles.

**FISHERIES**

**Incidental catches of cetaceans in fisheries - Alignment on the Lisbon Treaty**

The Council adopted its position at first reading on a proposal for an amendment to regulation 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries ([6103/14](#)).

The proposal seeks to align regulation 812/2004 with the provisions of the Treaty on the Functioning of the EU which makes a distinction between the powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act as laid down in article 290(1) of the Treaty (delegated acts), and the powers conferred upon the Commission to adopt uniform conditions for implementing legally binding Union acts as laid down in Article 291(2) of the Treaty (implementing acts).

Through this proposal, delegated acts would cover the adaptation of conditions and technical specifications for the use of acoustic deterrent devices and implementing acts would cover procedure and format for reporting obligations for member states.

The European Parliament adopted its position at first reading in April last year. An agreement between the Council and the European Parliament was reached at a trilogue held on 30 January 2014. The Council's position at first reading is in line with the above-mentioned agreed text, as amended to reflect the subsequent legal and linguistic revision. The vote in plenary of the European Parliament is expected later in the year followed by Council adoption of the agreement in first reading.

**FOOD LAW**

**Food additive**

The Council decided not to oppose the adoption of a regulation authorising ethyl lauroyl arginate as a preservative in heat-treated meat products in order to improve the microbiological quality of those food products, including inhibiting the growth of harmful micro-organisms such as *Listeria monocytogenes* and to assign number E 243 to that food additive ([6170/14](#)).

The Commission regulation is subject to the so called regulatory procedure with scrutiny. This means that now that the Council has given its consent, the Commission may adopt it, unless the European Parliament objects.

**TRANSPORT**

**Civil aviation aircrew - requirements and procedures**

The Council decided not to oppose adoption by the Commission of a regulation amending regulation 1178/2011 laying down technical requirements and administrative procedures related to civil aviation aircrew ([5075/14](#) + [ADD 1](#)).

The Commission regulation is subject to the regulatory procedure with scrutiny. This means that now that the Council has given its consent, the Commission may adopt the regulation, unless the European Parliament objects.

**Connecting Europe Facility - transport funding priorities**

The Council decided not to object to the Commission regulation amending Annex I to regulation 1316/2013 establishing the Connecting Europe Facility ([5162/14](#) + [ADD 1](#)).

The delegated regulation details transport funding priorities for the purpose of the multiannual and annual work programmes.

The regulation is a delegated act pursuant to article 290 of the Treaty on the Functioning of the EU. This means that now that the Council has given its consent, the act can enter into force, unless the European Parliament objects to it.

