



Council of the
European Union

Brussels, 15 January 2020
(OR. en)

14884/1/19
REV 1
PV CONS 68
JAI 1301
COMIX 575

DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Justice and Home Affairs)
2 and 3 December 2019

CONTENTS

Page

1.	Adoption of the agenda.....	4
2.	Approval of "A" items	4
	a) Non-legislative list	
	b) Legislative list	

HOME AFFAIRS

Non-legislative activities

3.	The future of EU migration and asylum policy	5
4.	The future of EU Internal Security	5
5.	Update by the Counter-Terrorism Group (CTG) on further cooperation between competent authorities dealing with counter-terrorism	5

Legislative deliberations

6.	Any other business.....	5
	Current legislative proposals	

Non-legislative activities

7.	Implementation of interoperability	6
8.	Implementation of the European Border and Coast Guard Regulation.....	6
9.	Any other business.....	6
	a) EU cooperation mechanism on the prevention of radicalisation	
	b) Salzburg Forum Ministerial Conference (Vienna, 6-7 November 2019)	
	c) Presidency report on the progress made in the fields of Justice and Security	
	d) EU-US Justice and Home Affairs Ministerial Meeting (Washington DC, 11 December 2019)	
	e) EU-Western Balkans Ministerial Forum on Justice and Home Affairs (Skopje, 18-19 November 2019)	
	f) Search and Rescue activities (SAR) in the Mediterranean	
	g) Meeting of Interior Ministers of the Visegrad Group, (Prague 21 November 2019)	
	h) Work programme of the incoming Presidency	

JUSTICE

Legislative deliberations

10.	Digitalisation of judicial cooperation	7
11.	Any other business.....	7
	Current legislative proposals	

Non-legislative activities

12.	Conclusions on Victims' Rights	8
13.	Conclusions on Alternative Measures to Detention	8
14.	Conclusions on the Future of Civil Justice Cooperation	8
15.	EPPO: Setting up of the European Public Prosecutors Office	8
16.	Environmental crime - Final report of the 8th round of mutual evaluations	8
17.	Digital Justice: e-evidence.....	9
	a) Negotiations for EU-US agreement on cross-border access to e-evidence	
	b) Negotiations on a second additional Protocol to the Budapest Convention	
18.	Any other business.....	9
	a) Retention of data for the purpose of fighting crime: Follow up of June Council conclusions	
	b) Presidency report on the progress made in the fields of Justice and Security	
	c) EU-US Justice and Home Affairs Ministerial Meeting (Washington DC, 11 December 2019)	
	d) EU-Western Balkans Ministerial Forum on Justice and Home Affairs (Skopje, 18-19 November 2019)	
	e) Conference on the EU Charter of Fundamental Rights 10 years (Brussels, 12 November 2019)	
	f) Work programme of the incoming Presidency	
	ANNEX - Statements for the Council minutes	10

HOME AFFAIRS

1. Adoption of the agenda

The Council adopted the agenda set out in 14449/19.

2. Approval of "A" items

a) Non-legislative list

14450/19

The Council adopted the "A" items listed in 14450/19 including COR and REV documents presented for adoption.

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

14451/19

Economic and Financial Affairs

1. Review of the European System of Financial Supervision (ESFS): Regulation amending ESAs



14011/1/19 REV 1
PE-CONS 75/19
EF

Adoption of the legislative act

approved by Coreper, Part 2, on 27.11.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 TFEU).

2. Review of the European System of Financial Supervision (ESFS): Directive amending MiFID / Solvency II



14012/1/19 REV 1
PE-CONS 76/19
EF

Adoption of the legislative act

approved by Coreper, Part 2, on 27.11.2019

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 53 (1) and 62 TFEU).

3. **Review of the European System of Financial Supervision (ESFS): Regulation amending ESRB**  14013/2/19 REV 2
Adoption of the legislative act + REV 2 ADD 1
approved by Coreper, Part 2, on 27.11.2019 PE-CONS 77/19
EF

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 TFEU). A statement to this item is set out in the Annex.

Non-legislative activities

3. The future of EU migration and asylum policy 14364/19 + **COR 1**
Policy debate
4. The future of EU Internal Security 14297/19 + **COR 1**
Policy debate
5. Update by the Counter-Terrorism Group (CTG) on further 
cooperation between competent authorities dealing with
counter-terrorism¹
Exchange of views

Legislative deliberations

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

6. **Any other business**
- Current legislative proposals** 14522/19
Information from the Presidency

Ministers took note of the information provided by the Presidency on the state of play of different legislative files.

