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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Justice and Home Affairs)
8 and 9 June 2023

CONTENTS

Page

HOME AFFAIRS

1. Adoption of the agenda..... 5
2. Approval of "A" items
 - a) Non-legislative list 5
 - b) Legislative list 6

POLITICAL GOVERNANCE OF THE SCHENGEN AREA ('SCHENGEN COUNCIL')

Non-legislative activities

3. Overall state of the Schengen area 6
4. Visa policy: monitoring of visa free regimes 6

OTHER HOME AFFAIRS ISSUES

Legislative deliberations

5. Asylum and migration management Regulation 7
6. Asylum procedure Regulation 7
7. Any other business..... 7
Current legislative proposals

Non-legislative activities

8. Countering security challenges: assessment by the Intelligence Advisory Board..... 8
9. Combatting violent extremism and terrorism 8
10. Access to data for effective law enforcement / "going dark" 8
11. Russia's aggression against Ukraine 8
 - a) Implications for internal security
 - b) Temporary protection for people fleeing the war
12. External dimension of migration including the situation in Tunisia 8

13.	Conclusions on strengthening whole-of-society resilience in the context of civil protection, including preparedness to Chemical, Biological, Radiological and Nuclear (CBRN) threats	8
14.	Any other business.....	8
	a) Brdo Process ministerial meeting, Portorož, 3 and 4 April 2023	
	b) EU-US Justice and Home Affairs ministerial meeting (Stockholm, 20-21 June 2023)	
	c) Work programme of the incoming Presidency	

JUSTICE

Legislative deliberations

15.	Directive against strategic lawsuits against public participation ("anti-SLAPP Directive").....	9
16.	Directive amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims	9
17.	Directive on combating violence against women and domestic violence.....	9
18.	Directive on the definition of criminal offences and penalties for the violation of Union restrictive measures	9
19.	Directive on asset recovery and confiscation	10
20.	Any other business.....	10
	Current legislative proposals	

Non-legislative activities

21.	European Public Prosecutor's Office (EPPO).....	10
22.	Russia's aggression against Ukraine: investigation and prosecution of violations of EU restrictive measures.....	10
23.	Judicial aspects of the fight against organised crime: effective investigations and fundamental rights	10
24.	Conclusions on the safety of LGBTI persons in the European Union	10
25.	EU accession to the European Convention on Human Rights	10

26. Any other business.....	10
a) EU-US Justice and Home Affairs ministerial meeting (Stockholm, 20-21 June 2023)	
b) Conference of Ministers of Justice of the Council of Europe Riga, 11 September 2023	
c) Transfer of personal data to third states	
i) Review of the adequacy decision for Japan	
ii) Ongoing work on the EU-US data privacy framework	
d) Justice scoreboard 2023	
e) Diplomatic Conference for the adoption of the Mutual Legal Assistance (MLA) Convention Ljubljana, 15 to 26 May 2023	
f) Work programme of the incoming Presidency	
 ANNEX - Statements for the Council minutes.....	 12

THURSDAY 8 JUNE 2023

HOME AFFAIRS

1. Adoption of the agenda

The Council adopted the agenda set out in document 9917/23.

2. Approval of "A" items

a) Non-legislative list

9918/23

The Council adopted all "A" items listed in the document above, including all linguistic COR and REV documents presented for adoption. Statements to these items are set out in the Addendum.

For the following items the documents should read as follows:

General Affairs

10. Council Decision authorising the opening of negotiations with the UK on cooperation and exchange of information in competition matters
Adoption
approved by Coreper, Part 2, on 07.06.2023

C 9471/23 + COR 1
+ ADD 1
9466/23
+ ADD 1
+ **ADD 1 COR 1**
+ ADD 2
+ **ADD 2 COR 1**
UK

Foreign Affairs

13. Council Decision on the signing and conclusion of the agreement between the European Union and the government of the Islamic Republic of Mauritania on the establishment and operation of the Regional Advisory Coordination Cell
Adoption
approved by Coreper, Part 2, on 07.06.2023

7858/23 + **COR 1**
6951/23
6952/23
CORLX

- b) **Legislative list** (Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

9919/23

General Affairs

1. **Statute of the Court of Justice**

General approach

approved by Coreper, Part 2, on 31.05.2023

① 9742/23

JUR

COUR

The Council reached a general approach on the draft Regulation amending Protocol No 3 on the Statute of the Court of Justice of the European Union (legal basis: Article 281 TFEU).

