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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Delegations
Subject: Summary of conclusions of the meeting of the JHA-RELEX Working Party (JAIEX) on 3 June 2014

1. Adoption of the agenda

The agenda was adopted as set out below.

2. EU-USA Cooperation

- Preparations for the EU-USA JHA Ministerial Meeting**
- Exchange of views on the draft agenda**

The Presidency presented a series of comments on the draft agenda of the EU-USA JHA Ministerial Meeting (Athens, 25th June 2014) and reported on the practical aspects of this event.

The Commission added the following remarks :

Home Affairs:

- On visa reciprocity, there is a need for a process aiming to include the five as yet non-visa-waived Member States.
- Countering violent extremism (CVE) should be addressed together with foreign fighters.
- On the Passenger Name Records Agreement, the focus should be put on implementation and strong monitoring. The U.S. will also be briefed on the *Data Retention Directive judgment (C 293/12)* and its impact.
- Travelling Sex Offenders represent a new item following the March 2014 Summit. Concrete cooperation still has to be determined.

Justice:

- The Ministerial meeting will focus on progress achieved in data protection under the Greek Presidency, the Podesta Report, judicial redress, and the Umbrella Agreement's state of play.
- Progress on the Judgments Project at the April Hague Conference will be reviewed.
- On Mutual Legal Assistance (MLA), the objective is to organise another practitioners' seminar at the beginning of next year, with the support of EUROJUST, and to launch the process of reflection on the planning of a joint review of MLA in 2015, as provided for in Article 17.
- On the Rights Agenda, progress has been made on an IT standard (disability): these issues are connected with the Transatlantic Trade and Investment Partnership (TTIP).

The Netherlands asked whether Member States could provide input for the MLA review to be launched. The Commission replied that such input would be very valuable.

The Presidency thanked the Commission for its input and stated that it would take the above-mentioned comments into consideration in the further preparation of the Ministerial meeting.

3. Meetings with the Council of Europe

a. CATS-CoE meeting, Brussels, 25 April 2014 – briefing by the Presidency

The Presidency reported on the CATS-CoE meeting, which took place in Brussels on 25 April 2014 (doc. 9638/14). It stated that the basis for the discussion included the EU Anticorruption Report. Cooperation through GRECO (Group of States Against Corruption) is key. The participants stressed the need for better implementation of the existing legal framework against corruption.

The UK requested information about the discussion on the timeframe for the EU's accession to GRECO. While the position is to be finalised later, the item is on the agenda of GRECO's 64th Plenary Meeting, due to take place in Strasbourg on 16-20 June 2014.

b. Discussion on the future scope of CATS-Council of Europe meetings

The Presidency referred to the issue of the title "EU-CATS-CoE Troika". As there is no "troika" as such, and as the agenda at times exceeds the scope of former Article 36, the Lithuanian Presidency had advised that it be renamed it "Senior Official Meeting EU-CoE on JHA". The Greek Presidency invited the participants to express their view on this question.

The Commission (DG JUST) expressed strong reservations on this proposal, arguing that :

- As with all multilateral JHA meetings, any change requires an actual political debate. The JAIEX context is not the proper forum for fulfilling this condition.
- Given that the CoE is not a third country, parallelisms with JHA Senior Officials Meetings (SOMs) are contrived. EU cooperation with international bodies takes on various formats. Judicially, the Commission questioned the suitability of a JHA discussion with the CoE.
- With regard to institutional balance in external representation, the Commission highlighted the disagreement between its own Legal Service and that of the Council. (Art. 220).

The Commission defended the use of JAIEX as a forum for keeping track of current activities, rather than as a place to debate the renaming of other structures or altering their scope.

The GSC stressed the importance of this issue for the Member States. It considered that the main point was the ongoing dialogue with the CoE, regardless of the name. Moreover, the reporting process should be efficient and should continue with flexibility on the format. JAIEX should be given the opportunity to receive information about other meetings with the CoE, such as the ones conducted by Commission and the EEAS.

