



Council of the
European Union

Brussels, 8 July 2014
(OR. en)

11744/14

CATS 101

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
On:	2 July 2014
To:	CATS
Subject:	Summary of discussions

1. Adoption of the agenda

The agenda has been adopted with the addition of 3 items under item 7.

2. Conclusions of the European Council on 26-27 June 2014 : Guidelines for the future development in the Area of Freedom, Security and Justice

– Initial exchange of views concerning the area of criminal law

The Presidency informed the Committee on the strategic guidelines as adopted by the European Council on 27 June 2014 (doc. EUCO 79/14).

Delegations commented on the need to evaluate, implement and consolidate legal instruments and policy measures in place and to involve Justice and Interior Ministers and CATS in this work.

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

12558/13 EPPO 3 EUROJUST 58 CATS 35 FIN 467 OPEN 108 CODEC 1154

– Thematic discussion on certain issues

11255/14 EPPO 31 EUROJUST 119 CATS 91 FIN 436 COPEN 178 GAF 37

CATS discussed the issues of judicial review and judicial control of actions taken by the EPPO on the basis of the discussion paper presented by the Presidency (doc 11255/14). Fifteen delegations took the floor. Most of them agree with the main idea behind the Commission proposal, namely that national law shall apply for most cases of judicial review, in particular when a decision has been taken at local level.

Most delegations however also requested a clarification of the rules in this sense. Some also argued that it is necessary to foresee a role for a European Jurisdiction (Court of Justice) as regards judicial review of certain decisions of the EPPO, in particular decisions regarding competent jurisdiction, decisions in cross-border cases and, in general, decisions based directly on the Regulation. It was generally agreed that the issue of judicial control of transactions will need to be studied further at expert level. The discussion on these issues will continue at the informal ministerial meeting of 8-9 July.

On the issue of admissibility of evidence, many delegations declared that they agree with the principle of admissibility as proposed by the Commission. However, many others request a modification of the principle in view of allowing more freedom of appreciation for the national judges.

The Presidency took note of the outcome of the CATS debate, which will feed in to the work of the COPEN Working Party.

4. Proposal for a Directive of the European Parliament and of the Council on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial criminal proceedings

– **Orientation debate**

17621/13 DROIPEN 158 COPEN 235 CODEC 2929+ ADD 1+ADD2+ADD3

– **Note from the Presidency**

11235/14 DROIPEN 88 COPEN 176 CODEC 1518

The Committee held an orientation debate on the proposal for a Directive on the basis of the three questions set out in doc 11235/14. At the end of the debate, the Chair gave a summary of the views expressed by the delegations, and invited the Working Party to assume the work on the proposal, taking account of the discussions in CATS.

5. Proposal for a Directive of the European Parliament and of the Council on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings

– **Orientation debate**

17635/13 DROIPEN 160 COPEN 237 CODEC 2931 +ADD1+ADD2+ADD3

– **Note from the Presidency**

11237/14 DROIPEN 89 COPEN 177 CODEC 1520

In principle, delegations expressed positive views on the Commission proposal and confirmed their preparedness to work on that basis. Some delegations regretted that the proposal is limited to provisional legal aid and does not establish rules for the right to legal aid in criminal proceedings in their entirety. More specifically some delegations would support extension of the scope of the directive to suspected or accused persons for serious criminal offences who are not arrested. On the other hand, several delegations would like to exclude minor cases from the scope of the directive in line with the other instruments on procedural rights.

Certain delegations pointed out their preference to exclude also cases which result in a short term deprivation of liberty. A better definition of the circumstances triggering the application of the Directive was also requested.

A number of delegations expressed concerns in relation to Article 5 (2) aiming at rendering effective the right of "dual defence" in EAW proceedings when the requested person does not dispose of sufficient means to pay for legal assistance. The practical implementation of the provision, as well as the ensuing additional burden for the legal aid systems in the Member States were pointed out in this respect. It was also felt that such obligation might hinder the effectiveness of the EAW proceedings given the strict deadlines for the execution of the requests.

Some delegations referred to the need to maintain an appropriate balance in the directive which would respect the existing systems at national level that already provide an adequate level of protection of the defence rights of the suspected and accused persons in criminal proceedings.

The work on the proposal will continue in the Working Party on Substantive Criminal Law (DROIPEN) in the light of the CATS orientation debate summarised above.

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

12566/13 EUROJUST 59 EPPO 4 CATS 36 COPEN 109 CODEC 2163

– Orientation debate

11233/14 EUROJUST 118 EPPO 30 CATS 90 COPEN 175 CODEC 1517

There were mixed views expressed with some delegates signalling their satisfaction with the CION proposal whilst others seeking to go further and develop clear guidelines. The Chair concluded that although there is no common view, it is clear that a pragmatic and flexible approach on this matter is required. The Presidency will return to this issue at a later date.

7. AOB

- a) The Austrian delegation informed about a recent decision by their Constitutional Court annulling the Australian law relating to data retention.
 - b) The Council Legal Service informed about a new case from Ireland pending before the Court of Justice which has a bearing on Safe Harbour.
 - c) The Presidency informed about the dates of CATS (15 & 16 September 2014, 22 & 23 October 2014, and 10 & 11 November 2014) and of planned seminars during the Presidency relating to confiscation and the role of the Court of Justice.
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