

## **JUSTICE and HOME AFFAIRS COUNCIL**

### **Thursday 12 and Friday 13 March in Brussels**

The meeting will be chaired by **Rihards KOZLOVSKIS**, Latvian Minister for the Interior and by **Dzintars RASNAČS**, Latvian Minister for Justice.

On Thursday, starting at 10.00, Home affairs ministers will exchange their views on the implementation of measures regarding the **fight against terrorism** as a follow up to the statement of 12 February by the members of the European Council and to the Riga Joint Statement on 29 January by the justice and home affairs ministers.

The Council in the Mixed Committee format (the EU plus Norway, Iceland, Liechtenstein and Switzerland) will also discuss how to address the recent developments on **migratory pressures** that the EU is facing, with a special focus on the Mediterranean and Western Balkans, and what immediate actions can be taken to respond to the most acute issues.

On Friday, starting at 10.00, justice ministers will discuss the **data protection regulation** and are expected to reach an agreement on the "one-stop-shop" mechanism and on the principles for processing the personal data.

The Council will then be invited to reach a general approach on a directive on provisional **legal aid for suspects** or accused persons deprived of liberty and legal aid in European arrest warrant proceedings and on a regulation on the **European Union agency for criminal justice cooperation** (EUROJUST).

Ministers are also expected to agree on a partial general approach on a regulation promoting the free movement of citizens and businesses by **simplifying the acceptance of certain public documents** in the EU.

Moreover, ministers will also have a debate on the regulation establishing the **European public prosecutor's office (EPPO)**. It will focus on questions regarding the conditions under which the EPPO would be able to conclude transactions with suspects.

#### **Press conferences:**

- Home affairs Council (*Thursday, at the end of the meeting +/- 15.45*)
- Justice Council (*Friday, before lunch +/-12.45 and at the end of the meeting +/- 17.15*)

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Press conferences and public events by video streaming: <http://video.consilium.europa.eu>

Video coverage in broadcast quality (MPEG4) and photo gallery on: [www.eucouncil.tv](http://www.eucouncil.tv)

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<sup>1</sup> This note has been drawn up under the responsibility of the press office.

## HOME AFFAIRS

### Fight against terrorism

- Implementation of measures

The Council will have a discussion on the implementation of the measures contained in the recent counter-terrorism statements issued after the latest terrorist attacks on European soil. Ministers will focus their discussion on areas where results can be achieved in the coming months.

These areas have been identified by the Presidency, in collaboration with the EU Counter-terrorism coordinator and the European Commission and include:

- making full use of the existing Schengen framework to reinforce and modernise external borders' control;
- addressing the issue of internet content promoting terrorism or violent extremism by setting up internet referral capabilities;
- increasing cooperation and information exchange in the fight against illicit trafficking of firearms;
- stepping up information sharing, including through Europol and Eurojust.

In addition and in parallel, work will be taken forward on all areas of the counter-terrorism statements. Ministers of Justice will discuss the judicial dimension of disengagement, rehabilitation and de/anti-radicalisation of foreign fighters - on 13 March 2015 during the lunch.

For more information:

[Statement of 12 February by the Members of the European Council](#)

[Riga Joint Statement of 29 January by the Ministers of Justice and Home Affairs of the EU](#)

[Fight against terrorism: Stock taking of actions and way forward \(February 2015\)](#)

[Response to foreign fighters and recent terrorist attacks in Europe](#)

### Migratory pressures: trends and further actions

- Exchange of views

Ministers will have a discussion on how to address the recent developments on migratory pressures that the EU is facing and what immediate actions can be taken to respond to the most acute issues.

The Presidency has submitted a note to the Ministers which builds upon the actions already developed and implemented on the basis of the Task Force Mediterranean (TFM) and of the Council Conclusions of October 2014. The note identifies three major challenges that has gained prominence since last exchange of views at ministerial level:

- Issues concerning human smuggling, in particular in the Central and Eastern Mediterranean Region.
- The reinforcement of border management
- The increased migratory pressure on the land borders in the Western Balkans Region

Ministers will be invited to discuss how could Frontex activities be further strengthened and what further specific measures could be taken to tackle the prevailing situation at Southern sea borders and at the land borders in the Western Balkans.