The UK concurred with the GSC. It expressed its willingness to be flexible on the format while preserving clarity and efficiency. It expressed understanding for the Commission's concerns, but called for more transparency from the Commission and the EEAS on JHA affairs at CoE meetings.

Poland agreed with the UK. It stressed the need to focus on what these meetings were intended to achieve. It also expressed flexibility about the name, while acknowledging the need to consider the impact on the institutional framework: it suggested a full-fledged debate at higher level, e.g. COREPER. At the same time, it underlined the importance of the information-exchange mechanism and likewise called for more details about the meetings between the CoE and the Commission/EEAS.

The Commission (DG HOME) underlined convergence on the objectives and on the need for pragmatic information-sharing structures. It suggested rather that synergies be sought between the two ongoing processes – the EEAS-led EU-CoE SOM, on whose agenda JHA matters could constitute a standing item, and the technical-level Mutual Information Mechanism (MIM), so as to achieve the primary goal.

The Presidency agreed that a focus on achievement was essential. It also called for further details on the CoE-Commission/EEAS meetings. It noted an agreement to pool information from all sides in order to make a well-informed decision at the next JAIEX meeting.

4. Liaison Officers Meeting, Moscow, 29 April 2014 – briefing by the Presidency

The Presidency referred to doc. 9742/14. The agenda focused on the criminal activities of Russian nationals on EU territory, and on drug trafficking and trafficking of human beings (THB). Russian organised criminal groups (OCG) are active on EU territory notably through the "Balkan route", in association with Turkish OCGs. The Police Liaison Officers expressed a willingness to strengthen cooperation with the Russian authorities. While the Russian Police Liaison Officers praised the current cooperation with the EU, they regretted the delay in the signing of the cooperation agreement with EUROPOL.

The French delegation mentioned a regrettable incident involving Europol and RU liaison officers when the latter were denied access to Europol premises for a meeting. He advocated that such situations should be avoided since they could harm the cooperation with Russia.

5. Member States' bilateral activities

Slovenia informed the audience of the informal meeting on the Brdo process it was hosting on 2-3 June. The topics included the strengthening of regional cooperation and coordinated EU assistance in respect of pre-accession requirements, anti-terrorism cooperation in the Western Balkans, THB activities in the region, and the Western Balkan Migration Network (doc. 10352/14). Slovenia would provide additional information under AOB at the JHA Council.

6. Working Programme of the Italian Presidency

In JHA external relations, Italy aims to further develop migration and security, especially. High-level meetings are planned as follows:

- with the U.S., the next Ministerial Meeting is due to take place in November;
- the High-Level Meeting on Migration should take place in Brussels in November as well;
- the EUROMED Ministerial Meeting should be hosted in Italy in December;
- the Western Balkans Ministerial Forum is due to be held in Belgrade near the end of the year;
- the feasibility of an EU-Russia Ministerial Meeting is being assessed.

Italy would also like to develop an initiative on migration in the Horn of Africa, possibly in cooperation with INTERPOL. As regards the Western Balkans, Italy would like to enhance the roles of EUROPOL, EUROJUST and CEPOL with a focus on operational agreements.

The Italian Presidency is looking forward to JAIEX's role in the organisation of these events. The WP's next meeting has been scheduled for 18 July. The Greek Presidency thanked the Italian delegation for its presentation and wished it every success.

7. JHA aspects of the cooperation between EU and Latin America & Caribbean region

c. Presentation by the Spanish delegation

The Spanish delegation briefed the audience on the JHA aspects of EU-CELAC (Community of Latin America and Caribbean States) cooperation. It stressed Latin America's weight in multilateral affairs. Besides economic links (EU foreign direct investments), deep cultural and historical ties as well as democratic and human rights values unite the EU and Latin America.

