



Council of the
European Union

Brussels, 1 July 2024
(OR. en)

11239/24
PV CONS 32
JAI 1051
COMIX 290

DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Justice and Home Affairs)
13 and 14 June 2024

HOME AFFAIRS

1. Adoption of the agenda

The Council adopted the agenda set out in document 10690/24, with the exception of the item number 4 “Schengen Declaration”.

Approval of ‘A’ items

2. a) Non-legislative list

10692/24

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.

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

10693/24

Transport

1. Revision of the Regulation on Union guidelines for the development of the trans-European transport network (TEN-T)



10209/24 + ADD 1
REV 2
PE-CONS 56/24 +
ADD 1-29

Adoption of the legislative act

The Council approved the European Parliament's position at first reading and the proposed act has been adopted pursuant to Article 294(4) of the Treaty on the Functioning of the European Union (legal basis: Article 172 TFEU). Statements to this item are set out in the Annex.

Justice and Home Affairs

2. Directive amending Directive 2012/29/EU on the rights of victims



10255/24 +
ADD 1-2
JAI

General approach

The Council reached a general approach on the proposed Directive as set out in the document above. Statements by Bulgaria, and Slovakia are set out in the Annex.

3. Regulation on procedural rules relating to the enforcement of the General Data Protection Regulation




10288/24
DATAPROTECT

General approach

The Council reached a general approach on the Regulation on procedural rules relating to the enforcement of the General Data Protection as set out in document 10288/24.

4. **Regulation establishing an EU Talent Pool**
General approach

 10602/24 + COR 1
+ ADD 1-2
MIGR

The Council reached a general approach on the Regulation establishing and EU Talent Pool as set out in the document above.

Statements by the Netherlands and Hungary are set out in the Annex.

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


Non-legislative activities

- | | | |
|----|--|-------------------|
| 3. | Overall state of the Schengen area | |
| | a) Commission State of Schengen Report 2024 | 9012/24 + ADD 1-3 |
| | b) Priorities for the Schengen Council Cycle 2024-2025 | |
| | <i>Exchange of views</i> | 10489/24 |
| 4. | Schengen Declaration | 10490/24 |
| | <i>Approval</i> | |
| 5. | The future of EU visa policy | 10258/24 |
| | <i>Exchange of views</i> | |
| 6. | Implementation of interoperability | 10845/24 |
| | <i>State of play</i> | |
| 7. | Any other business | |

OTHER HOME AFFAIRS ISSUES

Legislative deliberations

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

- | | | |
|----|--|--|
| 8. | Regulation laying down rules to prevent and combat child sexual abuse |  10666/24 |
| | <i>Progress report</i> | |

The Council took note of the progress report on the Regulation laying down rules to prevent and combat child sexual abuse.

9. Any other business

Current legislative proposals

10483/24

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 home affairs.

Non-legislative activities

10. Pact on Migration and Asylum: implementation^{1, 2}

a) Presidency follow-up

10791/24

b) Common implementation plan for the Pact

10749/24

State of play

+ ADD 1-2

11. Access to data for effective law enforcement: presentation of the recommendations of the High-Level Group³

10477/24

Exchange of views

12. Consequences of Russia's aggression against Ukraine

a) Internal security^{1, 4}

State of play

b) Implementing Decision extending temporary protection as introduced by Implementing Decision (EU) 2022/382 (Legal basis: Article 4(2) of Council Directive 2001/55/EC of 20 July 2001)

(*) 10709/24 + COR 1

Political agreement/agreement in principle

13. Countering security challenges^{1, 5}



10406/24 + COR 1

a) Assessment by the Intelligence Advisory Board

Presentation by the Presidency of the Counter Terrorism Group (CTG)

State of play

b) Preventing and countering violent extremism and terrorism

State of play

¹ Exceptionally, in the presence of the Schengen Associated States.

² The European agencies EUAA, eu-LISA and Frontex are invited for this item.

³ The European agency Frontex is invited for this item.

⁴ The European agencies Europol and Frontex are invited for this item.

⁵ The European agency Europol and the President of the Counter Terrorism Group (CTG) are invited for this item.




