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CATS 22

## OUTCOME OF PROCEEDINGS

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From: General Secretariat of the Council  
On: 8 March 2017  
To: CATS  
Subject: Summary of discussions

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### 1. Adoption of the agenda

The agenda set out in doc. CM 1785/17 REV 1 was adopted with the addition of an AOB point from the Hungarian delegation regarding the future of the European Network on victims' rights.

### 2. Data retention: next steps

Delegations generally supported the Presidency's proposal, set out in doc. 6713/17, for setting out a common reflection process to discuss matters related to data retention following the Judgment of the European Court of Justice of 21 December 2016 "Tele 2 and Watson" in Joined cases C-203/15 and C-698/15. To that end, the Presidency will convene the Working Party on Information Exchange and Data Protection (DAPIX) in a "Friends of the Presidency" format. Delegations stressed in particular the need to ensure a real multidisciplinary approach in the process by bringing relevant expertise in the discussion.

### **3. Criminal justice in cyberspace - improving collaboration and coordination**

= preparation of Council debate

The Commission provided an update on the state-of-play of the June 2016 Council Conclusions implementation in the three work strands respectively, referring to the outcomes of the expert meetings held so far. A number of delegations took the floor supporting the need for a better coordination at national and on EU level, as set out in the Presidency paper (doc. 6890/17). They stressed the complex nature of issues at hand and the necessary involvement and balance of a broad range of interests and actors. In this regard some expressly requested the possibility of having more than one expert in the e-evidence expert meetings organised by the Commission. The Presidency will continue the discussion on the issue of improving the cyber cooperation and collaboration at the March Council (JHA).

### **4. International agreements that concern EU competences in the area of criminal law: update**

CATS took note of the updated inventory of international agreements, set out in doc. 6892/17. Delegations underlined the need to take timely arrangements for preparing the participation of the EU and its Member States in the upcoming negotiations of a possible Additional protocol to the CoE Convention on Cybercrime. The need for EU coordination in view of the UNODC Intergovernmental Working Group on Cybercrime in mid-April was also highlighted. It was further agreed that an assessment of the possible implications of the draft Protocol amending the Additional Protocol to the CoE Convention on the Transfer of Sentenced Persons should be carried out in the competent Council Working Party.

**5. ECRIS/TCN: Proposal for a Directive amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third country nationals and as regards the European Criminal Records Information System (ECRIS) and replacing Council Decision 2009/316/JHA**

= next steps

= debate on crime categories for which fingerprints can be exchanged

Delegations discussed four possible options for collection of fingerprints for the purposes of ECRIS-TCN as outlined in doc. 6691/17. The views expressed covered all the options and were supported by arguments often related to specificities of the national systems and legislation. Some Member States stated their preference for solutions representing a combination of the options put forward by the Presidency where others suggested completely new ones. The Commission encouraged further discussion of the matter by experts. The Presidency took note of delegations' comments and would reflect on the possible way forward on this file.

**6. External relations Eurojust**

**a) Negotiations with a view to concluding a Memorandum of Understanding between Eurojust and EJTN**

No comments were made on Eurojust's letter informing the Council of its plans to enter into negotiations to conclude an MoU with the EJTN (doc. 5714/17). The Presidency concluded that the file would be submitted as a I/A-item to Coreper and Council.

**b) Conclusion of a draft Memorandum of Understanding between Eurojust and eu-LISA**

Eurojust informed the Council of the successful outcome of the negotiations with eu-LISA (doc. 6293/17). No comments were made on the draft Council Implementing Decision on the conclusion of the MoU (doc. 6303/17). The Presidency concluded that the draft Council Implementing Decision would be translated, revised by the lawyer-linguists and then sent to the European Parliament for consultation.

## **7. Implementation and application of EU criminal law instruments - Better results through better application: information from the Commission**

The Commission (General Secretariat) presented its new approach regarding the implementation and application of Union law, as set out in doc. 5743/17. Various Member States urged the Commission to keep ensuring a dialogue with Member States and therefore not do away too quickly with the "EU pilots", as they are felt to be a useful and informal means to solve issues of non-compliance. One Member State encouraged the Commission to increase efforts to ensure the correct implementation of Framework Decisions on mutual recognition. The importance of high-quality impact assessments was also underlined.

## **8. AOB**

### **a) Initiative for a Multilateral Treaty for Mutual Legal Assistance and Extradition for Domestic Prosecution of the Most Serious International Crimes**

NL informed CATS about the initiative for a Multilateral Treaty for Mutual Legal Assistance and Extradition for Domestic Prosecution of the Most Serious International Crimes. A MLA retreat will take place at the start of the negotiations. NL encouraged Member States who had not yet officially supported the initiative, to sign the "Permanent declaration" with a view to participating in the retreat. Delegations could contact NL, BE and SI for this purpose.

### **b) EU-US Senior Officials meeting (1-2/3/2017): information from the Presidency.**

The Presidency informed delegations that the main issues discussed at the above-mentioned meeting were the fight against terrorism and cybercrime. The Ministerial EU-US meeting was planned for 1 and 2 June.

### **c) EU (CATS) - Council of Europe meeting: information from the Presidency**

The Presidency recalled that the purpose of this biannual meeting is essentially to exchange mutual information. Delegations were invited to send their suggestions for the agenda. The meeting would take place on 10 or 11 May.

#### **d) The future of the European Network on victims' rights (ENVR)**

Underlining the good results already achieved by the recently established European Network on victims' rights (ENVR), HU outlined the intention of the support group of MS (NL, FR, IE, SK, HU) to continue its activities and make it a permanent structure with a view to applying for an operational grant (doc. WK 2544/2017). The Commission expressed support for the network and its functioning but also clarified that making ENVR permanent would not automatically lead to obtaining the grant, as this is part of a comparative procedure. One delegation drew the attention to the fact that the June 2016 Council conclusions establishing the network foresee an evaluation of its activities. The Presidency invited delegations to send written comments by 24 March 2017.

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