



**COUNCIL OF
THE EUROPEAN UNION**

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OUTCOME OF PROCEEDINGS

from: General Secretariat of the Council
to: Delegations

Subject: Summary of conclusions of the meeting between the Troika of the Article 36 Committee and the Council of Europe, Strasbourg, 21 June 2010

Priority issues

a. Accession of the European Union to the European Convention on Human Rights (exchange of ideas on the next steps)

The CoE and the EU side recalled the procedural and substantial work that had to be done to prepare negotiations on the accession by the EU to the European Convention on Human Rights (ECHR). On behalf of the CoE, a Steering Committee for Human Rights had designated 14 members, 7 of whom came from EU Member States, to participate in the first round of negotiations. The objective was to complete this work before the summer break in 2011. The formal negotiations might start on 7 July, using the opportunity of a visit to Strasbourg by Vice-President Reding. The mandate on the EU side had been adopted at the Council on 4 June.

The negotiations would probably be quite complex, with provisions to be agreed for the scope of the EU's membership, additional protocols, reservations, participation in institutions, including membership of the Court, the EU's role in relation to the Committee of Ministers, etc. A working relationship between the ECJ and the ECHR would also have to be established. Finally, the Accession Treaty of the EU would have to be approved by unanimity in the Council, with a two-thirds majority in the European Parliament, and by all CoE Member States, be they EU Member States or not.

b. Procedural rights: EU directive on translation and interpretation and roadmap (state of play after the Council, next steps)

The EU side described the steps that had already been taken on translation and interpretation, leading ultimately to agreement in the Council on 4 June 2010. It also sketched the way ahead, in particular the work that would be undertaken on the next steps in the twelve months ahead on the basis of Commission proposals on "information on rights and information about the charges", as well as on "legal advice and legal aid".

Both sides welcomed the contribution made by the Council of Europe Secretariat, which had presented observations on the text of the initiative in the light of the European Convention on Human Rights, as interpreted by the Court of Human Rights.

c. Implementation of the “Stockholm programme” as far as the CoE is concerned, notably

a. Evaluation - GRECO (following GRECO's 47th plenary meeting (7-11 June))

The parties discussed the implementation of the Stockholm programme and in particular the measures it mentioned on the development of indicators, based on existing systems and common criteria, to measure the efforts made to fight corruption, and on a comprehensive anti-corruption policy in close cooperation with the Council of Europe Group of States against Corruption (GRECO). The Council of Europe was worried by some aspects of the Stockholm Programme Action Plan, which emphasised the role of a new evaluation mechanism in a way that would seem to duplicate current mechanisms such as GRECO,

FATF, UNTOC and UNCAC. However, the CoE was interested to see the Commission playing a more important role in the collection of corruption indicators and corruption investigations that had been started.

A decision on whether the EU should join GRECO had not yet been taken. Any suggestion which would duplicate the CoE acquis was rejected; the focus should rather be on ways of reinforcing the existing mechanisms. GRETA (in the field of trafficking in human beings) was mentioned as a good example of fruitful cooperation, leading to synergy and to better collection of statistics and indicators.

b. Support for CoE Conventions (how the EU can actively promote the ratification of CoE Conventions by all MS)

The CoE recalled that several of the important Conventions in recent years had not been signed or ratified by some EU Member States. Although the reasons for these delays were well-known, it was considered helpful to call on Member States to devote more attention to these ratifications. It was suggested that a table of Member States' signatures and ratifications be kept, and updated and disseminated before every meeting of the CATS trio with the Council of Europe. The CoE secretariat was ready to provide such a tool; however, some participants wanted to be sure that this would not affect or pre-empt another exercise currently taking place in the CoE to list those Conventions from the CoE acquis that are obsolete or else need to be updated (such as the Cybercrime Convention). Such an overview of the CoE acquis, with recommendations for possible updates, was expected to be ready in 2011. The CoE recalled that, apart from ratification by several Member States, accession by the EU to these Conventions should also be considered.

Moreover, the EU side was able to reassure the CoE that compliance with the CoE acquis was always mentioned in JHA external relations, with the US, Russia, the Western Balkans or Ukraine, and in all relevant parts of the conventional acquis.

- d. **30th Council of Europe Conference of Ministers for Justice, Istanbul, 24-26 November 2010 (see link with the next sub-item)**
- e. **Penitentiary issues: SPACE, foreign nationals, dangerous offenders**

The CoE introduced the preparations for the next Ministers for Justice conference to be held in Istanbul on 24-26 November. The meeting would focus on modernisation and transparency of justice and on several aspects of the penitentiary systems.

The EU noted that the e-Justice portal of the EU would be inaugurated in July; as a site under development, and it would certainly welcome and be open to information links to the Council of Europe acquis. With regard to prisons, the EU was moving forward with the preparation of a Green Paper that would also deal with issues such as provisional detention and transfer of prisoners. During this semester, a seminar was held on radicalisation in prisons, on probation and on training.

The CoE also mentioned its activities in relation to dangerous offenders and the necessary balance between the rights of offenders and the interests of society; these individuals were in fact hard to categorise, and the collection of statistics in this area was relatively new.

Improved collection of data would facilitate a policy focusing on certain groups, such as women, foreign nationals, sexual offenders, etc. The EU also referred to the possibility of the CoE subscribing to and being associated with some financial programmes running from 2011. Apparently, the CoE was not entitled to apply directly for these programmes.

However, two Member States could do so.

- f. **Draft Council of Europe Convention on counterfeiting of medical products and similar crimes involving threats to public health: “Road map” for signature and ratification of the Convention by the EU**

The Commission explained that, after a review, it had decided in favour of exercising its competence and being associated with the CoE Convention. This was welcomed by the CoE delegation, which feared that, otherwise, some EU Member States would not be able to ratify the Convention before the EU had agreed to it.