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

Non-legislative activities

7.	Implementation of interoperability	14189/19
	<i>Information from the Commission and the Presidency</i>	14190/19
	<i>Exchange of views</i>	
8.	Implementation of the European Border and Coast Guard Regulation	14198/19
a)	Multiannual strategic policy for the European Integrated Border Management	
b)	State of play of implementation	
	<i>Exchange of views</i>	
9.	Any other business	
a)	EU cooperation mechanism on the prevention of radicalisation	
	<i>Information from the Commission</i>	
b)	Salzburg Forum Ministerial Conference (Vienna, 6-7 November 2019)	14153/19
	<i>Information from Austria</i>	
c)	Presidency report on the progress made in the fields of Justice and Security	14404/19
	<i>Information from the Presidency</i>	
d)	EU-US Justice and Home Affairs Ministerial Meeting (Washington DC, 11 December 2019)	14165/19
	<i>Information from the Presidency</i>	
e)	EU-Western Balkans Ministerial Forum on Justice and Home Affairs (Skopje, 18-19 November 2019)	14344/19
	<i>Information from the Presidency</i>	
f)	Search and Rescue activities (SAR) in the Mediterranean	
	<i>Information from Italy</i>	
g)	Meeting of Interior Ministers of the Visegrad Group, (Prague 21 November 2019)	
	<i>Information from Czech Republic</i>	
h)	Work programme of the incoming Presidency	
	<i>Presentation by Croatia</i>	

Legislative deliberations

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

10. Digitalisation of judicial cooperation

- a) **Regulation amending Regulation (EC) No 1393/2007**  14599/19
on the Service of Documents + ADD1-2
General approach
- b) **Regulation amending Council Regulation (EC) No**  14601/19 + ADD 1
1206/2001 on the Taking of Evidence
General approach

The Council adopted a general approach on both proposals, except for the Annexes (set out in 14599/19 and 14601/19).

a) Service of documents

The statement by Estonia, Ireland and Portugal, and the statement by Austria, Czechia, Estonia, Germany, Hungary, Italy, the Netherlands, Portugal, Slovenia and Spain are set out in the Annex.

b) Taking of evidence

The statement by Austria, Czechia, Estonia, Germany, Hungary, Italy, the Netherlands, Portugal, Slovenia and Spain is set out in the Annex.

11. Any other business

Current legislative proposals 14522/19
Information from the Presidency

Ministers took note of the information provided by the Presidency on the state of play of different legislative files.

Non-legislative activities

12. **Conclusions on Victims' Rights** [2] 14056/19 + COR 1
Adoption
- The Council adopted conclusions on victim's rights as set out in 14056/19 + COR 1.
- Several delegations expressed their support for the conclusions and stressed the importance of further work on the protection of the rights of the victims of crime. The Commission pointed out that it will work on a comprehensive EU strategy on victims' rights.
- The delegation of the United Kingdom informed Ministers about the latest developments on the attack that took place on London Bridge on 29 November 2019.
13. **Conclusions on Alternative Measures to Detention** [2] 14075/19 + COR 1
Adoption + COR 2
- The Council adopted the conclusions as set out in 14075/19 + COR 1 + COR 2.
14. **Conclusions on the Future of Civil Justice Cooperation** [2] 14448/19 + COR 1
Adoption
- After an exchange of views at ministerial level, the Council adopted the conclusions on the Future of Civil Justice Cooperation as set out in 14448/19 + COR 1.
15. EPPO: Setting up of the European Public Prosecutors Office 14064/19
State of play
16. **Environmental crime - Final report of the 8th round of mutual evaluations** [2] 14065/19 + COR 1
Presentation and exchange of views
- The Council took note of the 'Final Report of the 8th round of mutual evaluations on Environmental crime' as set out in 14065/19. The report summaries individual reports of all Member States in evaluating the practical implementation of EU policies on preventing and combating environmental crime in the field of illegal trafficking of waste and illegal production and handling of dangerous materials.

The Council invited Member States to ensure a timely follow-up of the recommendations set out in the individual reports and in the final report, in order to strengthen the prevention and fight against environmental crime. The Commission informed the Council that it will make use of the final report when reviewing the Environmental crime Directive (Directive 2008/99/EC).

17. Digital Justice: e-evidence
 - a) Negotiations for EU-US agreement on cross-border access to e-evidence 13713/19 **R-UE**
 - b) Negotiations on a second additional Protocol to the Budapest Convention 14342/19 **R-UE**
State of play
18. Any other business
 - a) Retention of data for the purpose of fighting crime: Follow up of June Council conclusions 10083/19
Information from the Commission
 - b) Presidency report on the progress made in the fields of Justice and Security 14404/19
Information from the Presidency
 - c) EU-US Justice and Home Affairs Ministerial Meeting (Washington DC, 11 December 2019) 14165/19
Information from the Presidency
 - d) EU-Western Balkans Ministerial Forum on Justice and Home Affairs (Skopje, 18-19 November 2019) 14344/19
Information from the Presidency
 - e) Conference on the EU Charter of Fundamental Rights 10 years (Brussels, 12 November 2019) 14165/19
Information from the Commission
 - f) Work programme of the incoming Presidency
Presentation by Croatia

