



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 30 November 2012

17101/12

CATS 82

OUTCOME OF PROCEEDINGS

of: CATS

on: 20 November 2012

Subject : Outcome of proceedings of CATS on 20 November 2012

MIXED COMMITTEE

1. Adoption of the provisional agenda

The agenda has been adopted.

2. SIS II

- State of play

The Commission gave an overview of the state of play. The Commission had sent a mission to FI to examine the situation after the announcement of delays on the side of FI. The results, in particular the impact on the SIS II schedule, were still being assessed. A complete overview should be available by 24 November. Both Commission and FI emphasised that they were seeking to identify measures to accelerate work on the FI national system in order to mitigate the resulting delay in the coming into operation of the SIS II as far as possible.

DE asked for information on the expected delay to be made available as quickly as possible in view of the implications for existing contracts. DE also asked that the delay be used to make the system stable for the migration, referring to recent problems encountered with the converter.

CZ also reported on developments in relation to its national system.

The Presidency underlined the need for a clear timetable by the time of the next JHA Council meeting in the light of the developments in relation to FI.

3. Obstacles related to effective information exchange

16094/12 CATS 76 DAPIX 143 ENFOPOL 370 ENFOCUSTOM 125 COMIX 638

The meeting welcomed the discussion on this topic especially in view of the upcoming Commission Communication on the European Information Exchange Model (EIXM). Delegations encouraged the incoming Presidency to carry on and widen discussions on the topic bearing in mind the principle of availability and the opportunity of reducing mutual legal assistance procedures.

A thorough analysis was recommended of why cross-border information exchange as provided for by Council Framework Decision 2006/690/JHA (Swedish Framework Decision - SFD) did not function as efficiently as asked for.

Concerns, however, were raised on whether difficulties encountered when respecting time limits set by the SFD were to be considered an SFD implementation issue or as an issue of national judicial and police cooperation structures having the same impact on national and cross-border requests for information.

The Commission explained that the complexity of such cooperation could not serve as a pretext for not yet having completed the SFD implementation.

The Chair took note of suggestions on how national SPOCs could be a practical solution for improving cross-border information exchange and concluded that for the time being no Council debate was planned for its meeting on 6/7 December but that instead the Council would be informed on that date on the outcome of the exchange of views.

4. Presentation of the program of the incoming IE Presidency

The incoming IE Presidency gave a brief outline of its program in relation to Interior issues.

5. AOB

No items were raised.

CATS

1. Adoption of the provisional agenda

The agenda has been adopted.

2. CEPOL and EUROPOL: prospects for the future DS 1762/12

CATS had an initial exchange of views on the future of CEPOL and EUROPOL on the basis of a non-paper by the Commission Services. The Commission representative drew delegations' attention to the Joint Statement setting out a Common approach on decentralised agencies, which was endorsed by the Council, Commission and European Parliament in July 2012. He underlined that thorough reflexions were still ongoing within the Commission on the different options for the future of CEPOL and EUROPOL, which could include a merger of both agencies. However, no final decision was taken yet and the Commission invited Member States to comment on their ideas regarding the future of both agencies. The envisaged reform would also have an effect on the future European Police Training Scheme.

It emerged from the discussions that a majority of Member States opposed to a merger of both agencies. The DE delegation commented on a common position paper (DS 1786/12), supported by CZ, HU, IT, SI and SK, against a merger of CEPOL and EUROPOL. Some delegations questioned the sudden change in the Commission's position regarding a merger compared to previous discussions in CATS and COSI. A number of delegations did not take a final position on a possible merger and invited the Commission to provide a more detailed argumentation and analysis of the benefits/costs linked to the merger scenario. Synergies between both agencies could also be explored without a merger. In general, delegations underlined the importance to continue providing high level training. Possible savings should not lead to a decrease in the quality of the training.

The Presidency invited the Commission to take Member States' positions into account when elaborating its future proposal on EUROPOL and CEPOL and noted that Commissioner Malmström would refer to this issue under the item "Any Other Business" at the forthcoming meeting of the JHA Council on 6 & 7 December 2012.

