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## OUTCOME OF THE COUNCIL MEETING

3433rd Council meeting

### Justice and Home Affairs

Brussels, 3 and 4 December 2015

Presidents

**Félix Braz**

Minister of Justice of Luxembourg

**Étienne Schneider**

Deputy Prime Minister, Minister for Internal Security and  
Defence of Luxembourg

**Jean Asselborn**

Minister of Immigration and Asylum of Luxembourg

# P R E S S

**CONTENTS**<sup>1</sup>**ITEMS DEBATED**

|   |    |
|---|----|
| JUSTICE .....   | 4  |
| Free circulation of public documents.....   | 4  |
| Fight against fraud to the Union's financial interests by means of criminal law .....   | 4  |
| European public prosecutor's office.....  | 4  |
| Matrimonial property regimes and property consequences of registered partnerships ..... | 5  |
| Ensuring effective criminal justice in the digital age.....                             | 5  |
| Migratory crisis: Aspects of judicial cooperation and the fight against xenophobia..... | 5  |
| Retention of electronic communication data .....  | 6  |
| HOME AFFAIRS .....  | 7  |
| EU PNR directive.....   | 7  |
| Europol.....  | 7  |
| Counter-terrorism / Security .....  | 7  |
| Migration.....  | 8  |
| Emergency relocation mechanism .....  | 9  |
| Common list of safe countries of origin.....  | 9  |
| Students and researchers .....  | 10 |
| Other business .....  | 10 |
| MIXED COMMITTEE.....  | 11 |

<sup>1</sup>

- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

**OTHER ITEMS APPROVED***JUSTICE AND HOME AFFAIRS*

- Small claims ..... 12
- Counter-terrorism and violent extremism in the Western Balkans..... 12
- EU-Cape Verde visa facilitation agreement - implementation ..... 12
- Statelessness ..... 12
- Report of the Working Party on e-Law ..... 13
- Roadmap on the sustainability of e-CODEX..... 13

*GENERAL AFFAIRS*

- Reform of the General Court\* ..... 13
- Extension of Irish language derogation ..... 13

*FOREIGN AFFAIRS*

- Restrictive measures in view of the situation in Syria..... 14

*COMMON SECURITY AND DEFENCE POLICY*

- European Union Advisory Mission for Civilian Security Sector Reform Ukraine ..... 14

*AGRICULTURE*

- Pesticides - maximum residue levels ..... 14
- Central African forest initiative - Authorisation to sign a joint declaration ..... 15

*ENERGY*

- Exposure to ionising radiation..... 15
- Production of electricity and heat..... 15

*ENVIRONMENT*

- Japan's resumption of whaling..... 16

## **ITEMS DEBATED**

### **JUSTICE**

#### **Free circulation of public documents**

The Council confirmed the political agreement reached on a regulation which will facilitate the free movement of citizens by simplifying the requirements for presenting certain public documents in the EU.

The regulation aims to simplify the procedures for the cross-border presentation of public documents related to civil status matters, such as births, deaths, marriages and registered partnerships, and public documents certifying the absence of a criminal record. The regulation also covers public documents which EU citizens may be required to present when they wish to vote and/or stand as candidates in elections to the European Parliament or in municipal elections.

On 21 October 2015, the Permanent Representatives Committee (Coreper) [approved the compromise package](#) agreed with the European Parliament.

#### **Fight against fraud to the Union's financial interests by means of criminal law**

The Council took stock of [progress made](#) on a proposal for a directive on the fight against fraud to the Union's financial interests by means of criminal law.

#### **European public prosecutor's office**

The Council provisionally agreed on certain articles of the draft regulation establishing the European public prosecutor's office (EPPO).

The [agreement](#) covers articles 17-23 and part of article 28a of the draft regulation.

Articles 17, 19, 20, 22a and 28a(2a, 2b and 2c) cover issues related to the competence and exercise of the competence of EPPO. Article 18, 22 and 23 include important provisions on the territorial and personal competence of the office, as well as on the initiation and conduct of investigations.