- | | | |
|-----|--|----------|
| 14. | The fight against drug trafficking and organised crime | |
| a) | Report by the Presidency ³
<i>State of play</i> | 10270/24 |
| b) | Conclusions on mapping the most threatening criminal networks
<i>Approval</i> | 10512/24 |
| 15. | Strengthening preparedness and crisis response at EU level
<i>Exchange of views</i> | 10433/24 |
| 16. | Any other business | |
| a) | Non-paper on a New SecEUrity Package
<i>Information from Sweden</i> | 10493/24 |
| b) | Ministerial meeting between the United States and the European Union on justice and home affairs (Brussels, 20-21 June 2024)
<i>Information from the Presidency</i> | 10806/24 |
| c) | EU–Middle East and North Africa (MENA) cooperation
<i>Information from Portugal</i> | 10822/24 |
| d) | Work programme of the incoming Presidency
<i>Presentation by Hungary</i> | |

FRIDAY 14 JUNE 2024

JUSTICE

Legislative deliberations

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

- | | | |
|-----|--|--|
| 17. | Regulation on establishing and recognising parenthood in cross-border situations
<i>Policy debate</i> |  9897/24 |
| | <u>The Council</u> held a policy debate on the proposed Regulation. | |
| 18. | Directive harmonising certain aspects of insolvency law
<i>Progress report</i> |  10363/24 |
| | <u>The Council</u> took note of the progress report. | |
| 19. | Directive on combating corruption
<i>General approach</i> |  10247/24
+ ADD 1 REV 1
+ ADD 2-3 |
| | <u>The Council</u> reached a general approach on the proposed Regulation.
Statements by Bulgaria, Estonia and Germany are set out in the Annex. | |


20. **Directive on combating the sexual abuse and sexual exploitation of children**  10065/24
Policy debate

The Council held a policy debate on the proposed Directive.

21. **Any other business**
Current legislative proposals 10483/24
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

22. European Public Prosecutor's Office (EPPO)⁶
State of play
23. Russia's war of aggression against Ukraine: fight against impunity⁷ 10081/24
Exchange of views
24. The fight against drug trafficking and organised crime: report by the Presidency 10270/24
State of play
25. **Conclusions on enhancing and protecting free, open and informed democratic debate**  9861/24 + ADD 1
Approval

The Council approved the conclusions.

Statements by Bulgaria and Hungary are set out in the Annex to these minutes.

26. Implementation of the Istanbul Convention 10485/24
State of play

⁶ The European Public Prosecutor's Office is invited to this item.

⁷ The European agency Eurojust and the International Criminal Court are invited for this item.

27. Any other business
- a) EU-US negotiations on an e-evidence agreement
Information from the Commission
 - b) 2024 EU Justice Scoreboard
Information from the Commission 10742/24
 - c) Access to data for effective law enforcement: presentation of the recommendations of the High-Level Group
Information from the Presidency 10289/24
 - d) Ministerial meeting between the United States and the European Union on justice and home affairs (Brussels, 20-21 June 2024)
Information from the Presidency 10806/24
 - e) Work programme of the incoming Presidency
Presentation by Hungary



First reading



Special legislative procedure



Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)



Restricted item



Item based on a Commission proposal



Item on which a vote may be requested

Statements to the legislative "A" items set out in doc. 10693/24

Ad “A” item 1: Revision of the Regulation on Union guidelines for the development of the trans-European transport network (TEN-T)
Adoption of the legislative act

STATEMENT BY GERMANY

“The Federal Republic of Germany welcomes the preliminary agreement reached between the institutions on 18 December 2023 on the revision of the Regulation on Union guidelines for the development of the trans-European transport network and the swift adoption by the European Parliament on 24 April 2024. So that the Regulation can enter into force quickly, Germany is voting in favour of adopting the Regulation on the basis of the current text in the Council, but wishes to point out some shortcomings in the language versions that will require a corrigendum.

The provisions relating to ‘additional priorities’ have so far been translated very inconsistently in the individual language versions.

According to the English-language version, on which the trilogue negotiations were based, ‘attention shall be given’ by the Member States to the additional priorities. This is in line with the spirit of the trilogue negotiations and the political agreement reached: The ‘additional priorities’ are provided for as optional rather than mandatory priorities in addition to the binding requirements for the individual modes of transport contained in other articles of the Regulation.

In contrast, the German version, inter alia, is clearly more restrictive and requires the Member States to ‘give priority to’ the additional priorities. This could also be the case with other language versions.

To ensure a uniform application of the Regulation in all Member States, it is imperative that the translations into the various official languages be closely aligned with the English-language version that was originally negotiated and politically agreed.

The Federal Republic of Germany expects that, for those translations that significantly deviate from the original English-language version, the relevant technical corrections submitted by Germany and possibly also by other Member States will be made soon in the language versions concerned. With regard to additional priorities, this applies to the first sentence in Articles 20, 24, 28, 32, 35, 39 and 42.