Justice and Home Affairs

2. **Revision of the Single Permit Directive**

General approach

approved by Coreper, Part 2, on 24.05.2023

①C 9371/1/23 REV 1

+ REV 1 ADD 1

9474/23

MIGR

The Council reached a general approach on the draft of the Single Permit Directive (revised) (legal basis: Article 79(2) TFEU). A statement by Hungary is set out in the Annex.

POLITICAL GOVERNANCE OF THE SCHENGEN AREA ('SCHENGEN COUNCIL')

Non-legislative activities

3. Overall state of the Schengen area

Exchange of views

9504/23

10059/23

4. Visa policy: monitoring of visa free regimes

Exchange of views

9508/23

10099/23

OTHER HOME AFFAIRS ISSUES

Legislative deliberations

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

5. Asylum and migration management Regulation¹

 10084/23

General approach

The Council reached a general approach on the proposed asylum and migration management Regulation as set out in document 10443/23. Statements by Bulgaria, Czechia, Hungary, Ireland and Malta as well as a joint statement by Germany, Ireland, Luxembourg and Portugal are set out in the Annex. Poland objected to the way of proceeding and the provisions proposed in the document.

6. Asylum procedure Regulation¹

 10083/23

General approach

The Council reached a general approach on the proposed asylum procedure Regulation as set out in document 10444/23. Statements by Bulgaria, Czechia, Hungary, Ireland and Malta as well as a joint statement by Germany, Ireland, Luxembourg and Portugal are set out in the Annex. Poland objected to the way of proceeding and the provisions proposed in the document.

7. Any other business

9877/23



Current legislative proposals

Information from the Presidency

The Council took note of the information provided by the Presidency on the state of play of different legislative proposals.

¹ Exceptionally in the presence of the Schengen Associated States.

Non-legislative activities

- | | | | |
|-----|---|---|--------------------|
| 8. | Countering security challenges: assessment by the Intelligence Advisory Board ^{1 2}
<i>Presentation by the Presidency of the Counter-Terrorism Group (CTG)</i> |  | |
| 9. | Combatting violent extremism and terrorism ^{1 2}
<i>Exchange of views</i> |  | 9425/23 |
| 10. | Access to data for effective law enforcement/ “going dark” ³
<i>State of play</i> | | 9369/23 |
| 11. | Russia’s aggression against Ukraine ⁴
a) Implications for internal security
b) Temporary protection for people fleeing the war
<i>State of play</i> | | 9334/23 |
| 12. | External dimension of migration including the situation in Tunisia ^{1 5}
<i>State of play</i> | | |
| 13. | Conclusions on strengthening whole-of-society resilience in the context of civil protection, including preparedness to Chemical, Biological, Radiological and Nuclear (CBRN) threats
<i>Approval</i> | | 9798/23 |
| 14. | Any other business
a) Brdo Process ministerial meeting, Portorož, 3 and 4 April 2023
<i>Information from Slovenia</i>
b) EU-US Justice and Home Affairs ministerial meeting (Stockholm, 20-21 June 2023)
<i>Information from the Presidency</i>
c) Work programme of the incoming Presidency
<i>Presentation by Spain</i> | | 9843/23
9336/23 |

² The EU agency Europol and the President of the Counter Terrorism Group (CTG) were invited to this point.

³ The EU agencies Europol and Eurojust were invited to this point.

⁴ The EU agencies Europol, Eurojust, EUAA and Frontex were invited to this point.

⁵ The EU agencies Frontex and EUAA were invited to this point.

FRIDAY 9 JUNE 2023


JUSTICE

Legislative deliberations

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

- 15. Directive against strategic lawsuits against public participation ("anti-SLAPP Directive")**  9263/23
General approach

The Council reached a general approach on the proposed Directive. A statement by Hungary is set out in the Annex.

- 16. Directive amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims**  9313/23
General approach

The Council reached a general approach on the proposed Directive.

- 17. Directive on combating violence against women and domestic violence**  9305/23 + ADD 1-2
General approach

The Council reached a general approach on the proposed Directive. Statements by Bulgaria, Hungary and Poland and joint statements by Belgium, Greece, Italy and Luxembourg, as well as by Czechia and Estonia, are set out in the Annex.