The proposed regulation is aimed at helping combat crimes against the EU's financial interests by introducing a European Public Prosecutor's Office with competence in that area. The legal basis and the rules for setting up the EPPO are laid down in article 86 of the Treaty on the Functioning of the European Union (TFEU). The proposed regulation requires the unanimous support of the Council, which would then adopt it after having obtained the consent of the European Parliament.

The Commission presented its [proposal](#) on 17 July 2013.

### **Matrimonial property regimes and property consequences of registered partnerships**

The Council could not reach a political agreement by unanimity on either the regulation on matrimonial property regimes or the regulation on the property consequences of registered partnerships.

During the debate, many delegations stressed the importance of these regulations for the daily life of EU citizens. It was also pointed out that the regulations would have left untouched the underlying institutions of marriage and partnership, which remained matters that were defined by the national laws of the member states. Nothing in these regulations would have obliged member states to introduce the institution of registered partnership into their national law.

After the debate, the presidency noted that it would not be possible to reach an EU-wide agreement in relation to both regulations within a reasonable period of time. Many delegations said they were willing to consider establishing enhanced cooperation on the matters covered by the regulations.

For more information see [background brief](#).

### **Ensuring effective criminal justice in the digital age**

The Council held a discussion on the possible way forward in addressing the challenges related to the collection and use of electronic evidence in criminal proceeding on the basis of a [document](#) prepared by the presidency.

Ministers indicated that all the issues set out in the document should be addressed as a matter of priority.

### **Migratory crisis: Aspects of judicial cooperation and the fight against xenophobia**

The Council took note of a [progress report](#) on the actions related to judicial cooperation and the fight against xenophobia, which were defined by the Council on 9 October 2015 as priorities for tackling the migration crisis.

## Retention of electronic communication data

The Council held a general discussion on the consequences of the invalidation of the Data Retention Directive<sup>1</sup>, on the basis of a [document](#) prepared by the presidency.

All member states considered that retaining bulk electronic communication data in a generalised manner was still allowed. A majority of delegations also felt that an EU-wide approach had to be considered in order to put an end to the fragmentation of the legal framework on data retention across the EU. A number of delegations also called for a new legislative proposal by the Commission.

The Data Retention Directive obliges member states to lay down an obligation for providers of publicly available electronic communications services and public communications networks to retain traffic and location data for a period between six months and two years, the choice of the length of the period being left to each member state in its national law.

The retention is needed in order to ensure that the data are available for the purposes of investigating, detecting, and prosecuting serious crime, as defined by each member state in its national law.

On 8 April 2014 the European Court of Justice delivered a [judgment](#) by which it invalidated this directive.

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<sup>1</sup> Directive [2006/24/EC](#) on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks

## **HOME AFFAIRS**

### **EU PNR directive**

The Council approved the compromise text agreed with the European Parliament on the proposal for a directive on the use of PNR data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

Under this directive, air carriers will be obliged to provide member states' authorities with the PNR data for flights entering or departing from the EU. It will also allow, but not oblige, member states to collect PNR data concerning selected intra-EU flights. Data will be stored for six months, after which it will be masked out and stored for another four and a half years, with a strict procedure for accessing the full data.

For details, see [press release](#).

### **Europol**

The Council confirmed the agreement reached with the European Parliament on a proposal for a regulation on the European Agency for Law Enforcement Cooperation and Training (Europol).

For details, see [press release](#).

### **Counter-terrorism / Security**

Ministers<sup>1</sup> were briefed by the presidency, the Commission and the EU Counter-Terrorism Coordinator about the implementation of measures regarding counter-terrorism, following the statement by EU leaders on 12 February 2015.

Ministers underlined the importance of accelerating the implementation of all areas covered by the statement on counter-terrorism issued by the members of the European Council of 12 February 2015 and highlighted the importance of the conclusions of 20 November in this regard, and in particular the following measures: EU Passenger Name Record (PNR) directive, firearms, external border controls, information sharing, terrorist financing, criminal justice response to terrorism, prevention of radicalisation and safeguarding our values as well as cooperating with our international partners.