As far as the German version is concerned, the Federal Republic of Germany has also identified further shortcomings in the translation. Provided that the Federal Republic of Germany and the Republic of Austria are able to arrive at a common position on an improved German translation, the Federal Republic of Germany also expects a corresponding corrigendum to the German version.

Should other Member States also want to correct their language versions, they can count on Germany’s support provided their proposals are closely aligned with the original English-language version, thus ensuring a uniform application of the revised TEN-T Regulation.”

STATEMENT BY SPAIN

“On 18 December 2023, the European Parliament and the Council, under the Spanish Presidency, reached a provisional agreement on the revision of the Regulation on guidelines for the development of the trans-European transport network.

On 24 April 2024, the text of the agreement was approved by the European Parliament plenary at first reading.

The Kingdom of Spain supports the text approved by the Parliament and its adoption by the Council.

However, as other delegations have noted, the Spanish authorities would point out that there are certain shortcomings or inaccuracies in the Spanish version which may lead to differences in legal interpretation in comparison with the English version, which was the version agreed politically.

The Spanish authorities therefore consider that, once the text is adopted, the versions in the various official languages need to be reviewed so that they correspond to the English version, in order to ensure uniform application in all Member States.”

STATEMENT BY FRANCE

“The French authorities welcome the provisional agreement on the revision of the Regulation on the Trans-European Transport Network (TEN-T Regulation) reached between the European institutions on 18 December 2023 and its adoption by the European Parliament on 24 April 2024.

We support the approved text as well as the final adoption of the Regulation scheduled for the Council meeting of 30 May 2024 and its publication during the current legislative cycle.

However, we would draw attention to the decision made by the co-legislators to use a specific procedure to adopt the Regulation (procedure linked to exceptional circumstances as mentioned at the Coreper meeting on 10 April 2024), without corrigendum procedure during the current legislative cycle. The French authorities note that the Member States were not consulted, prior to final adoption, on the versions produced by the lawyer-linguists, and in particular the translations into the languages of the European Union.

The French authorities stress the operational, technical and legal importance of being able to assess the French-language version of the Regulation, as well as the versions in the other official languages of the European Union, in the light of the English-language version which served as the basis for the trilogue negotiations and which led to the adoption of the TEN-T Regulation. Following the examples given in Germany's statement, we would stress the possible shortcomings of the non-English language versions, which need to be rectified.

Insofar as several Member States evoke detrimental difficulties linked to the wording of translated versions of the TEN-T Regulation, the French authorities support Germany's statement specifying the importance of ensuring uniform application of the Regulation in all Member States. This is why it is essential that the translations in all the official languages are perfectly aligned with the English version initially negotiated and politically agreed.

The French authorities therefore request that the appropriate technical corrections necessary in the various language versions, initiated and desired by Member States including France, be made in good time.”

STATEMENT BY ITALY

“Italy welcomes the preliminary agreement reached between the institutions on 18 December 2023 on the revision of the Regulation on Union guidelines for the development of the trans-European transport network and its swift adoption by the European Parliament on 24 April 2024. Italy, therefore, votes in favour of adopting a Council Regulation on the basis of the English version of the text (PE-CONS 56/24), but wishes to make some comments on the language versions, which must be taken into account.

To ensure uniform application of the Regulation in all Member States, it is essential that the translations into the various official languages be fully aligned and consistent with the English version originally negotiated and agreed at the political level.

Italy expects that the adoption in the Council of all the various language versions will require further consideration and that corrections will be allowed in order to correct language versions that deviate from the English original, thus ensuring the uniform application of the revision of the TEN-T regulation.

Should other Member States also wish to correct their language versions, Italy may express its support, provided that their proposals are closely aligned with the original English version.”

STATEMENT BY PORTUGAL

“Portugal welcomes the preliminary agreement reached between the institutions on 18 December 2023 on the revision of the Regulation on Union guidelines for the development of the trans-European transport network and its adoption by the European Parliament on 24 April 2024. Portugal therefore votes in favour of adopting the Regulation on the basis of the English version of the current Council text (PE-CONS 56/24), but would also like to make some comments on the language versions that must be taken into account.

In order to ensure uniform application of the Regulation in all Member States, it is imperative that translations into the various official languages be fully aligned and consistent with the English version that was initially negotiated and politically agreed. Therefore, Portugal considers that the adoption in the Council of the various language versions will have to incorporate any corrigenda to correct the language versions deviating from the original English version.”