- 18. Directive on the definition of criminal offences and penalties for the violation of Union restrictive measures**  9312/23
General approach

The Council reached a general approach on the proposed Directive.

19. **Directive on asset recovery and confiscation**  9314/23
General approach

The Council reached a general approach on the proposed Directive.

20. **Any other business** 9877/23
Current legislative proposals
Information from the Presidency

The Council took note of the information provided by the Presidency on the state of play of different legislative proposals in the field of justice.

Non-legislative activities




21. European Public Prosecutor's Office (EPPO)⁶ 7065/23
State of play
22. Russia's aggression against Ukraine: investigation and prosecution of violations of EU restrictive measures³ 9315/23
Exchange of views
23. Judicial aspects of the fight against organised crime: effective investigations and fundamental rights³ 9720/23
Exchange of views
24. Conclusions on the safety of LGBTI persons in the European Union 9656/1/23 REV 1
Approval
25. EU accession to the European Convention on Human Rights 9292/23
State of play
26. Any other business
- a) EU-US Justice and Home Affairs ministerial meeting 9336/23
(Stockholm, 20-21 June 2023)
Information from the Presidency
- b) Conference of Ministers of Justice of the Council of Europe Riga, 11 September 2023 9861/23
Information from Latvia

⁶ The European Chief Prosecutor was invited to this point.

- c) Transfer of personal data to third states
 - i) Review of the adequacy decision for Japan
 - ii) Ongoing work on the EU-US data privacy framework

Information from the Commission
- d) Justice scoreboard 2023
Information from the Commission
- e) Diplomatic Conference for the adoption of the Mutual Legal Assistance (MLA) Convention
Ljubljana, 15 to 26 May 2023
Information from Slovenia
- f) Work programme of the incoming Presidency
Presentation by Spain

10061/1/23 REV 1

-
-  First reading
 -  Restricted item
 -  Item based on a Commission proposal
-

Statements to the legislative "B" items set out in doc. 9917/23

Ad "B" item 5: **Asylum and migration management Regulation**
General approach

Ad "B" item 6: **Asylum procedure Regulation**
General approach

STATEMENT BY BULGARIA

“Bulgaria would like to confirm its commitment to the common efforts for finalising the negotiations on the Pact on Migration and Asylum. We have already made a step forward by implementing a Pilot project in the area of asylum, return, border management and international cooperation that will lead to some changes of the national practices and legislation. Bulgaria’s willingness to move forward with the Pact was demonstrated also by supporting the general approaches for the Screening Regulation and the Eurodac Regulation.

We believe that the new asylum system should provide for fully-fledged and structured common European response while ensuring a balance between solidarity and responsibility. The system should be operationally functional, fair and simple. Legitimate concerns of the Member States regarding their geographical location should be taken into account and frontline Member States should not bear an additional and disproportionate burden. On APR proposal we still have concerns on the border procedures linked to the numbers for adequate capacity and the use of the phrase „authorise to enter“. On AMMR proposal, Bulgaria would like to see that there is an EU common response also for situations of risk of migratory pressure. We believe it is in the EU's interest that frontline Member States are supported for border protection purposes to prevent the migration crisis. Further efforts are also needed to determine the right time periods for cessation and shifting of responsibility in order to strike the right balance between the solidarity and responsibility.

While recognizing the importance to move forward with the reform, at this stage of negotiations Bulgaria cannot accept the compromise texts on AMMR and APR proposed by the Presidency and will abstain.

In addition, Bulgaria would like to remind its sensitivity regarding the use of gender related terms in APR given the decision of the Constitutional court of the Republic of Bulgaria.”

STATEMENT BY THE CZECH REPUBLIC

The Czech Republic highly appreciates the efforts of the Swedish Presidency in negotiating the compromise on the Proposal for a Regulation of the European Parliament and of the Council on asylum and migration management and amending Council Directive (EC) 2003/109 and the proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund] and the Amended proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, while building on the concept developed during the Czech Presidency.