The Council has regularly discussed the migration issues considering its importance at the highest political level. The latest exchange of views took place during the Council meeting in December, 2014 under the Italian presidency. In December 2014 the Commission presented to the Council an scorecard on the state of play of the implementation of the actions listed in the Council Conclusions and the report of TFM ([16222/14](#)).

The main developments since the December Council meeting are:

- Issues concerning human smuggling, in particular in the Central and Eastern Mediterranean Region.

The traditional seasonal decline in the number of arrivals of migrants by sea is lower than expected due to organised networks of smugglers and traffickers. It has been noticed that arrivals both in the Central and Eastern Mediterranean have been organised by using larger ships that bring greater financial benefit for smugglers and traffickers. Two incidents involving large ships coming from Turkey took place around Christmas and New Year (the "Ezadeen" and "Blue Sky M" ships).

Moreover, the latest tragic events where more migrants lost their lives in an attempt to reach the European shores show that urgent action is needed.

- Need to further reinforce external border management.

The operation Triton, launched in November 2014, covers the maritime area south of Sicily and the Pelagic islands as well as the coastal areas around Calabria, southern Italy. This operation does not replace the Italian funded Mare Nostrum operation launched in October 2013 and developed as a military operation with humanitarian purposes. Triton is intended to reinforce border surveillance in the waters close to the Italian shores but it can, if necessary, pursue search and rescue activities. Its costs are estimated to €2,9 millions per month and in terms of resources it has 7 ships, two planes and a helicopter.

The European Commission announced on 19 February 2015 that the EU-funded Triton operation, managed by Frontex, will be last at least till the end of 2015.

- The increased migratory pressure on the land borders in the Western Balkans Region.

The number of migrants from Kosovo who enter the territory of the member states of the EU has dramatically increased in recent months. The Hungarian authorities have reported a high level of detections of Kosovar nationals since last December which amounts to one third of all detections at the EU external borders. This has had consequences for asylum systems in other member states, most notably, in Germany and Austria.

More information:

[Illegal migration](#)

## **MIXED COMMITTEE**

### **Migratory pressures: trends and further actions**

- Exchange of views

The committee will have a discussion on how to address the recent developments on migratory pressures that the EU is facing and what immediate actions can be taken to respond to the most acute issues.

See item above

### **Greek Road Map on Asylum for 2015**

- Information from the Greek delegation

The Greek minister will inform the committee about the new road map on asylum for 2015. This road map is a follow up to the revised Action Plan on Asylum and Migration Management which ended 31 December 2014.

# JUSTICE

## Data protection regulation

### – Partial general approach

The Council is expected to reach a partial general approach on specific issues of the draft regulation setting out a general EU framework for data protection, on the understanding that nothing is agreed until everything is agreed.

The partial general approach includes the chapters and the recitals concerning the "one stop shop" mechanism ([chapters VI and VII](#)) as well as the chapter and the recitals relating to the principles for processing the personal data ([chapter II](#)).

In October and December 2013 the Council already expressed its general support for the principle that, in important transnational cases, the regulation should establish a "one-stop-shop" mechanism in order to arrive at a single supervisory decision, which should be fast, ensure consistent application, provide legal certainty and reduce the administrative burden. This is an important factor to enhance the cost-efficiency of the data protection rules for international business, thus contributing to the growth of the digital economy.

Ministers also concluded that the experts should explore methods for enhancing the "proximity" between individuals and the decision-making supervisory authority by involving the local supervisory authorities in the decision-making process. Moreover, in December 2013 the Legal Service of the Council indicated that the model as it resulted from the technical work so far would confront data subjects with such a complicated system that it would be incompatible with the right to an effective remedy.

In December 2014, after complex and length technical discussions, ministers already agreed the general architecture of the text submitted for endorsement. The current text tries to accommodate the concerns of the Council Legal Service and to enhance the "proximity". According to the proposal, the one stop shop mechanism should only intervene in important cross-border cases and will consist in a cooperation and joint-decision making between several data protection authorities concerned. The proposal clarifies that the jointly agreed decision will be adopted by the data protection authority best placed to deliver the most effective protection from the perspective of the data subject. In practice, that means that it will be the local authority the one adopting the decision in all cases where the complainant could be adversely affected by it, allowing him to have the decision of the data protection authority reviewed by his or her own court.

