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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



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I-ITEM NOTE

From: General Secretariat
To: Permanent Representatives' Committee

Subject : Line to take of the EU-Russia Senior Officials meeting on Justice and Home Affairs

Coreper (part 2) will find below the latest version of the line to take of the EU-Russia Senior Official meeting on Justice and Home Affairs, scheduled to take place on 24 September 2013 in Brussels, as agreed by COEST and discussed by JAIEX working group.

Implementation of the Common Space of Freedom, Security and Justice

1. HUMAN RIGHTS AND THE RULE OF LAW

The Commission will speak on the basis of the following elements:

- Express deep concern about the adoption and implementation of a series of legislation which seriously limits the space for civil society activities. Call on Russia to amend the law on "foreign agents" which stigmatizes many well respected Russian NGOs.
- Express concern over the recent legislation prohibiting the so called promotion of "non-traditional sexual relations" among children and minors. In this context, recall the necessity to conduct a dialogue with Russia on discrimination issues, including discrimination on grounds of gender or sexual orientation as well as on the prevention of hate-related crimes and xenophobia, and protection of persons belonging to minorities. Underline EU expectations that the above law will not interfere with protection of rights of any participant during the Olympic Winter games in Sochi, whether they are official, Olympic competitor or visitor.
- Express concern with the pressure, on arrests and investigations of opposition leaders as well as the doubtful and disproportionate court sentences against activists (Navalny first instance trial, the on-going Bolotnaya cases trial). Express disappointment at the verdict of guilt issued posthumously against lawyer Sergei Magnitsky, in spite of the opposition of his relatives to his posthumous trial. Stress that these cases have raised serious doubts about Russia's commitment to the rule of law.
- Encourage Russia to fully implement the rulings of the European Court of Human Rights. Call on Russia to consider and implement the recommendations made by the bodies of regional and international organisations it belongs to, such as the Council of Europe Venice Commission, the Council of Europe CPT, the European Commission against Racism and Intolerance and the OSCE, notably the OSCE representative on media freedom.
- Insist on the EU-Russia Human Rights Consultations to take place twice a year alternatively in Brussels and Moscow in order to enable greater participation of line ministries and agencies.

Freedom:

2. VISA FACILITATION AND READMISSION AGREEMENTS

The Commission will speak on the basis of the following elements:

- Emphasise the importance of the full and unconditional implementation of the visa facilitation and readmission agreements, which remains an important prerequisite for further progress in the Visa Dialogue.
- Discuss the state of play of the negotiations of the upgraded EU-Russia visa facilitation agreement.

3. VISA DIALOGUE

The Commission will speak on the basis of the following elements:

- Discuss the state of play and possible next steps under the EU-Russia Visa Dialogue.
- Call for a swift and adequate implementation of all the common steps and operational measures as well as the need to address possible deficiencies in that implementation spotted by experts. Stress that only once the implementation of the "Common Steps" is completed, the Parties will decide, in accordance with their respective internal procedures, on starting negotiations on an EU-Russia visa waiver agreement.
- Underline that the EU sees the visa dialogue placed in the overall context of EU-Russia relationship, taking into consideration the overall EU-Russia relationship in line with the agreed methodology.

4. MIGRATION RELATED ISSUES

The Commission will speak on the basis of the following elements:

- Welcome the outcome of the last meeting of the Senior Officials under the Migration Dialogue held in St Petersburg on 27 July 2013. Stress the importance of the decision to move beyond information exchange into concrete actions as well as to a greater inclusion of civil society.

- Welcome the fruitful discussions during the last experts' meeting on irregular migration under the Migration Dialogue held in Kaliningrad in June 2013. Welcome the holding of the first practical event of the Migration Dialogue – the field trip to the RF-PL border crossing points Mamonovo II (Russia) / Grzechotki (Poland) – which proved to be useful for both sides.
- Look forward to the planned expert thematic session on migration and development and international protection to be held in Stockholm by the end of the year, which will be organised back to back with a field trip to study Sweden's approach to international protection.
- Stress the need to fully implement the 1951 Geneva Convention on refugees and its 1967 Protocol, and to include in the Russian legislation, in addition to the refugee status, a status for complementary or subsidiary protection. Stress further the need to protect internally displaced persons.