In reference to article 7b point 1(ba) of the Proposal for a Regulation of the European Parliament and of the Council on asylum and migration management and amending Council Directive (EC) 2003/109 and the proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund], the Czech Republic welcomes the fact that in line with this provision the pressure deriving from the presence of Ukrainians in the Czech Republic will be fully taken into account so that the Czech Republic can be exempted from providing solidarity to other Member States as long as this pressure stays, acknowledging that the Czech Republic hosts the highest number of persons fleeing the war in Ukraine per capita.

Moreover, while referring to the European Council Conclusions of 9 February 2023, the Czech Republic welcomes that the European Commission will soon launch a call to provide additional financial support to the Member States under pressure in particular for those who carry the largest burden of medical, education and living costs of refugees displaced from Ukraine.”

STATEMENT BY HUNGARY

“Hungary remains committed to the reform of the Common European Asylum System, however, we believe that only a system which minimises and ultimately eliminates the incentives for illegal migration and which aims to prevent persons who wish to abuse the asylum system from entering the European Union, is an acceptable solution.

To develop such a system, it is essential to strike a balance between responsibility and solidarity, but we believe that this balance has not been achieved in the two draft regulations.

Despite the fact that Hungary is not a frontline Member State in terms of illegal migration, as a Member State with significant external borders, it remains responsible for eliminating the migratory pressure on the European Union. In addition to this responsibility, the current draft APR Regulation would oblige Hungary to ensure a much higher level of capacity for carrying out border procedures than other Member States, which is unfair and unrealistic given our geographical location.

Since 2015, Hungary has been committed to the protection of the external borders of the European Union, without EU support, in line with its obligations under the Schengen acquis, which efforts should also be recognised as a form of solidarity.

On the contrary, the proposed new legal framework does not consider resources from national budgets spent on the protection of external borders of the European Union as solidarity, but instead imposes additional obligations both in terms of providing solidarity to other Member States and responsibility for stopping illegal migration.

In line with our consistent position, Hungary cannot support the establishment of a solidarity mechanism based on the mandatory distribution of migrants, and therefore does not agree with the introduction of responsibility offsets as a mandatory element of the solidarity framework.

We remain firmly convinced of the need to develop a system which aims at tackling the root causes of illegal migration and stopping this phenomenon as close as possible to the countries of origin, already outside the European Union.

In our view, neither of the two draft regulations can deliver the above objectives and would only create further pull-factors for illegal migration, making it impossible to exploit the potential of the safe third country concept.

Taking into account the aforementioned reasons, Hungary is not in a position to accept the general approach of the draft Asylum and migration management Regulation (AMMR) and Asylum procedure Regulation (APR).”

STATEMENT BY IRELAND

“Ireland welcomes the proposed General Approaches on the Asylum and Migration Management Regulation (‘AMMR’) and the Asylum Procedures Regulation (‘APR’) and in the spirit of compromise can support both.

These measures are pursuant to Article 78(2) and Article 79(2) TFEU and as these Articles are within Title V of Part Three of the Treaty on the Functioning of the European Union, Protocol No. 21 to the TEU and the TFEU applies. Pursuant to Protocol 21, Ireland has an entitlement to opt-in to the proposed measures within three months of their presentation to the Council, or at any time after the adoption of the measures.

Ireland did not exercise the entitlement to join the proposals upon presentation but has been actively engaged with the negotiations. In particular, Ireland has sought to address issues around variable geometry and references in the proposals to measures in which Ireland does not participate.

Such references cannot create a positive obligation on Ireland to implement measures in which Ireland does not participate. For the purposes of making the text clearer as regards Ireland’s non-participation in certain underlying measures, Ireland proposed a number of targeted minor technical amendments to the Asylum and Migration Management Regulation (‘AMMR’) and Asylum Procedures Regulation (‘APR’).

Unfortunately, due to the intensity and pace of negotiations, it has not proved possible to secure the minor amendments in advance of an agreement on the General Approaches in respect of the AMMR and APR.

Ireland understands and welcomes that the Presidency has committed to addressing the larger issue of variable geometry, as well as Ireland's request for a small number of technical amendments to reflect our position, at a later stage in the negotiations. While Ireland would have preferred to have our specific concerns addressed in advance of the General approaches; which we share the Presidency's ambition to achieve, Ireland will in the interest of compromise agree with the Presidency approach."