As regards to General principles of data processing (Chapter II), following detailed and technical discussions at the expert level, a set of principles has been established for lawful, fair and transparent data processing. An emphasis to the lawfulness has been putted in both categories – processing of personal data as well as processing of special categories of personal data. Chapter includes also safeguards and measures for transparent data processing.

Issues covered by Chapter II have been discussed at the first negotiation phase on 2012 and 2013 (during Cypriot and Irish Presidencies) as well as separate parts of it were discussed last year by reaching a partial general approach on Public sector with a relation to Chapter IX – Specific data processing. Under the Latvian Presidency it was the first time when detailed and specific discussions were held for examination of Chapter II.

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](#)), 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 as a legislative package: 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 or the execution of criminal penalties and the free movement of such data for the police and criminal justices authorities ([5833/12](#)).

The data protection legislative reform aims 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. The EU data protection reform seeks to ensure a very high level of protection of personal data.

In June 2014 the Council reached a partial general approach on the text of Article 3(2) (territorial scope), the text concerning the respective definitions of "binding corporate rules" and "international organisations" (Articles 4(17) and (21)), and the transfer of personal data to third countries or international organisations (Chapter V) of the draft regulation ([10349/14](#)). In October 2014 Ministers also reached a partial general approach on the chapter IV (controller and processor) and the related recitals ([13772/14](#)). In December 2014 Ministers agreed some articles which are crucial to the question of the public sector (Article 1, Article 6, paragraphs (2) and (3), Article 21) as well as chapter IX (provisions relating to specific data processing situations) and the related recitals (16140/14). These agreements do not mandate the Presidency to engage in informal trilogues with the European Parliament on the text.

More information:

Data Protection: <http://www.consilium.europa.eu/en/policies/data-protection-reform/>

## Legal aid

### – General approach

The Council is expected to reach a [general approach](#) on the proposal for a directive on the right to provisional legal aid for citizens suspected or accused of a crime and for those subject to a European arrest warrant. This general approach will constitute the basis for negotiations with the European Parliament in order to agree the final text of the directive.

The proposed directive lays down minimum rules concerning the right to provisional legal aid for suspects or accused persons in criminal proceedings who are deprived of liberty. It also ensures that legal aid, including provisional legal aid, is made available in European arrest warrant proceedings.

The text submitted to the Ministers contains certain modifications to the proposal submitted by the Commission in order to define more precisely the scope of application of the Directive. In this respect, the Directive should not apply to minor offences (Article 2 (3)) and to situations related to temporary restrictions to liberty of the person, where he might not be required or supposed to exercise defence rights and therefore the right to provisional legal aid does not arise (Article 2 (4)). There is also a new provision allowing for a possibility to grant provisional legal aid in less serious offences only when this is required in the interests of justice, as interpreted in the ECHR case-law (Article 4 (2a))

The Commission presented its proposal on 27 November 2013. In a package adopted on the same date, the Commission presented also the following texts:

- a proposal for a directive on procedural safeguards for children who are suspected or accused in criminal proceedings
- a proposal for a directive strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings;
- a recommendation on procedural safeguards for vulnerable people suspected or accused in criminal proceedings;
- a recommendation on the right to legal aid for suspects or accused persons in criminal proceedings.

Since 2009, the work in the European Union on strengthening procedural rights for suspects and accused persons in criminal proceedings has been carried out on the basis of the [roadmap](#), which was adopted by the Council on 30 November 2009. The roadmap provides a step-by-step approach – one measure at a time – towards establishing a full catalogue of procedural rights for suspects and accused persons in criminal proceedings.

Three measures have already been adopted on the basis of the roadmap: [Directive 2010/64/EU](#) on the right to interpretation and translation in criminal proceedings ([see press release](#)), [Directive 2012/13/EU](#) on the right to information in criminal proceedings ([see press release](#)), and [Directive 2013/48/EU](#) on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty ([see press release](#)).