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<sup>1</sup> Exceptionally, in the presence of the Associated States

Following the tragic terrorist attacks in Paris, justice and home affairs ministers met in Brussels on 20 November 2015 to ensure the follow-up of existing measures, and discussed how to strengthen the EU response by adopting a set of [conclusions](#). The same day, they also adopted conclusions on enhancing the criminal justice response to radicalisation leading to terrorism and violent extremism.

For more information:

[Council website: Response to foreign terrorist fighters and recent terrorist attacks in Europe](#)

The Council took note of a report on the implementation of the [Renewed European Union Internal Security Strategy](#), adopted in June 2015.

## **Migration**

Home affairs ministers were briefed by the Commission, Frontex, EASO and eu-LISA on the migration situation. The Greek and Italian ministers provided further information on recent developments in their countries.

The presidency reported on the contribution to managing to migration flows provided during the last few weeks through the Integrated Political Crisis Response (IPCR) arrangements, which were activated by the presidency in full mode on [9 November 2015](#). The presidency also made a number of suggestions for the purpose of protecting the integrity of the Schengen area.

Ministers held a wide-ranging discussion on the basis of this information and on the progress made in implementing the most recent EU measures.

Ministers noted that Greece had decided to activate the EU Civil Protection Mechanism in order to benefit from material support to help cope with the influx of refugees and asylum seekers in the country; had agreed an operational plan with Frontex for a new operation at the Greek border with the former Yugoslav Republic of Macedonia, where the agency will assist with the registration of migrants; and had made a formal request for the deployment of a Rapid Border Intervention Team to provide border guard support at its external border in the Aegean islands. Several ministers in particular underlined that the setting up and operation of 'hotspots' and the temporary relocation scheme were still not working properly, and progress on that was urgently needed. Ministers also spoke of the need to make progress in the dialogues with third countries.



There was broad support for the suggestions made by the presidency regarding the integrity of the Schengen area, which addressed the need for more consultations between member states before the temporary reintroduction of internal border controls, better protection of external borders, increased checks on illegal immigration inside the Schengen area, and ways of addressing serious deficiencies in external border controls.

Ministers reconfirmed their commitment to fully applying the procedures for information sharing on temporary reintroduction of border controls at the internal borders. In particular, in the case of persistent serious deficiencies relating to external border controls, the Commission should consider presenting a proposal for a Council recommendation in accordance with article 26 of the Schengen Borders Code to extend the period of reintroduction of internal border control to a maximum total of two years. The presidency in that regard underlined the urgent need to take the necessary measures regarding the Western Balkan route, from outside the EU to destination countries inside the EU.

For more information:

[Council website: Finding solutions to migratory pressures](#)

### **Emergency relocation mechanism**

The Council was briefed by the presidency on the [progress of discussions](#) on a regulation establishing an emergency relocation mechanism and amending the Dublin regulation.

The proposal introduces a relocation mechanism with a view to structurally deal with crisis situations in any member state generated by a large and disproportionate inflow of persons and achieve a fair sharing of responsibilities between member states in times of crisis, involving a derogation from the criteria for allocating responsibility contained in the Dublin regulation.

The Commission presented its [proposal](#) in September 2015.

### **Common list of safe countries of origin**

The Council was briefed by the presidency on the progress of discussions on a regulation establishing an EU common list of safe countries of origin for the purposes of directive [2013/32/EU](#) on common procedures for granting and withdrawing international protection.

Directive [2013/32/EU](#) enables member states to apply specific procedural rules, in particular accelerated and border procedures, where the applicant is a national of a country that has been designated as a safe country of origin by national law.

The Commission presented its [proposal](#) in September 2015.

## **Students and researchers**

The Council confirmed the agreement reached with the European Parliament on a proposal for a directive on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing.

This directive aims to promote the EU as a world centre of excellence for studies and training. It provides harmonised conditions of entry and residence in the EU for third-country researchers, students, trainees and volunteers taking part in the European voluntary service scheme. It also improves the situation of researchers and students in aspects including mobility, entry of family members or access to work.

For more information:

[Press release - New EU rules for third-country researchers and students: Council confirms deal with EP](#)

## **Other business**

The Council was informed about the state of play of a number of legislative proposals.