Ad “A” item 2: **Directive amending Directive 2012/29/EU on the rights of victims**
General approach

STATEMENT BY THE REPUBLIC OF BULGARIA

“The Republic of Bulgaria attaches great importance to the promotion and protection of fundamental rights. 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 the protection and provision of full support for victims of crimes. In this regard, we consider Directive 2012/29/EU establishing minimum standards on the rights, support, and protection of victims of crime as an essential milestone, and we acknowledge that the proposal for a Directive amending Directive 2012/29/EU will undoubtedly improve the protection of the victims across the European Union.

In light of its Constitutional Court decisions from 2018 and 2021, the Republic of Bulgaria declares that the term “gender” used in the proposal for a Directive amending Directive 2012/29/EU is understood as encompassing only the male and female sex in their biological meaning.

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

STATEMENT BY THE SLOVAK REPUBLIC

“The Slovak Republic welcomes and supports the compromise text of the directive. In our view, this is an important step forward in strengthening of the victims’ rights and revision of the minimum standards corresponding to the evolving practices of the Member States.

In this regard, the Slovak Republic wishes to recall in respect of the term “gender” used in the revised article 22 para. 2 point (a), that within this article it shall be translated as “sex” in line with national legislation in the field of criminal law, victims’ rights and discrimination. In cases where context requires the use of the Slovak equivalent for “gender”, the appropriate translation shall be used, such as in term “gender-based violence”.

Ad “A” item 4. Regulation establishing an EU Talent Pool *General approach*

STATEMENT BY HUNGARY

“Hungary would like to emphasize its appreciation for the efforts of the Presidency to find a compromise in the Council during the negotiations on the Talent Pool and to reach a balanced text taking into account the labour market needs and national security aspects of the Member States.

Given the current security challenges and changes in society caused by migration, we do not believe that action at EU level to facilitate the inflow of third-country nationals is justified. We intend to address labour market problems at national level and third-country workers are considered as a temporary and not a long-term solution.

While fully recognising the achievements of the Presidency and thanking them for their constructive work, for the reasons mentioned above Hungary abstains from the adoption of the general approach.”

STATEMENT BY THE NETHERLANDS

“The Netherlands recognizes that the EU Talent Pool can contribute to alleviating labour market shortages in Member States. We also recognize that proposals such as the EU Talent Pool Regulation can make a positive contribution to the migration dialogue with partner countries of origin and transit. During the negotiations of the Council on the General Approach, we have extensively raised attention to the prevention of abuse and exploitation of third-country nationals, and brain drain in countries of origin. The Netherlands is of the opinion that the improper posting of third-country nationals in the EU-Member States should be prevented as much as possible, importantly also in the specific context of the EU Talent Pool. Practices such as these place the third country nationals in a vulnerable position, leading to labour exploitation, creating unfair competition and a race to the bottom on labour conditions and circumventing national migration policies. We should ensure that the EU Talent Pool does not further enable improper posting of third country nationals. Despite a constructive dialogue with the Belgian Presidency and the European Commission on this matter, we have to draw the conclusion that our concerns have not been sufficiently met. We will therefore abstain from the vote on the General Approach.

The Netherlands thanks the Belgian Presidency and the European Commission for the positive spirit of cooperation during the negotiations. We will remain committed to making the EU Talent Pool a well-functioning tool for those Member States that will decide to participate in order to achieve the goals set out whilst mitigating risks for third-country nationals and Member States.”

Ad “B” item 25. Conclusions on enhancing and protecting free, open and informed democratic debate
Approval

STATEMENT BY THE REPUBLIC OF BULGARIA

“The Republic of Bulgaria declares that the term “gender” used in the Draft Council conclusions on enhancing and protecting free, open and informed democratic debate is understood as encompassing only the male and female sex in their biological meaning. In that sense, the State will only accept the translation into Bulgarian language of the term “gender” in the above-mentioned document only as “ПОЛ”.

STATEMENT BY HUNGARY

“Hungary recalls that the current wording of the text of the Council Conclusions on enhancing and protecting free, open and informed democratic debate reflects a carefully negotiated compromise, therefore we can support it.

In this context it must be reiterated that 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 Council Conclusions on enhancing and protecting free, open and informed democratic debate.

