

**JUSTICE and HOME AFFAIRS COUNCIL**  
**Thursday 9 and Friday 10 October in Luxembourg**

*The meeting will be chaired by **Angelino ALFANO**, Italian Minister for the Interior and by **Andrea ORLANDO**, Italian Minister for Justice.*

*On Thursday, starting at 10.00, Home affairs ministers will hear a presentation by the Presidency and Europol on the results of the large scale law enforcement operation (**Operation Archimedes**) which took place between the 15 and 23 September. Following this presentation, Ministers will be invited to held a policy debate on the member states role and input in the EU's **fight against serious and organised crime**.*

*Ministers will have an in-depth discussion on the issue of **foreign fighters**, as requested by the European Council in August 2013, on the basis of a document prepared by the Presidency in cooperation with the Counter-Terrorism Coordinator.*

*The Council in the Mixed Committee format (the EU plus Norway, Iceland, Liechtenstein and Switzerland) will be updated by the Commission, Frontex and EASO on the state of implementation of the operational actions within the context of the **Task Force Mediterranean**. It will also be informed by the Greek minister about progress in the implementation of the **revised Greek national action plan on asylum and migration**.*

*Over lunch, Ministers are expected to discuss on **taking action to better manage migratory flows** on the basis of a paper presented by the Presidency.*

*On Friday, starting at 10.00, Justice ministers are expected to reach a partial general approach on specific issues of the draft regulation setting out a general EU framework for **data protection**. They will also hold a debate on the "right to be forgotten" principle following the European Court of Justice judgment in the Google Spain case.*

*Moreover, the Council will be invited to have a policy debate on three proposals: a regulation on the establishment of the **European public prosecutor's office (EPPO)**, a directive on the strengthening of certain aspects of the **presumption of innocence** and a regulation on promoting the free movement of citizens and businesses by simplifying the requirements for presenting certain **public documents** in the European Union.*

*A joint declaration establishing a **mobility partnership** between the Hashemite Kingdom of **Jordan** and the European Union and its member states is expected to be signed in the margins of the Council.*

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<sup>1</sup> This note has been drawn up under the responsibility of the press office.

**Press conferences:**

- Home Affairs Council (*Thursday, at the end of the meeting +/- 15.00*);
- Justice Council (*Friday, before lunch +/- 13.00*)

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*Press conferences and public events by video streaming: [video.consilium.europa.eu](https://video.consilium.europa.eu).*

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## HOME AFFAIRS

### Implementation of the EU priorities in combatting serious and organised international crime

- Follow up / Policy debate

The Council will hear a presentation by the Presidency and Europol on the results of and lessons learnt from the large scale law enforcement operation (Operation Archimedes) which took place between the 15 and 23 September 2014.

Following this presentation, Ministers will be invited to hold a policy debate on the member states' role and input in the EU's fight against serious and organised crime, and in particular the setting of crime priorities and possibilities to effectively bring together resources at EU level.

The debate will be focused on two main subjects:

- Priority setting: how are the national and EU crime priorities interlinked and what can be improved?
- Resources: how to use and better coordinate our resources? what sort of measures should be contemplated at EU level?

The operation, which is to be seen as part of the EU policy cycle on serious and international organised crime, targeted organised crime groups and their infrastructures across the European Union (EU), with the cooperation of Eurojust, Frontex and Interpol. The intelligence-led operation saw the participation of law enforcement officers from all 28 EU Member States as well as Australia, Colombia, Norway, Serbia, Switzerland and the USA (ICE and CBP). During the operation, raids and other interventions took place in hundreds of locations including airports, land border-crossing points, ports and specific crime hot spots in towns and cities all of which had featured variously in Europol's Serious and Organised Crime Threat Assessment (SOCTA), criminal intelligence reports from EU member states and third countries and analytical products drawn from Europol's criminal databases.

Some preliminary results are:

- 1 146 individuals arrested
- nearly 600 kg cocaine seized and 200 kg of heroin seized
- 1.8 tonnes of cannabis seized
- 200 potential victims saved from trafficking, of which 30 children.

In cooperation with Frontex and EU member states, around 10 000 irregular migrants were checked which also led to the arrest of criminals facilitating illegal immigration. In total in the overall operation, 170 facilitators were arrested and important intelligence was gathered. More than 160.000 counterfeited goods were seized.