The Commission informed the Council of the outcome of the EU-US JHA ministerial meeting on 13 November 2015 and on the renewed framework for transatlantic data.

The presidency informed the Council about the upcoming EU-Western Balkans ministerial forum that will take place on 7 and 8 December 2015. It also informed the Council about the results of the Valletta summit held on 11 and 12 November 2015.

The Danish delegation informed ministers about the results of the referendum that took place in Denmark on 3 December 2015.

The Netherlands delegation informed ministers about the work programme of the incoming presidency.

## **MIXED COMMITTEE**

The Council in the Mixed Committee format (the EU plus Norway, Iceland, Liechtenstein and Switzerland) discussed the following items:

### **Migration**

See item above.

### **Other business**

The committee was informed about the state of play of a number of legislative proposals.

The Estonian delegation informed ministers about the Integrated Border Management Concept.

## **OTHER ITEMS APPROVED**

### **JUSTICE AND HOME AFFAIRS**

#### **Small claims**

The Council adopted a [regulation](#) amending the European small claims regulation and the European order for payment regulation.

The objective of the amending regulation is to make the European small claims procedure more efficient, in particular by reflecting the technological progress made in the justice systems in the member states, and to make the procedure accessible in a larger number of cases, in particular for businesses.

The agreement with the European Parliament was reached in June 2015. For more information, see [press release](#).

#### **Counter-terrorism and violent extremism in the Western Balkans**

The Council adopted conclusions on the Integrative and Complementary Approach to Counter-Terrorism and Violent Extremism in the Western Balkans ([14986/15](#)).

#### **EU-Cape Verde visa facilitation agreement - implementation**

The Council adopted common guidelines for the implementation of the agreement on facilitating the issue of short-stay visas of Cape Verde and EU citizens ([13890/15](#)). The visa facilitation agreement entered into force on 1 December 2014. The guidelines will ensure a fully harmonised implementation of the agreement by the consulates of Cape Verde and EU member states.

#### **[EU-Cape Verde visa facilitation agreement](#)**

#### **Statelessness**

The Council and the representatives of the governments of the member states adopted [conclusions](#) on statelessness.

## **Report of the Working Party on e-Law**

The Council took note of the report of the Working Party on e-Law (e-Justice) ([14206/15](#)).

## **Roadmap on the sustainability of e-CODEX**

The Council adopted the roadmap on the sustainability of e-CODEX ([14208/15](#)). The Council confirmed the importance of a new co-financed project covering the maintenance of the e-CODEX assets.

## **GENERAL AFFAIRS**

### **Reform of the General Court\***

The Council adopted a [regulation](#) reforming the General Court ([14188/15 ADD 1](#) + [ADD 2](#)). The aim of the reform is to enable the General Court to cope with an increasing workload and to ensure that legal redress in the EU is guaranteed within a reasonable time. The Belgian and Netherlands delegations abstained, and the UK delegation voted against.

For details, see [press release](#).

### **Extension of Irish language derogation**

The Council adopted a [regulation](#) extending the Irish language derogation in the EU institutions for a further five years from 1 January 2017 with a view to ending it on 31 December 2021. At the same time the regulation narrows the scope of the derogation over the same period.

Regulation [920/2005](#) accords Irish the status of official language and working language of the EU institutions. However, for practical reasons and on a transitional basis, the regulation establishes a derogation according to which, during a five-year period, the institutions are obliged to draft or translate into Irish only those regulations adopted jointly by the European Parliament and the Council. The derogation has been extended for another five-year period from 1 January 2012. From 1 January 2017 onwards the obligation to draft or translate into Irish is gradually extended to other documents than regulations jointly adopted by the Parliament and the Council.

## **FOREIGN AFFAIRS**

### **Restrictive measures in view of the situation in Syria**

The Council amended restrictive measures in view of the situation in Syria. The statements of reasons for the designation of one person and three entities were amended.

