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CATS 99

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 22 September 2017
To: CATS
Subject: Summary of discussions

1. Adoption of the agenda

The agenda was adopted as set out in doc. CM 3979/17, with the addition of a number of information points.

2. Proposal for a Regulation of the European Parliament and of the Council on the mutual recognition of freezing and confiscation orders

= examination of selected issues
doc. 11970/17

CATS discussed the insertion of a ground for non-recognition based on fundamental rights (Artt. 9 and 22) and found that there was not sufficient support for the proposal of CZ, DE and AT to include such a ground in the text at this stage. It was recognised, however, that this issue might come back up during the negotiations with the European Parliament.

As regards the management and disposal of confiscated property and costs (Artt. 31-32), a majority of delegations stated that they wanted the system to be as simple as possible, avoiding any additional bureaucracy. Member States therefore did not support the ES idea to work with invoices, and supported the original COM proposal to maintain the existing system of disposal of confiscated property (50%-50% above 10.000 euro).

3. **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 and Proposal for a Regulation establishing a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (TCN) to supplement and support the ECRIS-TCN system and amending Regulation (EU) No 1077/2011**
= **examination of selected issues**
doc.12033/17

There was general support for including prior convictions in the ECRIS-TCN system (Art. 5(4)), although some Member States felt that it would be appropriate to set a point back in time as from when such convictions should be added (e.g. only convictions registered after the adoption of the ECRIS Framework Decision in 2009, or after the establishment of the ECRIS system). While the insertion of alphanumeric data would not cause a problem, several Member States considered that the addition of fingerprints could encounter technical, administrative and legal obstacles. It was therefore suggested to oblige Member States to add fingerprints only "if possible".

CATS expressed general support for the access by Eurojust, Europol and EPPO to the ECRIS-TCN system, and for using Eurojust as access point to ECRIS/TCN for third countries (Art. 7(2), 14, 15 and 16). However, many Member States asked that the applicable conditions and modalities be thoroughly examined in the Working Party.

4. **Draft final report of the Seventh round of mutual evaluation on "The practical implementation and operation of the European policies on prevention and combatting cybercrime"**
= **Endorsement with a view to submission to the Council for information**

CATS endorsed the draft final report of the 7th mutual evaluation round on cybercrime as set out in doc. 9986/2/17 REV 2 without discussion. The final report will be submitted to Coreper as I-point with view to submitting it as A-point to the Council for information.

5. Presidency's proposals regarding a new approach to the Mutual Evaluations foreseen by Joint Action 97/827/JHA
doc. 11910/17

CATS had a first discussion on the Presidency's proposals regarding a new approach to the Mutual Evaluations foreseen by Joint Action 97/827/JHA, aimed at improving the mutual evaluation process by ensuring that appropriate Working Parties competent for the subject matters deal with the reports, strengthening the role of CATS in the process and abolishing the GENVAL Working Party. The majority of delegations expressed general support for such proposal, albeit with some concerns as regards the identification of the appropriate Working Party/ies to deal with the mutual evaluations, the need to keep the multidisciplinary nature of the latter and to ensure an efficient follow-up procedure. Only a few delegations were not in favour of the Presidency's proposals. The Presidency concluded that it will continue to work on its proposal taking into account the concerns raised and that it will coordinate with the future BG Presidency in this respect.

6. Implementation and application of EU criminal law instruments

a) Overview

Delegations welcomed the Presidency visual overview of the EU criminal law instruments that should be implemented and/or reported upon in the near future (WK 9768/1/2017).

The practice of the EP to address questionnaires to Member States on the implementation of EU instruments was also discussed. The institutional prerogatives and the Interinstitutional agreement on better law-making were recalled in this respect. A follow up to this issue will be provided.

b) Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA: information from the Commission on the transposition of the instrument

COM recalled the assistance for transposition it regularly offers to Member States. It informed about the upcoming second transposition workshop on the new Directive on combating Terrorism that would take place on 26 October 2017. The transposition of the provisions on travel for the purpose of terrorism, measures against online terrorist content, support for victims of terrorism would be discussed.

c) **Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties: new informal forms**

Delegations were informed that the new forms for the Framework Decision on financial penalties that were agreed in June 2017 (doc. 11032/17) had been translated in all languages by the Commission services. Delegations were invited to verify the translations and to send their comments directly to the Commission by 20 October. The Presidency further reminded delegations of the need to promote the use of the forms by practitioners in the Member States.

7. **AOB**

a) **EU-US Senior officials' meeting (20-21/9/2017): information from the Presidency**

The Presidency informed delegations on the main issues that were addressed at this meeting, i.e. counter-terrorism, border management and migration and security and justice in cyberspace (including data protection).

b) **EU (CATS) - Council of Europe: information on upcoming meeting (23/10/2017) and update on (accessions to) certain Council of Europe Conventions**

The Presidency informed that the next bi-annual meeting with the Council of Europe would be held on 23 October and invited delegations to communicate any subjects they would like to be addressed at this meeting. A follow up will be presented at the next CATS meeting in November.

The Commission informed that it plans to present in October the proposals for a Council decision for the conclusion on behalf of the Union of the CoE Convention on the prevention of terrorism and its Additional protocol.

c) **Pending cases and development on the case law of the Court of Justice: information of the Legal Service**

The Council Legal Service explained the Court's Opinion in Case 1/15 on the envisaged agreement between the Union and Canada providing a legal framework for the transfer of Passenger Name Record ("PNR").

d) **Data retention: information from the Presidency on the state of play**

The Presidency informed about the work in the context of the common reflection process on data retention.

e) **Information points**

The DE delegation informed the meeting about the letter sent by the DE and SE Ministers concerning two EU citizens recently arrested on Turkish arrest warrants and called for consultations on this matter.

The Commission asked delegations who had not yet done so to provide their contribution to the annual report on judicial training.

The ES delegation presented its proposal for a Charter on victims of terrorism (WK 10065/2017) to be included for discussion in the next CATS agenda.