### Foreign fighters

- Follow up on the Conclusions of the European Council (30/08/2014)

Foreign fighters remain a major threat to the European Union and its member states, as well as to the Middle East and North African countries. Syria and Iraq continue to attract growing numbers of foreign fighters, including from Europe, and this phenomenon is likely to persist in the coming years. Reducing the flow of individuals who may participate in fighting in this region and intervening on those on their return remains a challenge and a key priority.

The Council will have an in-depth discussion on the issue of foreign fighters, as requested by the European Council in August 2014, on the basis of a document prepared by the Presidency in cooperation with the Counter-Terrorism Coordinator.

The aim of the discussion is to give political guidance on two topics where further progress must be achieved (the finalisation of the work on the EU PNR directive and the controls at external borders of the Schengen Area ) and to agree on a number of specific actions that will help to speed up the implementation of the already agreed measures. These actions do not only relate to the work at

EU level so far, they also include the conclusions of the work of the Ministers of Interior of the member states most affected by the foreign fighters phenomenon.

Early 2013, the European Union started already to work on the foreign fighters phenomenon by raising awareness and encouraging the member states to work closely together and exchange information to the maximum extent.

In June 2013 the Justice and Home Affairs Council upon suggestion of the EU Counter Terrorism Coordinator, in close collaboration with the services of the Commission and the EEAS, adopted a package of 22 measures on many aspects, on how to prevent the flow of foreign fighters, improve the detection of suspicious travel, provide the adequate criminal justice response and engage more closely with third countries.

In addition to the work at EU level, a group of member states most affected by this phenomenon regularly met in 2013 and 2014, under the leadership of Belgium, to exchange information on the threat, compare notes on policy measures and discuss areas where intensified cooperation is needed. At the last meeting in July 2014, the Ministers approved a set of measures aimed at improving the use of the second generation Schengen Information System (SIS II), targeted border controls, transmission of information to Europol for joint analysis, sharing of information about foreign fighters among national authorities as well as practical cooperation and exchange of information, for example on the use of passenger data (PNR and API). While all these measures are to be implemented by the competent national authorities, they will also be promoted at EU level.

The European Council recognised in August 2014 that the rise of the Islamic State of Iraq and the Levant (ISIL) is a major threat to European security and that determined action to stem the flow of foreign fighters from Europe who join ISIS in Iraq and Syria is needed. It called for an accelerated implementation of the package of 22 measures and requested the Council to propose additional action, as required. The European Council will review this issue at its meeting in December 2014.

On 24 September 2014, the UN Security Council adopted [Resolution 2178 \(2014\)](#) which calls on members of the UN to reinforce their engagement against terrorism, by, inter alia, making it a criminal offense to travel abroad for terrorist purposes.

### **Task Force Mediterranean**

– Follow up / Information from the Commission, Frontex and EASO

The Council will be briefed by the Commission, Frontex and EASO on the latest developments concerning the operational actions within the context of the Task Force Mediterranean (TFM).

The main new development following the last Council meeting is the announcement by Frontex that it will launch a new EU-funded operation in the Central Mediterranean area, due to the extremely high migratory pressure Italy is currently subject to.

The operation, codenamed TRITON, will cover the maritime area south of Sicily and the Pelagic islands as well as the coastal areas around Calabria, southern Italy. This operation will not replace the Italian funded Mare Nostrum operation launched in October 2013 (launched and developed as a military operation with humanitarian purposes), but it is intended to reinforce border surveillance in the waters close to the Italian shores. Having defined the technical requirements, Frontex has recently sent a request to all member states to contribute the necessary equipment (including aircraft and a variety of patrol vessels). The operation is expected to start by the end of this year.

The Task Force Mediterranean was set up following the JHA Council of 7-8 October 2013 in order to identify the tools which the EU has at its disposal and which could be used in a more effective way to avoid the tragic events that had occurred off the coast of Lampedusa.

On 4 December 2013 the Council discussed the communication of the Commission on the work of the Task Force Mediterranean ([17398/13](#)) and welcomed the set of actions contained in the document.

