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OUTCOME OF THE COUNCIL MEETING

3564th Council meeting

Justice and Home Affairs

Luxembourg, 12 and 13 October 2017

Presidents **Urmas Reinsalu**
 Minister of Justice
 Andres Anvelt
 Minister for the Interior

P R E S S

CONTENTS¹**ITEMS DEBATED**

JUSTICE	4
European Public Prosecutor's Office (EPPO regulation)	4
Mutual recognition of freezing and confiscation orders	4
European Criminal Records Information System (ECRIS)	5
Fundamental rights	5
Data protection	5
JOINT JUSTICE AND HOME AFFAIRS SESSION	6
Criminal justice in cyberspace	6
Mid-term review of the JHA strategic guidelines	6
HOME AFFAIRS	7
Schengen Borders Code	7
Counter-terrorism	7
Reform of the common European asylum system and resettlement	7
Other business	8
Migration	8
MIXED COMMITTEE	9
– Schengen Borders Code	9
– Other business	9

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- 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*

– Automated data exchange.....	10
– Visa Information System - Bulgaria and Romania.....	10
– Return/readmission - Ethiopia, Gambia	11
– Seventh round of mutual evaluations - final report	11
– EU internal security strategy - mid-term review	11

ECONOMIC AND FINANCIAL AFFAIRS

– Banco de Portugal	11
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FISHERIES

– Commission for the Conservation of Antarctic Marine Living Resources: EU position (CCAMLR)	12
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ENVIRONMENT

– Cooperation of the European Union and Iran on climate change	12
--	----

TRANSPARENCY

– Public access to documents	13
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ITEMS DEBATED

JUSTICE

European Public Prosecutor's Office (EPPO regulation)

The regulation establishing the European Public Prosecutor's Office (EPPO) was adopted by those member states which are part of the EPPO enhanced cooperation. The EPPO will be in charge of investigating, prosecuting and bringing to justice the perpetrators of offences against the Union's financial interests. It will bring together European and national law-enforcement efforts to counter EU fraud.

Ministers were also briefed by the Commission on the next practical steps. The EPPO is expected to be operational in 2020.

[Press release: 20 member states confirm the creation of an European Public Prosecutor's Office](#)

Mutual recognition of freezing and confiscation orders

Ministers held a policy debate on the proposed regulation on the mutual recognition of freezing and confiscation orders. They focused on the issue of scope, in particular whether certain systems of preventive confiscation should also be covered by the proposed regulation provided that the confiscation order is clearly linked to criminal activities and that appropriate procedural safeguards apply.

Ministers broadly agreed that these systems should fall within the scope of the regulation and invited the working party to make the necessary modifications.

European Criminal Records Information System (ECRIS)

Ministers discussed two questions concerning the proposed regulation to extend the existing European Criminal Records Information System (ECRIS) by establishing a centralised system:

- A majority of member states agreed that the system should contain information on convicted third-country nationals, even if the person also holds an EU nationality.
- Ministers also discussed the criteria for entering fingerprints in the ECRIS system. While a number of ministers considered the criterion of a custodial sentence for an intentionally committed crime to be a balanced compromise, further work is necessary.

This discussion provides guidance for work to continue at technical level.

Fundamental rights

Ministers held an exchange of views with the European Commission and the Fundamental Rights Agency on current fundamental rights challenges, on the basis of their respective annual reports. They took note of a number of challenges the EU is facing, which will guide future work in this area.

Following this, the Council adopted the conclusions on the application of the EU charter on fundamental rights in 2016. The conclusions acknowledge that the protection of fundamental rights is a horizontal issue which requires the cooperation of all stakeholders, underlining the role of the Court of Justice of the EU, the Fundamental Rights Agency and civil society organisations. They focus on work in several areas, including internal security, asylum and migration, rights of the child, combating racism and xenophobia, violence against women, media pluralism, and the EU's accession to the European Convention on Human Rights.

[Council conclusions on the application of the EU Charter of Fundamental Rights in 2016](#)

Data protection

Over lunch, ministers exchanged experiences regarding the implementation of the data protection regulation, which will enter into force on May 2018.

Other business

The presidency updated the Council on the state of play of a number of legislative proposals.

