

JUSTICE and HOME AFFAIRS COUNCIL

Thursday 3 and Friday 4 December in Brussels

The meeting will be chaired by **Félix BRAZ**, Luxembourg Minister of Justice, **Etienne SCHNEIDER**, Luxembourg Deputy Prime Minister, Minister of Internal Security and **Jean ASSELBORN**, Luxembourg Minister of Immigration and Asylum.

On **Thursday**, starting at 10.00, **justice** ministers will try to reach a partial general approach on certain provisions in the regulation establishing a **European Public Prosecutor's Office**.

The Council will try to reach an agreement on regulations on jurisdiction, applicable law and the recognition and enforcement of decisions regarding **matrimonial regimes** and the **property consequences of registered partnerships**.

It will also be called on to give his agreement on a regulation **simplifying the acceptance of certain public documents** in the EU.

Council's agenda also includes a report on **migration** (focusing on aspects of **judicial cooperation and the fight against xenophobia**) and a general discussion on criminal justice aspects of **e-evidence, combating online hate speech and the retention of electronic communication data**.

On **Friday**, starting at 10.00, **home affairs** ministers will discuss actions undertaken in the **fight against terrorism** and the Renewed **internal security strategy of the EU 2015-2020**.

The Council will discuss recent developments in the negotiation on a directive on the use of **passenger name record data** for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

Ministers are expected to confirm two agreements reached with the European Parliament: on the **Europol regulation** and on a directive concerning **legal migration of students and researchers**.

The Council will also take note of a progress report on a regulation establishing a **crisis relocation mechanism** and the proposal on an **EU common list of safe countries of origin**.

Regarding the **migratory crisis**, ministers will be informed about the situation on the ground, the progress made in implementing the most recent EU measures and they will discuss further actions needed, notably to strengthen the Schengen area.

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

Press conferences:

- **Justice Council** (*Thursday, at the end of the meeting +/- 18.00*)
- **Home Affairs Council** (*Friday, before lunch +/- 13.00 and at the end of the meeting +/- 18.00*)

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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

JUSTICE

European public prosecutor's office

The Council will discuss and try to provisionally agree on certain articles of the draft regulation establishing the European public prosecutor's office (EPPO).

The potential agreement is expected to cover articles 17-23 and 28a (partly) of the draft regulation.

Articles 17, 19, 20, 22a and 28a(2a, 2b and 2c) cover issues related to the competence and exercise of the competence of EPPO. Article 18, 22 and 23 include important provisions on territorial and personal competence of the office, as well as on the initiation and conducting of investigations.

The proposed regulation is aimed at helping combat crimes against the EU'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 requires the unanimous support in the Council which adopts it after having obtained the consent of the European Parliament.

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

Matrimonial property regimes and property consequences of registered partnerships

The Council is invited to approve a political agreement on two proposals: the Council regulations on jurisdiction, applicable law and recognition and enforcement of decisions in matters of matrimonial property regimes and property consequences of registered partnerships.

These proposals complete the framework of EU instruments of judicial cooperation in the area of family law, consisting of the Brussels IIa regulation in matters of divorce and parental responsibility ([regulation 2201/2003](#)), the Rome III regulation on the law applicable to divorce ([regulation 1259/2010](#)), the maintenance obligations regulation ([regulation 4/2009](#)) and the succession regulation ([regulation 650/2012](#)).

Both regulations aim to determine which judge will have jurisdiction for and which law will be applicable to matters of matrimonial property regimes and property consequences of registered partnerships. The free circulation of judgments in that area will also be ensured in a similar way as judgments are recognised and enforced under the succession regulation.

The texts will ensure legal certainty and predictability in order to facilitate international couples' management of their property.

The regulations leave untouched the underlying institutions of marriage and partnership, which remain matters that are defined by the national laws of the member states. Nothing in these regulations obliges member states to introduce the institution of registered partnership into their national law.

In order to ensure equal treatment of spouses and partners, both regulations contain parallel provisions and are treated as a package.

For more information:

[Compromise text on matrimonial property regimes](#)

[Compromise text on property consequences registered partnerships](#)

Free circulation of public documents

The Council is expected to confirm the political agreement reached on a regulation which will facilitate the free movement of citizens by simplifying the requirements for presenting certain public documents in the EU.

The regulation aims at simplifying the procedures for the cross-border presentation of public documents related to civil status matters, such as births, deaths, marriages and registered partnerships, and public documents certifying the absence of a criminal record. The regulation also covers public documents which EU citizens may be required to present when they wish to vote and/or stand as candidates in elections to the European Parliament or in municipal elections.

