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CATS 22

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 12 February 2019
To: Coordinating Committee in the area of police and judicial cooperation in criminal matters (CATS)
Subject: Summary of discussions

1. Adoption of the agenda

The agenda was adopted as set out in CM 1343/19 REV 1, with the following modifications:

- item 9b was removed from the agenda (the Legal Service had no Court of Justice of the European Union (CJEU) cases to report on);
- AOB: additional item submitted by FR, concerning access to the European Criminal Records Information System for third-country nationals (ECRIS-TCN) by the European Travel Information and Authorisation System (ETIAS).

2. Ninth round of mutual evaluations

CATS had an extensive discussion on the Presidency's proposal regarding the scope of the ninth round of mutual evaluations, that will focus on 'mutual recognition in criminal matters', on the basis of 5707/19.

Some delegations expressed a preference for limiting the evaluation to the framework decisions on the European arrest warrant (EAW) and 'custodial sentences', underlining that the 'probation' and 'European Supervision Order (ESO)' framework decisions had not yet been sufficiently implemented. It was proposed that the reasons for their scarce use could instead be examined in other formats, e.g. experts' meetings. However, the majority of delegations were in favour of covering all four framework decisions in the evaluation, though many delegations, including the Commission, insisted on further narrowing its scope.

The Presidency, in order to find a compromise between the different views expressed by delegations, concluded that all four mutual recognition legal instruments should be evaluated in the ninth round, though for the 'probation' and 'ESO' framework decisions, the evaluation would be narrower than initially proposed.

Some delegations stressed the importance of involving Member States' practitioners in the remaining preparatory activities for the ninth evaluation round. In this respect, the Presidency indicated that work would continue at technical level to draw up the questionnaire and decide on the order of visits.

3. Challenges in judicial cooperation in criminal matters with third states

Delegations shared information on some of the challenges they face, based on the Presidency's non-paper (5648/19). The discussion highlighted the fact that challenges are quite different in scale and nature across the EU; however, more regular exchanges, both between EU Member States and with relevant third partners, could be useful.

4. International developments in the area of cross-border access to e-evidence

The Commission presented two recommendations for Council decisions:

- for participation in the negotiations on the second additional protocol to the Budapest Convention ongoing within the Council of Europe (6110/19 + ADD 1);
- for the opening of negotiations between the EU and the US on cross-border access to e-evidence (6102/19 + ADD 1).

Delegations welcomed the submission of those recommendations and provided general comments, addressing in particular the scope and objectives of the texts. They also asked for clarification regarding the respective processes and the division of competences.

The Presidency indicated that the recommendations would be examined at technical level in the Working Party on Cooperation in Criminal Matters (COPEN).

5. Activities of the European Judicial Cybercrime Network (EJCN)

The Presidency invited delegations to resume the discussion on the continuation of the EJCN, on the basis of 6071/19, following the discussions in the COPEN Working Party on 1 February 2018.

Following a brief presentation by Eurojust of the report in 15521/18, which outlined the key benefits of the network and areas for consideration, a large number of Member States indicated that they supported the continuation of the EJCN. They called for appropriate (financial and human) resources to be allocated to ensure that the network reached its full potential.

Delegations exchanged views on the setting up of a dedicated secretariat to serve the network. Some delegations welcomed the idea of providing the network with a stable, lean and simple structure that was fit for purpose, subject to the availability of resources. Others underlined the need to ensure synergies between the EJCN and other existing networks.

The Presidency concluded that work would continue at technical level, bearing in mind the financial and human resources needed. The outcome of the respective discussions would be integrated into the more general Council conclusions to be prepared on the existing networks in the justice area.

6. European Public Prosecutor's Office (EPPO) - state of play

The Commission gave a presentation on the latest developments in relation to the establishment of the EPPO, referring to the state-of-play report circulated to delegations (5704/19). It drew attention to the work done by the selection panel, which had issued a shortlist of three candidates for the post of European Chief Prosecutor on 4 February 2019.

Reference was made to the work done in the framework of the EPPO expert group on the following topics: the conditions of employment of the European delegated prosecutors, the internal rules of procedure and the Case Management System (CMS); the progress made in relation to the EPPO premises; and the preparation of the 2020 budget and the recruitment of EPPO staff. The work currently underway in the Council in relation to the draft Council implementing decision on transitional rules was also mentioned.

Some delegations expressed concerns regarding the involvement of Member States in policy choices concerning the CMS. The Commission noted that such issues could more appropriately be addressed at expert level.

Finally, the Presidency indicated that the question of the process to be followed in the Council for the appointment of the European Chief Prosecutor would be addressed by Coreper at its meeting on 13 February 2019.

7. Digital criminal justice - follow-up to the December JHA Council

The Committee took note of a presentation by Eurojust on the work that had been carried out on 'digital criminal justice' following the JHA Council in December. The Commission confirmed that it was cooperating on this initiative together with Eurojust, and indicated that it would launch a feasibility study.

EE expressed its support for Eurojust and the Commission on this initiative, explaining the digital efforts it had made at national level and offering any help where appropriate.

The Presidency expressed its satisfaction that Eurojust and the Commission were working together on this initiative, and stated that it intended to put the item on the agenda of the next CATS meeting if there were any substantial developments to report.

8. Reports

- a) Right to interpretation and translation in criminal proceedings**
- b) Right to information in criminal proceedings**
- c) Trafficking in human beings**

The Committee took note of presentations by the Commission on the reports set out in 15854/18, 15855/18 and 15677/18 + ADD 1. For the presentation on the second report on trafficking in human beings, the Commission was represented by the Anti-Trafficking Coordinator.

9. AOB

a) Implementation of EU instruments

The Committee took note of the tables set out in 5640/19 containing:

- i) the dates of adoption of (post-Lisbon) Directives and Regulations in the field of EU criminal law (both COPEN and DROIPEN, with the exception of instruments relating to bodies/agencies);
- ii) the dates of implementation/application of these instruments in national law; and
- iii) the dates when the (first) reports regarding these instruments have to be submitted.

The Presidency indicated that suggestions regarding these tables could be sent at any time to the Presidency and to the General Secretariat of the Council.

b) Recent developments in the case-law of the CJEU

This item was removed from the agenda, since the Legal Service had no CJEU cases to report on.

c) ETIAS/ECRIS-TCN

FR drew attention to the paper submitted by 12 Member States regarding access by ETIAS to ECRIS-TCN, and asked the Presidency to have the COPEN Working Party look at this.

The Presidency indicated that this request would be transferred to the Chair of that Working Party, reminding FR that this issue would also be dealt with in Coreper on 13 February 2019.