**3. Conclusions of the Conference "Aviation Security against Terrorist Threats",
Nicosia, 31 October 2012
16252/12 ENFOPOL 374 AVIATION 174 JAI 800**

CATS took note of the conclusions of the abovementioned conference. The Chair furthermore informed the meeting about the intention of the Presidency to prepare draft Council conclusions on the subject to be discussed at the Terrorism Working Party meeting on 27 November with a view to their submission to the JHA Council on 6-7 December.

**4. Second implementation report / update of the Action Oriented Paper on strengthening
the EU external dimension on action against trafficking in human beings
13661/2/12 REV 2 GENVAL 63 JAIEX 67 RELEX 796 JAI 603 COSI**

No debate took place. EEAS, while supporting the report, expressed concerns in relation to the impact on resources available in EU delegations.

The implementation report will be on the agenda of JAIEX on 28 November.

5. Participation of the European Union in the Council of Europe Group of States against Corruption (GRECO)

15305/12 GENVAL 75 DROIPEN 148 COSCE 26

A vast majority of delegations reiterated their position, as already expressed in GENVAL on 6 November 2012, that the EU should directly engage in negotiations with the Council of Europe for full membership in GRECO, rather than applying the two-stage approach envisaging first a "full participant" status for the EU, as suggested by the Commission in the Communication on the participation of the EU in GRECO. According to the views of delegations and in line with the opinion expressed by the Council Legal Service, the appropriate legal basis to proceed further in this respect is Art. 218, TFEU and not Art. 220, TFEU, as proposed by the Commission.

The Commission, nevertheless, expressed willingness to proceed to discussions with the Council of Europe on the basis of the modalities outlined in the Communication. It was concluded that the issue will be brought to COREPER for a political decision on the appropriate way to continue work on this file.

6. Report on the activities of the Customs Cooperation Working party

(1 January - 31 June 2012)

14344/12 ENFOCUSTOM 97

CATS took note of the report on the activities of the CCWP as set out in doc. 14344/12 ENFOCUSTOM 97.

7. European Law Institute

- Presentation of its activities by its President and Secretary General

CATS took note of the presentation of the activities of the European Law Institute.

8. Developments concerning current cases of interest at the Court of Justice

- Case C-396/11

The Council Legal Service presented Case C-396/11 to the meeting.

9. Conclusions of the meeting of the Genocide Network, 7-8 November 2012

16241/12 COPEN 246 EUROJUST 101

16242/12 CATS 77 CRIMORG 140 COPEN 247

Ms Katerina Loizou, the Chair of the above meeting and Eurojust National Member for Cyprus, reported from the meeting including detailing the conclusions that the Members of the Network adopted of the 13th meeting as set out in 16241/12.

The Chair concluded that CATS takes note of the report and the conclusions.

10. Draft Directive on the fight against fraud to the Union's financial interests by means of criminal law

- Certain issues

14806/12 DROIPEN 138 JAI 686 GAF 20 FIN 738 CADREFIN 422 CODEC 2352

The Commission reiterated and elaborated its arguments as to why Article 325 TFEU has been chosen as the legal basis; discussions will continue at Working Party level. Full *tour de table* and interesting debate on the issue of prescription. A few delegations took position against an inclusion of prescription rules in the directive. Concerning the starting point of prescription, a large majority considered that this would be the "commission" of a crime. Also large support to link the prescription period to the seriousness of the crime committed. Finally on the question of "suspension" and "interruption" of the prescription period, some delegations could agree to a common EU approach, provided that more precise terms would be used.

11. Presentation of the program of the incoming IE Presidency

The IE Presidency gave a brief outline of its program in relation to Justice issues.

12. AOB

- SI followed by several delegations raised the Commission recommendation for a mandate for the EU to negotiate and accede to the CoE Convention 108.

Delegations deplored that the Commission had, in spite of previous promises made to the Member states, adopted this recommendation only at a very late stage in the procedure of the discussions at the TDP Committee of the Council of Europe.

- An additional evaluation mechanism on judicial cooperation in criminal matters
EU pilot project of France, Germany and the Netherlands
16369/1/12 REV 1 COPEN 249 EJM 84 EUROJUST 102 SIRIS 99

The NL delegation gave a presentation based on doc. 16369/1/12 REV 1 COPEN 249 EJM 84 EUROJUST 102 SIRIS 99
