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CATS 20

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Delegations
Subject: Summary of discussions of the meeting of CATS on 24 February 2020

1. Agenda

The agenda was agreed as set out in CM 1147/20. The Council Legal Service announced that it had no cases from the Court of Justice to report on, so item 9 was taken off the agenda.

2. Mutual recognition – Follow-up to the December 2018 Council Conclusions (5617/20)

a) EU financing: during a lively debate, Member States expressed the need for a more simplified, user-friendly procedure for requesting funds for justice projects. It was also observed by certain Member States that the EU should provide help with submitting applications for funds (e.g. training), as some Member States struggle in this regard.

The Commission said that it was open to improving the application process (e.g. possibilities offered by the new technologies) but stressed that there must be a balance between the expenditure of money and the respect of financial regulations. It would also concentrate on an adequate promotion of grants in order to ensure equality of access to funding between Member States.

b) Information on penitentiary establishments and prison conditions: the FRA (Fundamental Rights Agency) presented the new criminal detention database, released at the end of 2019, which provides relevant information on selected aspects of detention conditions (<https://fra.europa.eu/en/databases/criminal-detention>).

Member States generally expressed satisfaction with this database, stressing that it should be updated regularly. Continued funding should be sought quickly. Some Member States suggested the introduction of additional aspects related to detention conditions (healthcare, work in prison, regulations on female prisoners, etc.). Some Member States also called for the inclusion of a brief factsheet for each Member State. It was highlighted, however, that a simplified assessment of the information included in the database should be avoided. Finally, one Member State suggested to link the database to the e-justice portal.

c) e-Evidence Digital Exchange System: the Commission gave a presentation on the e-Evidence Digital Exchange System (eEDES). The Commission will continue to analyse the production readiness of Member States and gather information on national implementation plans with a view to providing support.

d) Handbook/Guidelines: while some Member States have national guidelines/handbooks, most Member States reported that they are generally satisfied with the EU Handbooks on the EAW and on custodial sanctions provided by the Commission and that they had not therefore established their own guidelines. Some Member States said they had drafted specific guidelines on cooperation with the UK following Brexit.

e) Notifications/declarations on mutual recognition instruments: Member States were invited to inform the Council General Secretariat of any modifications that should be made to the (revised) tables that were distributed, and to submit new/revised notifications where necessary.

3. e-Evidence

a) State of play of ongoing legislative work and international negotiations (COE, US, UN)

(5708/20): Delegations exchanged views on the internal and external developments and the role of the EU in the area of cross-border access to e-evidence on the basis of the Presidency discussion paper set out in doc. 5708/20.

Highlighting the interconnection between the different negotiations, the Commission stressed that the negotiations on the Second Additional Protocol to the Budapest Convention had taken on a new meaning since the recent development at UN level. It added that the development of the different frameworks constituted a reason for concern, making it all the more important to make progress at CoE level.

Member States considered important to move all these ongoing processes forward, while considering their close interlinkages. They also expressed some concerns regarding the developments in the UN regarding the new international treaty. The latter would require further discussions in order to define the EU position.

With regard to the internal legislative process delegations stated their readiness to engage with the European Parliament as soon as possible in order to finalise the internal EU rules.

b) Judicial aspects of the SIRIUS project to improve EU-US cooperation on cross-border

evidence: Eurojust presented judicial aspects of the SIRIUS project to improve EU-US cooperation on cross-border access to e-evidence, including the products developed on the platform for the benefit of practitioners. Phase II of the project will aim to extend the duration until 2023, broaden the geographical scope beyond US-based OSPs (to include, for example, Canada, Japan and Switzerland), create repositories of legal information (legal instruments and case law), and tackle the possible challenges related to the combination of the applicable legal framework.

c) Report on the conference ‘Digital cross-border cooperation in criminal justice’ (Brussels,

21-22 January 2020) (5714/20): The Presidency and the Commission provided information on the conference.

Following this a representative of the EXEC project (Electronic Xchange of e-Evidence with e-CODEX) presented this project. EXEC's main objective is to enable Member States to exchange EIO and related e-Evidence fully electronically through the 'e-Evidence Reference Implementation'.

4. EU – US relations: exchange of views on the practical implementation of the 2003 MLA Agreement and the 2003 Agreement on Extradition

Member States discussed the implementation of the EU-US Extradition and Mutual Legal Assistance (MLA) agreements, on the basis of the discussion paper prepared by the Presidency. Member States in general assessed positively the cooperation with the US. However, the discussion highlighted a number of practical cooperation issues in respect of which procedures can be improved. Certain Member States underlined the usefulness of their bilateral channels for dialogue with the United States on extradition and MLA matters, which could be complemented by the establishment of an EU-US expert group to examine concrete implementation challenges. The Presidency will prepare a summary of the CATS discussion and present it at the 5-6 March EU-US SOM in Rovinj.