STATEMENT BY MALTA

"The reform of the Common European Asylum System remains of key importance to provide for fair burden sharing and for effective solidarity. In this regard, while Malta is grateful for the efforts made, Malta is of the view that the latest compromise on the Asylum and Migration Management Regulation and on the Asylum Procedures Regulation does not provide for the necessary balance.

Malta, as a small Island Member State with particular vulnerabilities, already faces significant burden through the current acquis and the procedures set out in the reform further increase responsibilities, including through mandatory border procedures and increased timelines of responsibilities, while the solidarity mechanism remains flexible and does not provide the necessary assurances that the needs identified will be fully met.

Malta, is therefore abstaining on the general approach on the Asylum and Migration Management Regulation and on the Asylum Procedures Regulation as they currently stand."

JOINT STATEMENT BY GERMANY, IRELAND, LUXEMBOURG AND PORTUGAL

Germany, Ireland, Luxembourg and Portugal thank the Council Presidency for its work, which, after extremely difficult negotiations, made possible the general approaches on the proposals for an Asylum Procedure Regulation and for an Asylum and Migration Management Regulation at the Council of EU Home Affairs Ministers.

Germany, Ireland, Luxembourg and Portugal point out that exemptions from the border procedure for minors and their family members remain very important to us. We will continue to advocate for this in the trilogue negotiations.

Ad "B" item 15: Directive against strategic lawsuits against public participation ("anti-SLAPP Directive")
General approach

STATEMENT BY HUNGARY

"Hungary is committed to protecting the freedom of expression. Accordingly, we support the objectives of the proposed Directive. In particular, because it ensures that the range of available instruments against strategic lawsuits against public participation is as broad as possible. Therefore, in the spirit of compromise we can support the general approach as proposed by the Presidency. However, we maintain our position that a proper definition of "cross-border implications" based on objective grounds would be essential to ensure legal certainty and to make proceedings more predictable for both parties and legal practitioners. The omission of such a definition might give rise to interpretations that are not consistent with the objectives pursued by the proposal."

STATEMENT BY BULGARIA

The Republic of Bulgaria attaches great importance to the promotion and protection of fundamental rights, an important part of which is the equality between women and men. We are and will remain dedicated to the principles and values of the European Union as enshrined in the Treaties.

The Republic of Bulgaria is strongly committed to combatting domestic violence and violence against women. The Bulgarian government and civil society are actively engaged in preventing such forms of violence and in providing protection and support to their victims. We consider the proposal for a directive of the European Parliament and of the Council on combating violence against women and domestic violence (hereinafter “the Directive”) as important milestone in combating violence against women and girls, protecting victims and punishing offenders that will support the EU Member State to advance their national legislation.

However, in 2018, the Constitutional Court of the Republic of Bulgaria adopted a decision stating that the Council of Europe’s Convention on Preventing and Combatting Violence against Women and Domestic Violence (“Istanbul Convention”) promotes legal concepts that intend to differentiate between “sex” as a biological (women and men) category and “gender” as a social construct. In 2021, the Constitutional Court adopted another decision clarifying that the notion “sex” used in the Constitution could only be regarded in the sense of its biological determination.

In light of the abovementioned decisions, the Republic of Bulgaria declares that the term “gender” used in the Directive and any of its derivative terms are understood as encompassing only the male and female sex in their biological meaning. The Republic of Bulgaria also declares that it does not accept the concept of gender and the gender-based approach, as defined in the Istanbul Convention. Those concepts are considered incompatible with the main principles of the Bulgarian Constitution and the binary understanding of the sex.

Lastly, the Republic of Bulgaria will only accept the translation in Bulgarian of the term “gender” as “пол” in the text of the Directive.”

STATEMENT BY HUNGARY

“Hungary has concerns about the legal basis of the proposal on the Directive on combating violence against women and domestic violence. Article 83 of the Treaty on the Functioning of the European Union provides that “[t]he European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.” This Article lists “computer crime” among the so-called eurocrimes. However, this cannot be construed to mean that the legislative powers established by this Article would extend to the harmonisation of all criminal offences that are committed online or by using computers.

Furthermore, Hungary recognises and promotes equality between men and women in accordance with the Fundamental Law of Hungary and the primary law, principles and values of the European Union, as well as commitments and principles stemming from international law. Equality between women and men is enshrined in the Treaties of the European Union as a fundamental value. In line with these and its national legislation, Hungary interprets the term “gender” as a reference to “sex” in the Directive on combating violence against women and domestic violence.”