The Council reached a general approach on the proposal for a directive on procedural safeguards for children in June 2014. In December 2014 a general approach was reached on the directive on the presumption of innocence. The negotiations with the European Parliament to reach an agreement on both texts are ongoing.

## European Union Agency for Criminal Justice Cooperation (Eurojust)

### – General approach

The Council is expected to reach a [general approach](#) on a regulation on the European Union Agency for Criminal Justice Cooperation (Eurojust). This general approach will form the basis for discussion with the European Parliament.

The provisions relating to the European Public Prosecutor's Office (EPPO) have been excluded from the general approach as the regulation is not sufficiently advanced but will be introduced at a later date.

The proposal aims to increase Eurojust's efficiency by establishing a new governance model. It also aims to improve its operational effectiveness through homogeneously defining the powers and status of National Members. The main changes concern the distinction between the operational and management functions of the College; the setting up of an Executive Board; new provisions on annual and multi-annual programming; the representation of the Commission in the Executive Board; and a detailed description of the responsibilities and tasks of the Administrative Director.

This new regulation streamlines Eurojust's functioning and structure in line with the Lisbon Treaty. It also increases the democratic legitimacy of Eurojust: the European Parliament and national Parliaments will in future be more involved in the evaluation of Eurojust's activities.

The Commission presented its proposal in July 2013 ([12566/13](#)).

## Free movement of public documents

### – Partial general approach

The Council is expected to reach a [partial general approach](#) on the draft regulation on promoting the free movement of citizens and businesses by simplifying the requirements for presenting certain public documents in the European Union.

The partial general approach covers all provisions in the draft regulation with the exception of those concerning translations and multilingual standard forms and entry into force of the regulation. The remaining articles, as well as recitals and annexes still remain subject to further discussion.

The proposed regulation aims at simplifying the procedures for cross-border use of certain public documents between the member states, i.e. allowing for circulation of such documents without the requirement of legalisation or similar formality, thereby contributing towards the creation of a citizens' Europe.

The text submitted by the Presidency, as agreed by the Council in December 2014, with regard to its scope provides for circulation of documents related to civil status matters only. The scope of the proposal has been the focus of extensive technical discussions resulting to a significant reduction of the original scope as initially suggested by the Commission.

Taking into account concerns on the external competence of importance to many member states, the Council will be invited to agree that the technical work should continue on the Article 18.2b and respective recital that clarifies the rights of the member states to act in relation to third states in the area of legalisation or similar formality of public documents covered by the Public documents regulation.



Ministers will also be invited to agree on continuing work at a technical level with a view to reaching a general approach on the body of the regulation in June 2015.

The Commission presented its proposal on 24 April 2013 ([9037/13](#)).

## European Public Prosecutor's Office

– State of play/Orientation debate

The Council will be briefed by the Presidency on the state of play on the proposal regarding the setting up of a European Public Prosecutor's Office (EPPO) and will hold a policy debate on the basis of a [document](#) prepared by the Presidency.

The debate will focus on a few key questions regarding the conditions under which the EPPO would be able to conclude transactions with suspects.

The Latvian Presidency of the Council has continued the work of the previous Italian Presidency in view of finalising the first five chapters of the Regulation. These chapters cover most of the issues of importance for the functioning of the Office, as they include rules on the status, structure and organisation of the Office, on the procedure for investigations, prosecutions and trial proceedings and on judicial review. The Presidency will continue the work in the coming months with a view to finding agreement on a text that can be endorsed by the Council in June

In June 2014, the Council confirmed, as the basis for further discussion, the principles of a collegially structured EPPO. Ministers also confirmed the principle that the EPPO would have a priority competence to investigate and prosecute offences affecting the Union's financial interests ([9834/1/14 REV 1](#)), but that national authorities would retain a concurrent competence in principle.

The proposed regulation aims to help combat crimes against the Union's financial interests by introducing a European Public Prosecutor's Office with competence in that area. The legal basis and the rules for setting up the EPPO 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.

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

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