5. EPPO – State of play (5629/20)

The Presidency stressed that completing the process for the appointment of the European Prosecutors is a priority and that the aim is to adopt the relevant Council Decision by the end of April. The Presidency also recalled the work done in relation to the EPPO's relations with international organisations and third countries, which will continue at technical level.

The Commission provided an update on the establishment of the EPPO, referring to the work done on the Internal Rules of Procedure and the conditions of employment of European Delegated Prosecutors (EDPs), to the progress achieved on the Central Management System (contract awarded in February) and to the budget (the budget for 2020 had already been approved, though the European Chief Prosecutor had asked for an increase; the 2021 budget would follow the budgetary rule). The Commission also informed delegations that, as the current interim administrative Director had resigned, it was working to identify a suitable replacement. The Commission invited Member States to quickly proceed to the full transposition of the PIF Directive.

MT said it had submitted a list of its three candidates for the post of European Prosecutors at the end of January, and that they were now expected to be assessed by the selection panel at its meeting on 13 March 2020.

Many delegations underlined the importance of a timely establishment of the College of European Prosecutors. Concerns were expressed as to whether the 2020 budget would enable the EPPO to be fully operational and in a position to handle all the cases falling under its remit. Some delegations considered that the salaries of the EDPs were not sufficient to attract the best candidates. Other delegations insisted on the importance of EDPs retaining the possibility, as provided for under the Regulation, to work half-time for the EPPO and for their national administration.

The Commission noted the concerns expressed by delegations. Drawing attention to the fact that some aspects of the process were not under its control, the Presidency restated its full commitment to appointing the European Prosecutors at the earliest opportunity.

6. Victims' rights (5632/20)

The Commission said it was working on a report on the implementation of the Victims' Rights Directive (2012/29/EU) and on an EU Strategy on Victims' Rights, which should be ready in June.

In view of time constraints, the Presidency asked the Member States to send their replies to the questions in 5632/20 in written form, and said that the issue of victims' rights would be reverted to at a forthcoming meeting of the Working Party (possibly on 30 March in COPEN).

7. Ongoing reflections regarding the definition of terrorism in the Council of Europe (5710/20)

The Commission emphasised that there is merit in finding a common definition of terrorism at Council of Europe level. It observed that the definition of terrorism should be based on two requirements: crime of an objectively serious nature and terrorist intent. The current definition by the Council of Europe was both too narrow (not including cyber issues) and too broad (not restricted to terrorist intent).

The Commission noted that the approach taken by the Council of Europe Committee on Counter-Terrorism (CDCT) sets out possible elements of a definition of terrorism that seem closely aligned to the definition of terrorist offences in EU Directive 2017/541. Therefore, the Commission suggested supporting the CDCT without adding additional elements.

Almost all Member States that took the floor said that they would not send written contributions to Strasbourg, or at least not any that diverged from the Commission opinion. The Presidency invited Member States that wished to make any observations to submit them first to the Presidency.

8. Information tables

- **International agreements that concern EU competences in the area of criminal law (5635/20):**

The Presidency urged Member States to ratify the relevant instruments.

- **Transposition and application of EU criminal law instruments (5651/20):**

The Presidency referred to the revised tables drawn up by the General Secretariat and encouraged Member States that still had to make (revised) notifications to do so as soon as possible.

The Commission reported a weak level of transposition of Directives, in particular with regard to procedural safeguards (notably legal aid and procedural rights for children) and victims' rights. Member States were encouraged to take appropriate measures. Member States were also encouraged to send their missing notifications on Directive 2011/99/EU (European Protection Order) and Directive 2014/41/EU (European Investigation order). The Commission also informed about the expected adoption of several implementation reports in the near future.

9. (Item cancelled)

10. AOB

a) Extradition of EU citizens to third countries: LV explained its concerns on the issue of extradition of EU citizens to third countries, with a view to the forthcoming discussions in the Council on 13 March 2020. LT also provided information on this issue. The Presidency announced that this issue would shortly be placed on the agenda of a Working Party meeting for further reflection (probably the Friends of the Presidency COPEN on 4 March, afternoon).

b) Kyoto Congress (20 - 27 April 2020): The Commission provided information on the negotiations that are ongoing in Vienna. The Presidency announced that this issue would shortly be put on the agenda of a Working Party meeting for further reflection (probably the Friends of the Presidency COPEN on 4 March, afternoon).

c) Follow-up reports: the Presidency reminded delegations to present follow-up reports to the 8th round of Mutual Evaluations (see WK 2097/2020).