## **COMMON SECURITY AND DEFENCE POLICY**

### **European Union Advisory Mission for Civilian Security Sector Reform Ukraine**

The Council adopted a decision setting the financial reference amount of EUR 14 400 000 to cover the expenditure related to the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) between 1 December 2015 and 30 November 2016. The Council extended the mandate of EUAM Ukraine by one year until 30 November 2017.

## **AGRICULTURE**

### **Pesticides - maximum residue levels**

The Council decided not to oppose the adoption of a Commission regulation amending regulation 396/2005<sup>1</sup> as regards maximum residue levels for boscalid, clothianidin, thiamethoxam, folpet and tolclofos-methyl in or on certain products (amendment of annexes II and III) ([13706/15](#)).

Regulation 396/2005 establishes the maximum quantities of pesticide residues permitted in products of animal or vegetable origin intended for human or animal consumption. These maximum residue levels (MRLs) include, on the one hand, MRLs which are specific to particular foodstuffs intended for human or animal consumption and, on the other, a general limit which applies where no specific MRL has been set. MRL applications are communicated to the European Food Safety Authority (EFSA), which issues a scientific opinion on each intended new MRL. Based on the EFSA's opinion, the Commission proposes a regulation to establish a new MRL or to amend or remove an existing MRL, modifying the annexes of regulation 396/2005 accordingly.

The Commission regulation is subject to the regulatory procedure with scrutiny. This means that now that the Council has given its consent, the Commission may adopt it, unless the European Parliament objects.

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<sup>1</sup> OJ L 070, 16.3.2005, p. 1

## Central African forest initiative - Authorisation to sign a joint declaration

The Council authorises the Commission to sign on the behalf of the EU the joint declaration of the Central African forest initiative (CAFI) ([14732/15](#)).

The declaration will be signed in the margins of the 21<sup>st</sup> Conference of the Parties of the United Nations Conference on Climate Change (COP 21) taking place in Paris from 30 November to 13 December 2015. The declaration aims to address the challenges of deforestation and forest degradation to tackle climate change and biodiversity loss in Central Africa.

## **ENERGY**

### Exposure to ionising radiation

The Council adopted conclusions on the justification of medical imaging involving exposure to ionising radiation ([13747/15](#)), which address the issue that a significant share of the medical radiological imaging taking place in the European Union may not be necessary, entailing an increased and unjustified level of patient exposure and associated exposure of workers and members of the public.

The conclusions therefore invite the Commission to pay particular attention to the legal provisions related to the proper justification of radiological imaging when reviewing the implementation of the current legislative framework - Directive [2013/59/Euratom](#).

### Production of electricity and heat

The Council does not object to the Commission regulation reviewing harmonised efficiency reference values for separate production of electricity and heat, in accordance with directive [2012/27/EU](#) on energy efficiency<sup>1</sup>, and repealing Commission implementing decision [2011/877/EU](#) ([13021/15](#)). The Council will inform the European Parliament thereof.

The Commission act is subject to what is known as the regulatory procedure with scrutiny<sup>2</sup>. This means that now that the Council has given its consent, the Commission may adopt it, unless the European Parliament objects.

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<sup>1</sup> OJ L 315, 14.11.2012

<sup>2</sup> Council decision [1999/468/EC](#) of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23), as amended by decision [2006/512/EC](#) (OJ L 200, 22.7.2006, p. 11)

**ENVIRONMENT**

**Japan's resumption of whaling**

The Council approved a démarche concerning Japan's resumption of whaling in the Southern Ocean under the New Scientific Research Whale Programme (NEWREP-A).

The EU and its member states will therefore join the government of New Zealand in this démarche to the government of Japan. In their démarche the signatories convey to Japan their serious concerns regarding its decision to resume whaling in the Southern Ocean in the 2015/16 season under the new programme NEWREP-A, pending further deliberations by the International Whaling Commission (IWC), which is the global forum for addressing all whaling issues.

The Council authorised the EU delegation in Tokyo, on behalf of the EU, and Luxembourg, on behalf of the EU member states, to sign the démarche. The démarche will be delivered to the relevant Japanese authorities, joining New Zealand and any other countries who may join this initiative. All member states who could do so were also invited to attend, with the EU delegation, the delivery of the démarche to the Japanese authorities.

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