Additional issues for discussion

1. Current developments in the EU in the criminal field

a. *Draft directive on sexual exploitation of children*

The EU side informed the CoE of the progress being made on this file.

The CoE reported that several EU MS would ratify the CoE Convention on the abuse of children in the course of this year.

b. *Draft Directive on preventing and combating trafficking in human beings, and protecting victims, EU Action-oriented Paper “on strengthening the EU external dimension on action against trafficking in human beings”*

The EU side explained the efforts being made in the EU to combat trafficking in human beings, citing both the Directive and the Action-oriented Paper.

The CoE was satisfied that the new EU proposals would not duplicate the work done either in GRETA or by the national rapporteurs. The CoE noted that 18 EU Member States had ratified the Convention and 8 MS had signed it, whereas one MS had done neither.

c. European Investigation Order

The EU side briefed the CoE on the content of this proposal which had been signed by several Member States. The Commission would consider proposing an initiative in the course of 2011.

The CoE would follow with interest how the EU proposal related to the CoE acquis, in particular to the 1959 Mutual Assistance Convention and its protocols.

- d. *Information on:*
- i. *European Protection Order*

The EU side informed the CoE of the state of play with respect to the European Protection Order and the positions of Member States. The Commission would consider the opportunity of introducing a separate text on victims, in the light of comments by the European Parliament.

2. **Cybercrime:**

- a. *Revision of EU Framework Decision on attacks against information systems*

The Commission confirmed that it would table a proposal in early October 2010 as a recast of the current Framework Decision, which would include large-scale attacks in the light of experiences in several Member States.

The CoE asked to be associated with the discussion of this new proposal in order to prevent duplication of the content of the CoE Cybercrime Convention.

- b. *possible UN initiatives; follow-up to the UN congress on crime prevention and criminal justice, Salvador de Bahia (Brazil), and the 19th session of the UN Commission on Crime Prevention and Criminal Justice, Vienna (Austria)*

While the CoE Cybercrime Convention continued to attract many States around the world, as was shown by recent interest from several Latin American and African countries, and from Pakistan, both the EU and the CoE were worried by the UN Crime Commission's stated intention of working towards a UN Convention. The first steps had been taken with the setting up of an intergovernmental expert group, which would not, however, be competent for technical assistance. Both sides regretted that the UN had devoted so little attention to these capacity-building aspects.

Several EU Member States had still not ratified the CoE Convention on cybercrime.

3. Current developments in the CoE in the criminal field

a. *Draft Council of Europe Convention on violence against women/domestic violence*

The CoE reported satisfactory progress towards a Convention on violence against women/domestic violence. However, talks were still in progress on whether the scope of this Convention should be confined to women, or should include any form of domestic violence in a gender-neutral manner. The CoE Member States were almost evenly split on this question, which should be clarified by the end of 2010 or early in 2011.

b. *International cooperation in criminal matters:*

i. *development of practical tools, standard models*

The CoE reported on the work that just started, in cooperation with the Commission, on the development of standard tools, forms and contact points to be used to facilitate mutual legal assistance. Germany had offered to contribute to this work. At the next stage, Taiex would be associated with the further promotion of these standard tools.

ii. *modernising the European Conventions on international cooperation in criminal matters (extradition)*

The CoE announced that the 3rd Protocol to the Extradition Convention would soon be adopted by the Committee of Ministers. The CoE envisaged consolidating all instruments on extradition.

c. *Victims*

The Commission announced that it was working on an initiative in this field, since the issue was considered a priority in the Stockholm Programme and in the Action Plan. A draft of this initiative should be ready in March 2011.

d. Child-friendly justice

In accordance with the resolution adopted at a previous Conference of Ministers for Justice held in Lanzarote, the CoE was now preparing a recommendation on the access of children to justice with a view to the next Conference of Ministers for Justice to be held in Istanbul. This recommendation was being drafted in close consultation with children. The Commission, too, was now working on the concept of child-friendly justice.

e. Trafficking in organs

The CoE had been reflecting on the possibility of drafting a binding instrument to combat trafficking in organs. However, several Member States considered that the Council of Europe Convention on Trafficking in Human Beings and the Palermo Convention on Organised Crime could be used to their full extent to combat this phenomenon. In that context, "organ transplant tourism" should also be considered, i.e. transplantations taking place abroad. The collection of evidence was an issue in that context.

f. Fight against terrorism (the role of Codexter)

The CoE briefed the EU side on developments within Codexter, which was currently evaluating the implementation of the Convention on the prevention of terrorism via an assessment of the use of the Convention by the parties themselves, in a two-step mechanism through the "Group of parties" and later through the plenary of Codexter.

The EU side highlighted some of its activities on prevention, explosives, and radicalisation in prisons, as well as the two joint declarations with the US (Toledo and Common principles).

4. Perspectives: priorities of the Belgian and Hungarian EU presidencies, including a look forward to *conferences in the field of criminal law scheduled by the EU*

The incoming Presidencies highlighted their priorities in relation to the topics of relevance to the Council of Europe.

Belgium announced that it would focus on several aspects relating to the security of football matches. On terrorism, Belgium would hold a second conference on best practices in dealing with radicalisation and recruitment and would work on a manual to help local police forces to detect signs of radicalisation and listing best practices in that field.

Hungary announced a list of priorities, including cybercrime, protection of victims, procedural rights, data protection, road safety and traffic offences, football hooliganism, exchange of information, drugs, financial crime and training.

List of Participants

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