STATEMENT BY POLAND

“Poland, fully respects the right to equal treatment of women and men, constantly strives to eliminate all forms of violence against women and domestic violence likewise to strengthen the protection of victims. Simultaneously, Poland does not support the adoption of the general approach to the entire draft Directive of the European Parliament and the Council on combating violence against women and domestic violence in the current wording and procedure.

In view of the opinion of the Council Legal Service, The Polish Government believes that the appropriate procedure for the adoption of the aforementioned draft Directive would be, initially, the adoption of a Council decision to extend the catalogue of eurocrimes under the procedure laid down in Article 83(1) par. 3 TFEU. The proposed harmonisation refers to offences that are difficult to classify in this group. Indeed, not all the offences indicated in the proposal can be considered to be clearly covered by the notion of 'sexual exploitation of women and children' or 'computer crime'.

Furthermore, it should be recalled that the attempt to extend the list of offences under Article 83(1) TFEU to include a new offence of "hate speech", as envisaged in the draft Council Decision COM (2021) 777, had not been successful. European Union law does not use the concept of hate crime, and the proposed Article 10 can be considered as a circumvention of the Treaty's unanimity procedure and confirms comments on the incorrect legal basis of this draft Directive.

At the same time, it should be noted that Articles 2 and 3(3) of the Treaty on European Union, Article 10 of the Treaty on the Functioning of the European Union and Article 23 of the EU Charter of Fundamental Rights refer explicitly to equality between women and men and do not use the term 'gender', but “sex”. The concept of 'gender' does not have a definition in EU fundamental law, and thus remains vague and ambiguously understood in the Member States. Therefore, Poland reserves itself to interpret the term "gender", used in the text of the Proposal, as identical with the unambiguous and well-established in the law of the European Union term "sex".

In the opinion of Poland, this initiative is another example of an attempted violation of the unanimity voting rule and seeks to extend EU competences without amending the Treaties of the European Union. Poland unequivocally disapproves this type of practice. Accordingly, Poland will seek to eliminate the obligations derived from Directive if adopted, by appropriate national mechanisms entailing an examination of the constitutionality of the Council's and Parliament's interpretation of the Treaties of the European Union, in the scope of depriving Poland the possibility not to agree in accordance with the unanimity voting rule in Article 83(1) par. 3 TFEU. Therefore, in Poland's consideration it constitutes an ultra vires action of the European Union institutions which cannot bind the Member States.”

JOINT STATEMENT BY BELGIUM, GREECE, ITALY AND LUXEMBOURG

“Joint statement by Belgium, Greece, Italy and Luxembourg for the COREPER and Council minutes on the general approach on the proposal for a directive of the European parliament and the Council on combating violence against women and domestic violence

Belgium, Greece, Italy and Luxembourg strongly support the European Commission's proposal for a directive on combating violence against women and domestic violence. Gender-based violence, and in particular sexual violence, is a scourge that must be addressed in unison. This type of violence has shown to be so entrenched in our society that a national response, already pervasive across Europe, is no longer sufficient. The figures are as worrying as ever and joint action is now required.

We furthermore support the Presidency's compromise text in order to reach a general approach at the JHA Council meeting on 9 June 2023.

However, we strongly regret the lack of political ambition with regard to the criminalisation of the offence of rape. In particular, we do not share the analysis of a number of Member States that the legal basis in the treaties would be inadequate to establish minimum rules on the offence of rape.

In its opinion, the Legal Service of the Council has stated that the “Council could [...] choose to endorse a more extensive reading of the legal basis as regards the notion of sexual exploitation of women and children, on the basis of two aspects [...], namely i) the use of the coordinating conjunction “and” in the description of the area of crime in Article 83(1) TFEU, and ii) the fact that in the Child Sexual Abuse and Sexual Exploitation Directive, the legal basis of “sexual exploitation of children” has been interpreted somewhat extensively and used in order to establish minimum rules concerning an offence where the exploitative element is less present but is rather focused on the use of violence as a form of sexual abuse.” The configuration of society is such that being a woman or a child undoubtedly makes one more vulnerable to sexual violence and constitutes a vulnerability to abuse that can be presumed. This approach justifies reasoning similar to that adopted in the Child Sexual Abuse Directive Article 3, paragraph 5, (iii).