5. BORDER COOPERATION

The Commission will speak on the basis of the following elements:

- Discuss the experiences with the implementation of the LBT agreements in place and the state of play of negotiations on such agreements.
- Without prejudice to security aspects, underline the importance of increasing efficiency and substantially reducing the waiting time at the border crossing points on the borders between the EU and the Russian Federation.
- Underline the importance of the cooperation in border management between the EU and the Russian Federation and in particular the role that Frontex should play in facilitating operational cooperation between the responsible Russian authorities and their counterparts in the Member States of the European Union

The Presidency will speak on the basis of the following elements:

- Reiterate the importance of legal certainty of the common border. Encourage to maintain momentum of ongoing work on demarcation (Latvia, Lithuania) and encourage Russia to ratify the border agreement with Estonia.

Security:

6. FIGHT AGAINST TRANSNATIONAL CRIME

The Commission will speak on the basis of the following elements:

- Discuss the state of play and the prospects of finalising the negotiations on an operational agreement between Europol and Russia.
- Reiterate that key to an operational agreement between Europol and Russia is the incorporation into national legislation of all the elements of the 1981 Council of Europe Convention for Personal Data Protection and its 2001 Additional Protocol and their effective implementation as well as independent supervision of data protection at large. Enquire about relevant developments and the deposition of Russia's ratification instruments.
- Express interest to intensify cooperation between CEPOL and Russia, including the conclusion of a cooperation agreement.
- Discuss how to strengthen Judicial and law enforcement action aiming at prevention and fight against organised crime with a support of UN and CoE conventions.
- Welcome the first evaluation mission to Russia under the UN Convention Against Corruption (UNCAC) undertaken in March 2013. Enquire about the plans of implementation of the recommendations following the evaluation report.
- Discuss how to best organise the cooperation between the authorities and civil society in this regard to better develop and implement the anticorruption policy;
- Discuss the plans for holding the EU-Russia conference on anticorruption that was planned to be held in Brussels. Underline the importance of the involvement of civil society in this conference.
- Look forward to Russia's implementation of the recommendations of GRECO and enquire about the state of preparation of the Russia's compliance report after the last GRECO evaluation.
- Enquire about the state of play related to the OECD phase 2 evaluation process.

The Presidency will speak on the basis of the following elements:

- Stress the importance to effectively fight corruption and in particular to cooperate closely in the context of GRECO and follow-up the recommendations issued by the latter.

- Underline the importance of the Council of Europe Convention on Cybercrime as a global legal instrument and the need to support its widest application.
- Reiterate that the EU is not in favour of devising a separate legal instrument on cybercrime at UN level.

7. FIGHT AGAINST TERRORISM

The Presidency will speak on the basis of the following elements:

- Emphasise that the EU wants effective, concrete and fruitful co-operation with Russia on all aspects of fighting against and prevention of terrorism, in full respect of the principles of fundamental rights, rule of law, international human rights, refugee and humanitarian law and in accordance with the UN Global Counter-Terrorism Strategy, while tackling the underlying conditions that might be conducive to terrorism. Highlight that the EU addresses counter-terrorism with a criminal justice/rule of law approach while protecting human rights.
- Highlight that the EU and Russia should intensify common efforts against terrorist financing, including on criminal fundraising activities in Europe of North Caucasus groups linked to Russia, and exchange of views about processes of radicalisation and recruitment.
- Welcome the Political Dialogue meeting on Counter Terrorism, held on 18 June, and flag the EU's interest in a joint declaration on combatting terrorism proposed by Russia, and express readiness to continue work on its wording, in view of its adoption in due time.

The Commission will speak on the basis of the following elements:

- Note the need for the EU and Russia to continue informing each other about developments in the critical infrastructure protection area, in the area of aviation security and explosives, as well as in preventing radicalisation and recruitment. Consider enhancing cooperation in the fight against the financing of proliferation of weapons of mass destruction (proliferation financing).
- Discuss the state of play of the Russian PNR legislation and follow-up after the experts' meeting held on 11 September. Discuss the exact possible points of the Russian legislation and/or technical requirements which may cause difficulties in the implementation for EU transport operators in particular given the EU rules on the protection of personal data. If a complete prevention of the Russian PNR programme has no chance of success, ask for the EU transport operators to be exempted from the Russian PNR legislation until a solution for legal and technical issues is found.

8. FIGHT AGAINST ILLICIT DRUGS

The Commission will speak on the basis of the following elements:

- Welcome the signature of the bilateral EU-Russia agreement on drug precursors. Underline the importance of this instrument in combating the illegal trade in such substances. Inform that the EU is currently in the process of ratifying the agreement.
- Recall the importance of coordinated action to respond to the drugs situation in Afghanistan, Pakistan and the whole region of central Asia, based on a comprehensive approach. Inform Russia about the new EU-Central Asia Action Plan on Drugs that will be adopted in November 2013.
- Welcome the well-established cooperation between the European Monitoring Centre for Drugs and Drug Addiction and Russia and in this context, the meeting between the EMCDDA and the Federal Drug Control service in July 2012.
- Recall the importance of exchanging factual information concerning the flow of synthetic drugs between the EU and Russia and the emergence of new psychoactive substances, as underlined during the bilateral dialogue.
- Emphasise the joint interest in further strengthening coordinated action on drugs policy, underlining the importance of developing cooperation within the existing structures, in areas such as drug demand reduction/prevention. Recall the visit of Russian experts to therapeutic programs in Cyprus in December 2012.