JOINT JUSTICE AND HOME AFFAIRS SESSION

Criminal justice in cyberspace

Ministers received an update from the European Commission on its ongoing work regarding e-evidence, encryption and cybersecurity.

On **e-evidence** ministers expressed their support for the continuation of the Commission's work towards the presentation of a legislative proposal in early 2018. Ministers also took note of the upcoming adoption by the Commission of its formal report on the expert process regarding the criminal justice challenges stemming from the use of **encryption** and the possible solutions. They also confirmed the importance of the work on **cybersecurity** and of the justice and home affairs perspective in this work.

Mid-term review of the JHA strategic guidelines

Ministers held an exchange of views on the mid-term review of the 2014 strategic guidelines in the area of freedom, security and justice. They focused on the most important achievements so far and on the issues which remain to be addressed.

The next step in the review will be an informal seminar, which will take place on 8 November 2017.

The results of today's discussion and the forthcoming informal seminar will feed into a presidency letter to the President of the European Council ahead of the European Council in December.

HOME AFFAIRS

Schengen Borders Code

Ministers held a first exchange of views on the European Commission proposal to amend the Schengen Borders Code. This concerns rules on the temporary reintroduction of internal border controls. Ministers broadly expressed the need to find the right balance between protecting the integrity of the Schengen area and allowing member states to respond to cases of serious threat to public policy and internal security. Discussions on this proposal will now continue at technical level.

Counter-terrorism*

Ministers took note of the information provided by the Counter Terrorism Group and Europol on how to improve cooperation between law enforcement and intelligence actors on counter terrorism, while fully respecting the sole competence of member states for national security.

Reform of the common European asylum system and resettlement

Ministers took stock of work carried out so far on the reform of the common European asylum system (CEAS) on the basis of a progress report presented by the Presidency.

On the EU asylum agency regulation, the Council Presidency and the European Parliament representatives reached a broad political agreement *ad referendum* in June 2017. Work is currently ongoing at a technical level to align the recitals of the text with the main body of the proposal. Furthermore, an overall agreement will only be possible once the linkages ('cross-references') with the other legislative proposals in the CEAS package have been resolved.

On the Eurodac regulation, a partial general approach was adopted in December 2016 and extended in June 2017. On the qualifications regulation, a mandate for negotiations with the European Parliament was endorsed in July 2017. Negotiations with the European Parliament are ongoing on both of these files.

* Exceptionally, in the presence of the Schengen Associated States

On the resettlement regulation and reception conditions directive, the presidency aims to agree a mandate authorising it to start negotiations with the European Parliament before the end of the year. On the asylum procedures regulation, work has been progressing in the Council preparatory bodies.

Regarding the principles of solidarity and responsibility discussions have been taken forward, building on the elements identified by the previous presidency. The issue will be further discussed at political level to find the right balance that would make it possible to continue the examination of the proposal on the Dublin regulation by the Council preparatory bodies.

- [Progress report: reform of the common European asylum system and resettlement](#)
- [Council website: Reforming the common European asylum system](#)

Other business

Ministers were informed by Belgium of its EURES-CRIM and RefuReturn initiatives.

Ministers were briefed by Slovenia on the implementation of the Council conclusions on the Integrative Internal Security Governance (ISSG)

The presidency updated the Council on the state of play of a number of legislative proposals.

Migration

Over lunch, home affairs ministers discussed the issue of resettlement. They were briefed by the Commission on its recent recommendation and on how it proposes to coordinate all existing initiatives in this specific area. Ministers also discussed the role resettlement could take in the overall migration management and asylum policies of the EU.

MIXED COMMITTEE

The Council in the Mixed Committee format (the EU plus Norway, Iceland, Liechtenstein and Switzerland) discussed the following items:

– *Schengen Borders Code*

See above

– *Other business*

The presidency updated the committee on the state of play of a number of legislative proposals.