Spain stressed its dedication to acting as a bridge between the EU and CELAC. The EU and CELAC hold biennial Summits with up to 61 national leaders. So far, two EU-CELAC action plans have been issued: the Madrid Action Plan (2010-2012) and the Santiago Action Plan (2013-2015). The next EU-CELAC Summit will be in Brussels in June 2015.

In the Justice area, a key cooperation framework is the EUROJUST-Iberoamerican Network of International Legal Cooperation MoU (2009). There are, moreover, several development cooperation projects covering democratic governance, institutional capacity-building and human rights.

In the Home Affairs area, besides security, police cooperation and visa liberalisation, two key topics are drugs and migration. Regarding the drugs issue, the mechanisms in place include:

- EU-CELAC Coordination and Cooperation Mechanism on Drugs (Madrid, 1995), updated by the Quito Declaration (June 2013). The 16th High-Level Meeting under this mechanism is due to be held in Athens on 18-19 June 2014;

- EU-Community of Andine Nations High-Level Experts Dialogue on Drugs;
- Joint Initiative for Monitoring Chemical Precursors for the Production of Drugs (2009);
- EU-CELAC Police Cooperation on Drugs (EU-AMERIPOL, 2011);
- EU-LAC Cooperation Programme on Drug Policies (EU-funded COPOLAD, 2010-2015);
- Cocaine Route Programme (EU-funded, 2009);
- Bogotá Platform for Information Exchange on Transatlantic cocaine trafficking, in line with the EU Drug Strategy for 2012-2015.

Regarding migration issues, the EU-CELAC Structured and Comprehensive Dialogue on Migration was launched in June 2009, with measures to strengthen the project launched in January 2011. The 9th High-Level Meeting on Migration is due to take place by the end of 2014 in Brussels.

Spain stressed its bilateral development cooperation with 12 CELAC countries through its national agency, AECID. In relation to JHA, it is a major supporter of regional integration in Central America by three-fold means : institutional capacity-building, democratic governance and economic integration. It is likewise working with CARICOM, the Andean states and MERCOSUR.

Spain also highlighted the annual meetings of the Iberoamerican Conference, whose General Secretariat became an international organisation in 2003. They drive progress in political, economic and cultural cooperation between Latin America and the Iberian Peninsula: notably, they established IberRed, the Network for International Legal Cooperation, in 2004.

The Spanish delegation concluded that in comparison to links with other regions, EU-CELAC relations evolved below their potential. It called for the EU-CELAC Action Plan to be tilted towards more ownership of the process by CELAC countries and an emphasis on public security.

d. Discussing with EEAS Director Roland Schaefer on the joint Communication “Elements for an EU strategy on public security in Central America and the Caribbean” and concluding remarks by EUROPOL and EMCDDA

EEAS Director M. Roland Schaefer stressed the Communication’s relevance to JAIEX activities. Any progress on the economic and social fronts demands citizen security: in the joint HR-Commission Communication, the security-development nexus is the basis of the thinking.

The Communication lays out the following strategic elements:

- the centrality of the concept of transit regions for trade flows, as logistical efforts on the part of small states to become trade hubs attract harmful illegal trafficking activities;
- the necessity of making citizen security the focus of the efforts, beyond policing alone: law enforcement, strong institutions and social justice are the three key concepts;
- the opportunity for the EU to reflect on its experience with similar problems in the Balkans, and the Communication's status as a "song-sheet" from which MS may draw inspiration.

The EEAS called on the Member States to mould the elements into a Strategy. It expressed the hope that the COLAC's comments would be integrated by next week, with a view to finalising an updated version. If the Council accepted the proposal on 22 July, work on a shared reform agenda for the region could begin. The EEAS underlined the necessity for partner countries to take ownership of any programme or project. It hoped to achieve such a result by the end of 2014.

Ultimately, the EEAS argued in favour of a "mapping exercise" in the region to obtain a complete overview of the whole range of issues and factors. As a EU-CELAC Summit is planned in Brussels in mid-2015, the EEAS would like a chapter on a Common Action Plan with all CELAC countries, and a common working agenda with the smaller group of Central American and Caribbean States. In this respect, EU Member States' input will be of the essence.

