



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 12 May 2014
(OR. en)**

9733/14

CATS 68

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

On: 24 April 2014

To: CATS

Subject: Outcome of proceedings

1. Adoption of the agenda

The agenda has been adopted.

2. Report from the Commission to the Council and the European Parliament EU Anti-corruption report

- **Follow-up to the discussion in GENVAL 1 April 201
8943/14 JAI 231 CATS 59 GENVAL 23**

Delegations expressed positive views on the elements for Council conclusions on the EU Anti-corruption report with a view to adopting them in the June JHA Council and submitted some specific observations and comments. They reiterated the concerns as regards the methodology of the Report and called the Commission to review it before issuing the second report. Delegations also referred to the letters sent by Commissioner Malmström inviting Member States to provide follow-up to the recommendations of the Report.

They sought clarification about the conditions to provide such information taking into account that in the view of the majority of delegations the methodology of the Report would need revision.

Work on the draft Council conclusions will continue in the Council preparatory bodies.

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

- **Judgment of 8 April 2014 invalidating Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (cases C-293/12 and C-594/12)**

The CLS presented the ECJ judgment, drawing attention to the various elements of the Court's reasoning and to the possible consequences for future legislative work at EU level. It indicated that the usual information note would be transmitted to COREPER.

Delegations had a short exchange of views on future action regarding data retention, during which both pending or future constitutional challenges at Member State level and possible future legislative work at EU level were considered.

4. Proposal for a Regulation on the European Agency for Criminal Justice Cooperation (EUROJUST)

The discussions emphasised the need to develop a co-ordinated approach within the Council as to ensure coherence and consistency in the drawing up of the draft regulations on Eurojust, Europol and the European Public Prosecutor's Office.

a) Strategic discussion on data protection

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The CLS reminded its opinion of 10 December 2013 (doc. 17615/13) on the control of compliance with rules with regard to personal data processed by Europol, which conclusions are, *mutatis mutandis*, to a large extent transposable to Eurojust.

It was broadly agreed that operational data processed by Eurojust should be submitted to a *lex specialis* regime rather than to Regulation 45/2001. As regards the supervisory mechanism to be defined, CATS discussed the respective merits of the various options in presence.

b) Strategic discussion on governance

8839/14 EUROJUST 79 EPPO 20 CATS 56 COPEN 116 CODEC 1087

A wide majority of delegations supported "option c" as set out in the discussion paper, with a view to reconciling the principles laid down in the Common Agreement on EU decentralised agencies and the need to take into due account some specific features of Eurojust.

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

– Strategic discussion on certain issues

8999/14 EPPO 21 EUROJUST 84 CATS 61 FIN 310 COPEN 123 GAF 24

Delegations welcomed the Presidency paper as a good summary of the state of play as regards the structure of the Office, as well as a good basis for further discussions. The need to ensure the efficiency of the Office was underlined by most delegations. Certain issues that will need to be developed further were highlighted, in particular as regards:

- the composition of the Permanent Chambers ;
- the decision-making competence in detail for each component of the Office ;
- the powers of supervision as regards investigations and prosecutions in Member States, to be exercised by individual European Prosecutors and/or Chambers.

The Presidency took note of the results of the CATS debate, which will be taken into account in the work of the COPEN Working Party.

6. Council conclusions on the EUROJUST Annual Report 2013

8942/14 COPEN 120 CATS 60 EUROJUST 81 EJM 47

Delegations were invited to submit written comments by 12 May 2014, as indicated in doc. 8942/14.

7. A.O.B.

UK, supported by some delegations, raised a point about the Commission proposal for a Directive on Customs Infringements and Sanctions (doc.17949/13 UD 341 CODEC 3009) noting that the proposal does not have a JHA legal basis. It indicated that in its view this proposal might nevertheless be of certain interest to the criminal law domain because it deals with concepts such as penalties, aiding, abetting, attempt, conflict of jurisdictions, etc, suggesting discussion in a criminal law working party.

The CLS recalled its written opinion on the subject, (doc. 6572/14) and confirmed that the proposal did not need a JHA legal basis. It also reminded about the practice in the Council to assign a file to one working party only and to avoid having discussions in parallel.

The Presidency will clarify the issue in order to provide the appropriate follow-up.