Given the disturbing evolution of gender-based violence in the past decades, these types of crimes are unlikely to significantly decrease without additional EU action. Therefore, we deeply regret this missed opportunity to set minimum rules regarding an effective fight against gender-based violence.”

JOINT STATEMENT BY THE CZECH REPUBLIC AND ESTONIA

“The Czech Republic and Estonia wholeheartedly support the aims of combating violence against women and domestic violence. However, we would like to highlight our concerns about a possible precedent being created with the broad interpretation of the area of *computer crime* within the meaning of Article 83 paragraph 1 of the Treaty on the Functioning of the European Union ("TFEU" or "Treaty"). This provision provides the Union with a competence to establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis. The drafters of the Treaty kept in mind the specific need to safeguard the fundamental aspects of national criminal justice systems as is evident from Article 83 paragraph 3 TFEU. This is also underlined in Article 67 paragraph 1 TFEU which explicitly emphasizes the need to respect different legal systems and traditions of the Member States, which reflects the fact that Justice and Home Affairs matters fall within the core area of the sovereignty of the Member States.

The list of so-called *eurocrimes* in Article 83 paragraph 1 TFEU covers eleven areas of crime, which merit a common Union approach due to their particularly serious nature and typical cross-border dimension. This list can be extended only by a unanimous decision of the Council after obtaining consent of the European Parliament. Keeping this in mind, the interpretation of the list of *eurocrimes* should not be interpreted broadly.

At the EU level, there are two legal instruments based on Article 83 paragraph 1 TFEU with reference to the area of computer crime - Directive 2019/713 and Directive 2013/40/EU. Both of these instruments cover offences that can only be committed through the use of technology, where the devices are both the tool for committing the crime and the target of the crime (cyber-dependant crime). The proposal for a Directive on combating violence against women and domestic violence follows a different logic, the technology itself is not necessary to commit a criminal offense but it is used to increase the scale or reach of "traditional" crimes (cyber-enabled crime).

Consequently, if "computer crime" would be interpreted as covering every act that could be perpetrated by means of a computer system, this would vest the European Union with an unlimited competence to criminalise various conduct unrelated to any other area of offences already listed in Article 83 paragraph 1 TFEU only by reference to the fact that such acts can be perpetrated by means of a computer system. This would not only significantly broaden the scope of EU competences, but it might bring about a spill-over effect, because Member States implementing such legislation would have to ensure that their criminal law forms a coherent whole. Therefore, such new offences would most likely be transposed in a technology neutral way which would mean that despite the reference in EU legislation to the offence being committed by means of a computer system, national transposition would expectedly also cover other forms of committing such an offence.

The Article 10 on incitement to hatred is one of these examples. Establishing minimum requirements of incitement to hatred would have been better suited following an agreement to expand the list of *eurocrimes* in Article 83 paragraph 1 TFEU. This would have allowed for a comprehensive overview of the existing *acquis* to ensure that the offences are well formulated, cover the most serious forms of incitement and do not infringe upon the freedom of expression.”

Statements to the legislative "A" items set out in doc. 9919/23

Ad "A" item 2: **Revision of the Single Permit Directive** *General approach*

STATEMENT BY HUNGARY

“Hungary would like to emphasize its appreciation to the Presidency's efforts to find a compromise in the Council on the recast.

However, there are still elements in the proposal that are not in line with our position. We are opposed to efforts to encourage the mobility of workers within Member States, which poses a serious challenge to the countries of our region. The recast of the Directive would further restrict the space for manoeuvre, particularly with regard to the possibility of changing status and allowing periods of unemployment.

National competences should be retained to ensure that decisions can respond flexibly to labour market needs and changes in these, taking into account the different economic, geographic, cultural and social conditions. We consider it essential to leave Member States the freedom to decide who can enter their territory to work, under what conditions and admission procedure. Therefore, we would like to stress our strong position according to which Hungary does not consider either necessary or appropriate the further harmonisation in the field of legal migration, and in this regard we would like to reiterate our position on legal migration in general.

We acknowledge that the reached compromise is the result of proper negotiations, however, for the reasons mentioned above Hungary abstains from adopting the general approach.”