OTHER ITEMS APPROVED**JUSTICE AND HOME AFFAIRS****Automated data exchange**

The Council adopted an implementing decision determining that, for the purposes of automated searching of dactyloscopic data, Portugal is entitled to receive and supply personal data pursuant to Article 9 of Decision 2008/615/JHA as from the date of the entry into force of the decision. ([9898/17](#))

The Council adopted an implementing decision determining that, for the purposes of automated searching of vehicle registration data, the Czech Republic is entitled to receive and supply personal data pursuant to Article 12 of Decision 2008/615/JHA as from the date of the entry into force of the decision. ([9893/17](#))

The Council adopted an implementing decision determining that, for the purposes of automated searching of dactyloscopic data, Greece is entitled to receive and supply personal data pursuant to Article 9 of Decision 2008/615/JHA as from the date of the entry into force of the decision. ([10476/17](#))

Concerning the evaluation of Portugal with regard to automated exchange of vehicle registration data, the Council adopted conclusions on the implementation of the general provisions on data protection of Chapter 6 of Council Decision 2008/615/JHA.

Visa Information System - Bulgaria and Romania

The Council adopted a decision which will allow Bulgaria and Romania to consult, in a read-only mode, the Visa Information System data. The decision will put into effect a series of provisions of the Visa Information System (VIS). These provisions will only apply after Bulgaria and/or Romania have successfully completed comprehensive tests to be carried out by eu-LISA and duly notified the Commission of their completion. In addition, Bulgaria and Romania may invite experts from member states and the Commission to perform reviews of the application of those provisions. ([10161/17](#))

Return/readmission - Ethiopia, Gambia

The Council adopted the EU position on Ethiopia readmission procedure in practice.

The Council adopted the EU position on Gambia good practices for the efficient operation of the return procedure.

Seventh round of mutual evaluations - final report

The Council adopted the final report of the seventh round of mutual evaluations on "The practical implementation and operation of the European policies on prevention and combating cybercrime".

In October 2017, the Working Party on General Matters including Evaluations decided that the seventh round of mutual evaluations should be devoted to the practical implementation and operation of the European policies on prevention and combating cybercrime. The final report encompasses the conclusions and recommendations contained in the reports for each individual member state, which were previously adopted.

EU internal security strategy - mid-term review

The Council adopted conclusions on the mid-term review of the renewed European Union Internal Security Strategy 2015-2020.([12650/17](#))

ECONOMIC AND FINANCIAL AFFAIRS

Banco de Portugal

The Council adopted a decision approving Deloitte & Associados - Sociedade de Revisores Oficiais de Contas S.A. as external auditor of Banco de Portugal for the 2017-21 period ([12490/17](#) + [11876/17](#)).

FISHERIES**Commission for the Conservation of Antarctic Marine Living Resources:
EU position (CCAMLR)**

The Council adopted a decision on the position to be adopted, on behalf of the European Union, at the annual meeting of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), which is called upon to adopt decisions having legal effects on matters pertaining to the Common Fisheries Policy. The meeting will take place in Hobart, Australia, from 16 to 27 October 2017.

The CCAMLR was established by international convention in 1982 with the objective of conserving Antarctic marine life. This was in response to increasing commercial interest in Antarctic krill resources, a keystone component of the Antarctic ecosystem.

Measures decided in this body may become binding upon the EU.

ENVIRONMENT**Cooperation of the European Union and Iran on climate change**

The Council decided to approve the signature, on behalf of the EU, of the memorandum of understanding between the EU and the Islamic Republic of Iran on climate change cooperation ([12644/17](#)). The signing is expected to take place during the forthcoming UN Climate Conference to be held in Bonn from 6 to 17 November 2017. Upon signature by both sides, the memorandum will take effect.

In this memorandum of understanding, both the EU and Iran will agree to work together to address the challenges of climate change. Their aim will be to strengthen their climate cooperation in order to contribute to the implementation of the Paris Agreement and the intended nationally determined contribution targets of Iran. This memorandum will therefore serve as the instrument to provide a general framework and establish principles of technical cooperation on climate action, in line with the Paris Agreement.

On 25 April 2017, the Council authorised the Commission to open negotiations on the Memorandum. The launch of this cooperation process was announced by EU and Iranian representatives during the High-Level Conference on Climate Action and the Business Forum on Sustainable Energy held in April 2017 in Tehran.

TRANSPARENCY

Public access to documents

On 12 October 2017, the Council approved the reply to confirmatory applications No 18/c/01/17 (doc. [11887/17](#)) and No 21/c/01/17 ([12320/17](#)).