The Netherlands welcomed the flexibility provided by the Communication. It highlighted the risk of linkage between public authorities and criminal networks in Central America and the Caribbean, and thus the importance of transparency and the inclusion of all the relevant players.

France expressed support for the initiative and hoped that it would achieve concrete results.

Cyprus stressed the importance of having a tool for cooperation with the region, and of JAIEX expertise in this respect. It also enquired about the European Parliament's involvement in the project.

Italy welcomed the application of ideas found in the 2003 EU Security Strategy ("Solana Strategy"). While applauding the opportunity for a renewed political dialogue, it questioned the extent to which the Communication and the potential Strategy could shape future programmes.

Spain recalled the adoption in June 2011, by several Heads of State of Central America in association with the US, Canada and the EU, of a Security Strategy for Central America.

The EEAS thanked the delegation for their comments. It concluded with several points:

- the Security Strategy for Central America has been referenced in the Communication as a “regional strategy”, and should be taken into account;
- accepted policy papers such as the 2003 EU Security Strategy have guided the thinking;
- the EEAS has had and will maintain contacts with MEPs interested in the initiative;
- the link between organised crime and governmental activities is a salient issue. It has been debated in COLAC; theoretical solutions exist, e.g. tax reform. However, implementation depends on the damage elites themselves are suffering from the insecurity situation. There is need for everyday field work, which the mapping exercise would definitely bolster, and for Member States’ help – e.g. with intelligence on links between OC and the authorities.

EUROPOL announced that it would soon start writing the interim threat assessment (SOCTA) scheduled for 2015. This paper will also measure the impact, on EU Member States, of drug trafficking from the Americas: with the U.S., the EU is the main market for Latin American-cultivated drugs. Currently, Argentina is witnessing an increase in trafficking, as it has to contend with smuggling from its northern neighbours. Brazil faces significant increases in consumption and seizures. As for cultivation, Bolivia and Columbia remain world leaders; Ecuador is on the rise. EUROPOL praised the operational agreement it was able to sign with Columbia in 2010.

EMCDDA stated that it would present the European Drug Report 2014 to the JHA Council on 5 June. It underscored a too frequent underestimation of the drug market’s role in criminal activities: drug trafficking is “the ATM machine of crime”, as it easily sustains even small criminal organisations. EMCDDA also stressed that the market is changing. While traditional opioid use is stable or dwindling in the EU, synthetic opioids are on the increase: this is the “new drugs” phenomenon, with more than 400 new substances currently being monitored. Moreover, the Internet is gradually replacing the street market. Finally, as for judicial reaction, the field data contradicts the policy principle that users should not be targeted: despite decriminalisation, 80% of all arrests in fact involve cannabis users.

8. AOB

The Presidency informed the audience of EUROJUST's intention to enter into negotiations with the EU's Fundamental Rights Agency (FRA) with a view to concluding an MoU. EUROJUST will be invited to provide details about this at the next JAIEX meeting.

The Netherlands mentioned the Ukraine Forum on Asset Recovery, a high-level international meeting to support the Ukrainian government in recovering stolen assets, which took place in London on 29-30 April. It called for a reflection on possible EU-level action and on the most appropriate WP to discuss it. The Presidency requested a note on the issue be circulated among the MS.

The Greek Presidency thanked the audience for attending the last JAIEX meeting under its chairmanship. It recalled the highlights of the past six months:

- the EU-Russia Ministerial Meeting in Moscow in January;
- the EU-U.S. Senior Official Meeting in Athens in February;
- the Police Liaison Officer Meetings in Tirana in February and in Moscow in April;
- the work on the enhancement of the JAIEX WP's functioning;
- the in-depth preparation of the EU-U.S. Ministerial Meeting in Athens in June.

The Greek Presidency thanked all the participants, the Commission and the GSC for their support during the last six months and wished the incoming Italian Presidency every success.