-
- | | |
|---|---|
|  | First reading |
|  | Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure) |
|  | Restricted item |
|  | Item based on a Commission proposal |
| R-UE | Document classified RESTREINT UE/EU RESTRICTED |

Statements to the legislative "B" items set out in 14449/19**Ad "B" item 10:****Digitalisation of judicial cooperation**

- a) **Regulation amending Regulation (EC) No 1393/2007 on the Service of Documents**
General approach
- b) **Regulation amending Council Regulation (EC) No 1206/2001 on the Taking of Evidence**
General approach

STATEMENT BY AUSTRIA, CZECHIA, ESTONIA, GERMANY, HUNGARY, ITALY, THE NETHERLANDS, PORTUGAL, SLOVENIA AND SPAIN

"One of the objectives of these Regulations is to digitise the transmission of requests for service of documents and taking of evidence between competent authorities in different Member States. For this purpose, both Regulations call for the establishment of a mandatory electronic decentralised IT system. The signatories welcome the objective of the Commission proposal and the compromise text of the Finnish Presidency.

The Regulations do not explicitly mention by name a specific software solution to future-proof the Regulations in a fast-moving technological environment. However, the Member States and the Commission have agreed that the implementing acts of the Regulations will specify the e-CODEX system as the appropriate software solution. The signatories support this choice and the use of e-CODEX for this kind of data exchange.

Taking this into account, we draw attention to the Council conclusions on the sustainability of e-CODEX (November 2014), which put forward the opportunity of entrusting an independent existing EU Agency with the governance of e-CODEX. Recalling also the Roadmap of e-CODEX (November 2016) and the Council Conclusions on e-CODEX (June 2017), which invited the Commission "to present a proposal for ensuring the sustainability of e-CODEX, providing the necessary legal and technical arrangements enabling eu-LISA to ensure its maintenance and interoperability", the signatories call upon the Commission to present a proposal for ensuring the sustainability of e-CODEX, providing the necessary legal and technical arrangements enabling eu-LISA to ensure its maintenance and interoperability. This should be done before the implementing acts of the Regulations are adopted.

We also call upon the Commission to provide the necessary resources enabling this organisation to ensure the maintenance and interoperability of e-CODEX and to present a plan regarding the necessary legislative proposal for the future maintenance of e-CODEX."

Ad "B" item 10:

Digitalisation of judicial cooperation

a) Regulation amending Regulation (EC) No 1393/2007 on the Service of Documents

General approach

STATEMENT BY ESTONIA, IRELAND AND PORTUGAL

"One of the main aims of this Regulation is to further improve the efficiency and speed of judicial proceedings, in a way which maintains or improves the existing level of access to justice and the protection of the rights of the defence in cross-border proceedings, and to reduce the burdens for citizens and businesses involved in cross-border proceedings resulting from undue costs and delays. This can be achieved by the better use of technical developments and electronic means for the service of procedural documents in civil and commercial matters.

The signatories welcome the objective of the Commission proposal and the compromise text of the Finnish Presidency. There are many aspects in the compromise text that the signatories can be very satisfied with.

However, Article 14a (2), which allows a Member State to indicate the conditions under which it will accept service of judicial documents to people with an address in its territory by e-mail, leaves the Member States with a broad possibility not to accept service by e-mail in its territory. There is no limitation foreseen to the conditions the Member States can indicate, making it thus possible to object to it as such. In order to follow the main objective of the Regulation it is also vital to follow the principle of non-discrimination - the Member States accepting e-mail as a valid method of service domestically should accept it in cross-border cases as well. Not following the principle of non-discrimination would jeopardize the main objective of the Regulation.

The signatories regret that there was not sufficient time to consider the impact of this objection on the judicial proceedings and the rights of parties before the adoption of the general approach. We believe that it is essential to find a better solution during the upcoming trilogies with the European Parliament, which would better achieve the aim of the Commission proposal."

Statements to the legislative "A" items set out in 14451/19

Ad "A" item 3: **Review of the European System of Financial Supervision (ESFS):**
 Regulation amending ESRB
 Adoption of the legislative act

STATEMENT BY THE NETHERLANDS

"While supporting the overall package on the review of the European System of Financial Supervision (ESFS review), the Netherlands regret that the amendments of the Regulation on the European Systemic Risk Board (ESRB) do not fully address our repeatedly expressed concerns with regard to a potential conflict of interest between the ESRB and the European Central Bank (ECB). At the same time we acknowledge the improvements provided for in this amended Regulation, for instance with regard to the strengthening of the position of the ESRB's first Vice-Chair. We call on the European Commission to consider possible alternative models for the governance of the ESRB when reporting on the mission and organization of the ESRB in a future report on the ESRB. The Netherlands will continue to work constructively towards addressing this issue."