On 21 October 2015, the Permanent Representatives Committee (Coreper) already [approved the compromise package](#) agreed with the European Parliament.

Retention of electronic communication data

The Council will have a general discussion on the consequences of the invalidation of the Data Retention Directive², on the basis of a [document](#) prepared by the Presidency.

On 8 April 2014 the European Court of Justice rendered a [judgment](#) by which it invalidated the 2006 Data Retention Directive.

The Data Retention Directive obliges member states to provide for an obligation for providers of publicly available electronic communications services and of public communications networks to retain traffic and location data for a period between six months and two years, the choice of the length of the period being left to each member state in its national law.

The retention is to be performed in order to ensure that the data are available for the purpose of the investigation, detection, and prosecution of serious crime, as defined by each member state in its national law.

Ensuring effective criminal justice in the digital age

The Council will have a discussion on the possible way forward in addressing the challenges related to the collection and use of electronic evidence in criminal proceeding on the basis of a [document](#) prepared by the Presidency.

The document lists a certain number of possible strands of work to be examined. Ministers will be invited to indicate which of the issues should be addressed as a matter of priority.

² Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks

HOME AFFAIRS

Migration

Home affairs ministers will receive the latest integrated analysis of the information available in the context of the Integrated Political Crisis Response (IPCR) arrangements activated by the Presidency in full mode on [9 November 2015](#).

Ministers will then hold a broad discussion on the basis of this information and on the progress made in implementing the most recent EU measures and actions needed to strengthen the Schengen area.

This point will be discussed under the Mixed Committee format (the EU plus Norway, Iceland, Liechtenstein and Switzerland)

For more information:

[Council website: Finding solutions to migratory pressures](#)

EU PNR Directive

The Presidency will inform the Council on the work progress on the proposal for a directive on the use of passenger name record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

The draft directive aims to regulate the transfer from the airlines to the member states of PNR data of passengers of international flights, as well as the processing of this data by the competent authorities. The directive establishes that PNR data collected may only be processed for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

In April 2012 the Justice and Home Affairs Council agreed on a general approach regarding the draft directive.

The Council and the European Council have regularly highlighted the urgency of finalising this directive, in light of the growing threat posed by foreign fighters.

On 15 July 2015, the committee in charge of the proposal at the European Parliament adopted a revised report on the directive and a mandate to open negotiations with the Council.

Negotiations between the institutions on the draft directive are ongoing.

For more information:

[Council website: Regulating the use of passenger name record data](#)

Counter-terrorism / Security

Ministers³ will be briefed by the Presidency and the EU Counter-terrorism coordinator about the implementation of measures regarding counterterrorism, following the statement by EU leaders on 12 February 2015.

Following the tragic terrorist attacks in Paris, justice and home affairs ministers already met in Brussels on 20 November 2015 to ensure the follow-up of existing measures and discussed how to strengthen the EU response by adopting a set of [conclusions](#).

³ Exceptionally, in the presence of the Associated States

Ministers underlined the importance of accelerating the implementation of all areas covered by the statement on counter-terrorism issued by the Members of the European Council of 12 February 2015 and in particular of the following measures: EU Passenger Name Record (PNR) directive, firearms, controls of external borders, information sharing, terrorist financing, criminal justice response to terrorism and violent extremism.

For more information:

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

Moreover, the Council is expected to have a discussion on the implementation of the [Renewed European Union Internal Security Strategy](#), adopted in June 2015.

Europol

The Council is expected to confirm the agreement reached with the European Parliament on a proposal for a regulation on the European Agency for Law Enforcement Cooperation and Training (Europol).

The new draft regulation is mainly aimed at "lisbonising" the current Council Decision on Europol⁴, notably including provisions on parliamentary oversight, adapting Europol's external relations to the new Treaty rules and appointing the European Data Protection Supervisor as the data protection supervisory body for Europol. Moreover, the draft regulation aims at providing Europol with a flexible and modern data management regime and aligning Europol's governance with the general guidelines applicable to agencies.

Students and researchers

The Council is expected to confirm the agreement reached with the European Parliament on a proposal for a directive on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing.

This directive aims to promote the EU as a world centre of excellence for studies and training. It provides harmonised conditions of entry and residence in the EU for third-country researchers, students, trainees and volunteers taking part in the European voluntary service. It also improves the situation of researchers and students in aspects including mobility, entry of family members or access to work.

For more information:

[Press release - New EU rules for third-country researchers and students: Council confirms deal with EP](#)

⁴ Decision 2009/371/JHA. ([OJ L 121, 15/05/2009, p. 37](#))