Furthermore, Hungary declares that the Commission's strategies adopted in 2020 and 2021: the Gender Equality Strategy 2020-2025 [COM(2020) 152 final], the LGBTIQ Equality Strategy 2020-2025 [COM(2020) 698 final] and the EU Strategy on the Rights of the Child [COM (2021) 142 final] referred to in the Council Conclusions on enhancing and protecting free, open and informed democratic debate should be interpreted with due regard to the national competences and the specific circumstances in each Member State."

Statements to the legislative "B" items set out in doc. 10690/24

Ad "B" item 19: **Directive on combating corruption** *General approach*

STATEMENT BY BULGARIA

“Bulgaria fully supports the objectives of the proposal for Directive on combating corruption. However, we regret that several concerns expressed by the Bulgarian delegation were not properly addressed during the negotiations in the Council.

First, we would like to reiterate our concerns about the differentiated approach in sanctioning legal persons (Art.17, paragraph 3), depending on whether their liability is triggered under paragraph 1 or under paragraph 2 of Art. 16. We have already pointed out that introducing a differentiated approach in sanctioning legal persons will have negative consequences. Some of them include: causing conflict with the principle of unified sanctioning regime for legal persons which is established by the Council of Europe, UN and OECD anti-corruption conventions; conceptual, legislative and practical confusion in the Member States that have already taken measures in conformity with the international and European standards; conveying a controversial message to the Member States that they could adopt less effective, proportionate and dissuasive corporate sanctions for corruption crimes committed by persons under authority, even if these crimes are committed for the benefit of the legal person and cause serious damage to the society; opening up a possibility of misuse by the legal persons which could easily organize the commission of corruption crimes in a way to avoid effective sanctioning; and creating conditions for forum shopping.

Second, we express concerns that during the negotiations the term “sanctions” in the English version was replaced by “penalties” in the respective provisions and the preamble of the Directive without providing substantial linguistic or legal reasons for this important terminological change. We would like to highlight that the term “sanctions” is consistently used in the criminal law directives and the anti-corruption conventions adopted within the Council of Europe, UN, and OECD, and until now it has not caused misinterpretation or confusion at EU or national level. Moreover, the term “sanctions” is used in the provision of Art.83, paragraphs 1 and 2 TFEU, and therefore the above terminological change is inconsistent with the legal basis for the proposal for the Directive.

Third, we note that the reference to the national law in the second sentence of Art.2, paragraph 2, letter (ii) (definition of national official) could be interpreted as allowing Member States to exclude members of national parliaments from the circle of officials who are criminally responsible for corruption offences under the Directive. Such an approach does not correspond to the standard established by UNCAC (Art.2 (a), nor to the ambition of the proposal for the Directive.

Fourth, we would like to express our concerns that the wording of Art.19 “Privileges or immunity from investigation and prosecution of corruption offences” could be interpreted as allowing Member States to maintain in their legislation (not only in the Constitution but also in the laws and other regulations) immunities from criminal investigation and prosecution (inviolability) in relation to an unlimited range of national officials and without providing transparent and objective procedures for lifting these immunities. Such a provision does not correspond to the standards established within the first GRECO evaluation round with regard to the observance of the Council of Europe Guiding Principle 6 for the fight against corruption (to limit immunity from investigation, prosecution, or adjudication of corruption to the degree necessary in a democratic society), nor to the ambition of the proposal for the Directive.

Finally, we regret that the comments made at a technical level aimed at clarifying and improving some other provisions in the operative part and the preamble in order to ensure coherence, higher ambition, and/or added value of the proposal were not taken into account (e.g. concerning Art.13 “Enrichment from corruption offences” which appears to be a special case of money laundering that is already covered by Directive (EU) 2018/1673 on combating money laundering by criminal law).”

STATEMENT BY GERMANY

“Germany declares that the term ‘in course of economic, financial or business activities’ in Article 8 of the Directive on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council is interpreted in the sense that reference is made to activities in relation to the purchase of goods or commercial services.”

STATEMENT BY ESTONIA

“We support and welcome the general aims of the directive on the fight against corruption and the General Approach of the Council.

However, as previously expressed during the negotiations, the proposal has overly broad scope of bribery in the private sector in Article 8, and it is not sufficiently clear what legal interest is protected by this provision. According to the wording, the subject of the offence can be any employee of any private person, and the prerequisite for criminal liability can be any professional violation for which the employee is promised payment.

We support the limitation of the personal scope of Article 8 to the management function or responsibility, and the material scope to purchasing of goods or commercial services. We remain concerned about the disproportionate approach and hope this will be addressed during the trilogue negotiations.”