The Presidency will speak on the basis of the following elements:

- Recall the EU-Russia Dialogue on Drugs, held on 10 September 2013, in Brussels, as a valuable opportunity to exchange views and discuss the latest developments in drug policy.

9. TRAFFICKING IN HUMAN BEINGS

The Commission will speak on the basis of the following elements:

- Enquire about the situation on trafficking in human beings in Russia and discuss possible ways to cooperate with Russia on the topic of trafficking in human beings and protection of victims including through the EU Anti-Trafficking Coordinator.

- Discuss the ways to address trafficking in human beings in a comprehensive way, including prevention, protection, prosecution and partnerships based on human rights and the cooperation with relevant stakeholders such as law enforcement, victim assistance services, labour inspectors, NGOs and the private sector.

Justice:

10. RIGHTS AGENDA AND ACCESS TO JUSTICE

The Commission will speak on the basis of the following elements:

- Present the shared interest in launching a dialogue on the comparable challenges in EU and Russia on the rights agenda and access to justice.
- Explain the developments on the EU side, leading towards an EU area of Justice, in particular with regard to the Victims' Rights package and to procedural rights in criminal matters, as well as on alternative dispute resolution mechanisms.
- Invite the Russian side to present developments in Russia, notably with regard to access to justice, the provision of legal aid and proposals to introduce alternative dispute resolution mechanisms.
- With regard to EU-Russia bilateral cooperation, recall the contribution of the EU towards a recently completed project on access to justice, as well as on an on-going project to support the introduction of the appeal instance in the courts of general jurisdiction.

11. JUDICIAL COOPERATION IN CRIMINAL MATTERS

The Presidency will speak on the basis of the following elements:

- Recall the importance and the need of judicial cooperation to tackle organised crime.
- Recall the commitment of the EU, MS and Russia to move forward on this file and to find practical means to facilitate judicial cooperation between EU MS and Russia.
- Recall that several Member States have experienced continued difficulties in their judicial cooperation with Russia in criminal matters including extradition, mutual legal assistance and transfer of sentenced persons. With reference to Russia's international commitments, urge Russia to cooperate constructively with all EU Member States and in particular with national authorities/agencies involved in pending criminal investigations and cases at the courts of EU Member States in criminal matters.

The Commission will speak on the basis of the following elements:

- Look forward to further progress in the negotiations for an agreement between Eurojust and Russia on judicial cooperation in criminal matters. Emphasise that an adequate level of protection of personal data protection is a precondition for such an agreement. The incorporation into national legislation of all the elements of the 1981 Council of Europe Convention for Personal Data Protection and its 2001 Additional Protocol and their effective implementation are key, as well as independent supervision of data protection at large. Enquire about relevant developments and the deposition of Russia's ratification instruments.
- Enquire about progress in the signature and ratification of the 2001 Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

12. JUDICIAL COOPERATION IN CIVIL AND COMMERCIAL MATTERS

The Commission will speak on the basis of the following elements:

- Underline the importance of existing multilateral instruments and cooperation with regard to their implementation. Stress that the current EU policy regarding civil judicial cooperation with third states is to rely on the existing multilateral framework.
- Recall the decision of the Council of General Affairs of the Hague Conference on Private International Law to re-launch the work on the jurisdiction, recognition and enforcement of judgements in civil and commercial matters (the so called Judgement project). Propose that this could be supported by both EU and Russia, underlining the necessity to agree on common rules on jurisdiction at the global level.
- With regard to Russia's accession to the 1996 Hague Child Protection Convention, ask Russia for information about the implementation legislation. Inform Russia that all EU Member States will soon be parties to the 1996 Convention.
- Recall the need to find mutually acceptable, practical solutions to the growing number of legal transactions and cases with cross border element between citizens of Russia and EU, for instance the decentralization of the service of documents or bi-lingual (MS and Russia) forms.
- The EU welcomes in principle Russia's decision to accede to the 1980 Hague Convention on Child Abduction. The acceptance process by the EU's Member States is delayed by on-going discussions within the EU institutions, relating to the EU's external competences. The case is pending at the Court of Justice of the European Union.