



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 6 March 2014
(OR. en)**

7381/14

CATS 37

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

On: 25 February 2014

To: CATS

Subject: Outcome of proceedings

1. Adoption of the agenda

The agenda has been accepted.

2. Third States and organisations with which Europol shall conclude agreements

- **Draft Council Decision amending Decision 2009/935/JHA as regards the list of third States and organisations with which Europol shall conclude agreements**

6473/14 ENFOPOL 31 JAIEX 12 CATS 20

16229/12 ENFOPOL 373 JAIEX 111 OC 68

On the basis of discussion paper 6473/14 CATS discussed the extension of the list of third countries with which Europol may conclude cooperation agreements. Taking into account operational concerns it was decided that the draft Council Decision set out in document 16229/12 would be submitted to the Council for adoption but that it would be modified in order to clarify that Europol's efforts should first be focused on concluding an agreement with Georgia.

3. Proposal for a Regulation on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA

– **Confirmation of the outcome of the LEWP on chapters I, II and Annex I**

6474/14 CATS 21 ENFOPOL 32 CODEC 408

CATS examined Chapters I, II and related Annex 1 of the draft Europol Regulation and took note of delegations' comments and the fact that some reservations were lifted. Delegations were informed that subsequently the text of those Chapters was provisionally frozen until the final analysis of the draft Regulation in view of preparing the discussion at the Council in June 2014.

4. Information by Commission on PNR-related matters

The Commission presented a detailed and updated overview of the on-going discussions with third States. The Commission stressed that the efforts deployed in direction of these countries have allowed the unlawful collection of PNR data from EU airlines to be deferred, however the setting-up of a European framework is strongly needed to sustain the dialogue with an increasing number of third countries requesting PNR data ; The Commission is preparing an initiative in this regard. Updated information was also provided as regards the development of PNR within the EU and the dialogue with the European Parliament in this field. The Presidency confirmed its intention to continue the work in this field. CATS will be kept informed of the steps taken.

5. a) Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (EPPO)

6419/14 EPPO 8 EUROJUST 36 CATS 18 FIN 114 COPEN 51 GAF 8

CATS discussed the appropriate level of decision-making within the EPPO on the basis of the discussion paper presented by the Presidency. Several delegations stressed that their exact position on the extent to which the Central Office should be involved in the decision-making process may crucially depend on the final structure of the EPPO.

Delegations favoured a clear distribution of powers of decision between the two levels of EPPO according to their respective tasks. They widely agreed that operational decisions on investigation measures and prosecution should in principle be taken autonomously by the European Delegated Prosecutor in charge of a specific case while the Central Office of the EPPO should focus on strategic, coordination and arbitration decisions, especially cases where several EDPs are involved (e.g. cross-border cases) and cases where a high-level EU official is implicated. Generally, the following were cited as decisions to be taken at central level: the opening of an investigation, the prosecution or dismissal of a case, transaction decisions, the choice of forum. The distribution of cases and tasks between EDPs was also mentioned as an issue to be decided at central level.

For the majority of interveners the Central Office should be granted with strong prerogatives of supervision and therefore be able to instruct an EDP where necessary. Some delegations considered that such instructions would undermine the principle of independence of prosecutors, while some others advocated that the Central Office should be allowed to act directly on behalf of EPPO in a specific case.

It was generally admitted that the EPPO, through its Central Office, should be involved in the process of appointment/dismissal of EDPs by Member States.

The outcome of the CATS debate is reflected in doc. 6490/14 for the attention of Coreper/Council. The COPEN Working Party was instructed to continue to examine the issues discussed, with a view to reach a consensus as large as possible.

b) Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust)

6360/14 EUROJUST 35 EPPO 7 CATS 17 COPEN 48 CODEC 364

CATS had an extensive exchange of views on the harmonisation of powers of national members as provided for in the new Regulation, on the basis of the Presidency discussion paper set out in doc 6360/14. The Commission explained that its proposal aims to simplify the system and consolidate the powers that already exist under the Council Decision. Delegations were mixed on the powers provided, with many able to accept the powers provided, some opining that certain powers should be restricted, whilst others preferring a list of minimum powers.

The majority of delegations expressed their preference to allow for Member States to grant additional powers to national members beyond those provided in the Regulation if desired. Similarly, the majority of delegations sought to include the existing national safeguard clause in the Regulation to take account of the different legal traditions in the Union. The Commission, whilst open to these suggestions, warned that the formulation of derogations in harmonisation instruments could be legally problematic although it agreed to explore the matter further with its legal service.

The Chair acknowledged that these matters would need to be considered further by the COPEN Working Party.

6. Communication from the Commission to the European Parliament and the Council on the Joint Report from the Commission and the U.S. Treasury Department regarding the value of TFTP Provided Data pursuant to Article 6(6) of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program

17064/13 JAI 1093 USA 62 RELEX 1085 DATAPROTECT 188

The Commission presented the main findings of the joint report, which was welcomed by several delegations. The Commission also referred to the upcoming third TFTP review exercise, for which it would invite Member states to provide information on the feedback they had received from US Treasury under the TFTP Agreement.

7. Communication from the Commission to the European Parliament and the Council: A European terrorist finance tracking system (EU TFTS)

17063/13 JAI 1092 DATAPROTECT 187 ECOFIN 1091 GENVAL 85 ENFOPOL 398

The Commission presented its Communication, highlighting the reasons why it had arrived at the conclusion that there was not a sufficient case for setting up a European terrorist finance tracking system (EU TFTS). A few delegations intervened to state that they were in agreement with the Commission, whereas one delegation listed the reasons why it was in favour of a European terrorist finance tracking system (EU TFTS).

8. EU-Anti corruption report

– Presentation by the Commission

The Commission presented the EU Anti-corruption report launched on 3 February 2014. It reiterated its intention to engage in an active dialogue with the Member States and other stakeholders in order to bring this initiative forward. The Commission expressed hopes that it would be able to advance the issue of the EU accession to GRECO soon and regretted that this could not be done earlier. It also touched upon the fact that for various reasons the current report does not include a chapter on the EU institutions for which the Commission already received criticism. The Commission clarified that it would explore various ways to engage in an active dialogue with the Member States in a follow up to the report with a view to enhancing the methodology and encouraging further engagement with the issues identified therein. It was noted that following the presentation of the Report before the EP LIBE committee earlier in February by Commissioner Malmström, any engagement on the side of the EP would be mostly welcomed.

The Presidency has scheduled a detailed discussion on the report in the auspices of the GENVAL working party.

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

– Opinion of Advocate General in cases C-293/12 and C-594/12

Cases C-293/12 and C 594/12 were shortly outlined by the Council Legal Service.

10. A.O.B.

– Note of the Italian delegation aimed at developing a EU action against organized crime infiltration in legal economy, especially in public procurement

6730/14 JAI 101 ENFOPOL 46 DROIPEN 25 CATS 28 MAP 19 MI 186

CATS took note of the first results of the Italian questionnaire assessing the need for a strengthened counteraction of organised crime infiltration in legal economy, especially in public procurement and describing some possible actions as set out in doc. 6730/14 JAI 101 ENFOPOL 46 DROIPEN 25 CATS 28 MAP 19 MI 186.

- Application of Article 10 of Protocol 36 to the Treaties

The Presidency noted that the first meeting of the Friends of Presidency would be convened on 18 March 2014