The task force identified five main areas of action which will be pursued actively during the coming months:

- Actions in cooperation with third countries.
- Regional protection, resettlement and reinforced legal avenues to Europe.
- Fight against trafficking, smuggling and organised crime.
- Reinforced border surveillance contributing to enhancing the maritime situational picture and to the protection and saving of lives of migrants in the Mediterranean.
- Assistance and solidarity with member states dealing with high migration pressure.

The Presidency reported to the European Council on 20 December on this matter. In its [conclusions](#), the European Council welcomed the Commission communication and called for the mobilisation of all efforts in order to implement actions proposed in the communication with a clear timeframe to be indicated by the Commission.

It was considered that increased engagement with third countries in order to avoid that migrants embark on hazardous journeys towards the EU should be a priority. Information campaigns, regional protection programmes, mobility partnerships and an effective return policy were also considered important components of this comprehensive approach.

The European Council reiterated the importance it attaches to resettlement for persons in need of protection and to contributing to global efforts in this field. It also called for the reinforcement of Frontex border surveillance operations and actions to fight smuggling and human trafficking, as well as to ensure that appropriate solidarity is shown to all member states under high migration pressure.

The European Council invited also the Council to regularly monitor the implementation of the actions.

In June 2013 the Council took note of the report ([10067/14](#)) from the Commission on the implementation of operational actions within the context of the TFM and welcomed the progress achieved in the five key areas listed in the Commission communication, showing the active involvement of all stakeholders in this process.

The Council acknowledged that the situation in the Mediterranean is of great concern to all member states, as there are indications that the current trend will continue and the situation even risks deteriorating further. The timely implementation of the initiatives identified by the Task Force, with the active contribution of all the stakeholders involved, is key to assisting member states situated on the southern and eastern borders in addressing the challenges they are currently facing.

### **Taking action to better manage migratory flows**

- Exchange of views

Over lunch, Ministers are expected to discuss on taking action to better manage migratory flows on the basis of a paper presented by the Presidency.

The aim of the Presidency paper is to present some proposals for a possible way forward in order to define a sustainable approach, based on three pillars, to respond to migratory pressure in a structured manner and go beyond the immediate emergency measures. Such approach could be used as a blueprint to address possible future challenges and could be adapted to the specific needs of any emerging situation.

The strategic approach proposed by the Presidency paper builds upon the results of the Task Force Mediterranean, and aims at streamlining their implementation in a flexible manner, to adapt them to emerging trends in migratory flows.

The three pillars identified by the paper are the following:

- Action in cooperation with third countries
- Reinforced management of external borders and FRONTEX;
- Action at Member States' level - Reception and fingerprinting

# JUSTICE

## Data protection regulation

- Partial general approach
- Policy debate

The Council is expected to reach a partial general approach on specific issues of the draft regulation setting out a general EU framework for data protection ([13772/14](#)), on the understanding that nothing is agreed until everything is agreed.

The partial general approach includes the chapter IV of the draft regulation (controller and processor) and the related recitals. This chapter was intensively discussed during the first half of 2013. Whilst at the Council meeting on 6-7 June 2013 all delegations congratulated the Irish Presidency on the important progress achieved in this regard, a number of issues were still outstanding, in particular the need to reduce the administrative burden/compliance costs flowing from this regulation by sharpening the risk-based approach.

Following further intensive negotiations at technical level in July and September 2014, Ministers will be now invited to endorse the compromise text submitted by the Presidency.

The Council will also hold an orientation debate on the "right to be forgotten" principle following the European Court of Justice judgment in the [Google Spain case](#). This judgment acknowledges the possibility for data subjects, on the basis of the existing directive, to exercise their rights to erasure of data and to object to personal data processing against online controllers such as search engines. The aim of the present debate is not related to legislative drafting of the regulation, but a political discussion on the right to be forgotten, including its relationship to the freedom of expression ([13619/14](#)).

In January 2012, in the light of rapid technological developments and globalisation, the European Commission presented a legislative package to update and modernise the principles enshrined in the 1995 Data Protection Directive (Directive 95/46/EC)<sup>2</sup>, to guarantee data protection rights in the future. The package includes a policy communication setting out the Commission's objectives ([5852/12](#)), and two legislative proposals as a legislative package: a regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) ([5853/12](#)) and a directive on protecting personal data processed for the purposes of prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties and the free movement of such data for the police and criminal justices authorities ([5833/12](#)).

The data protection legislative reform aims at building a stronger and more coherent data protection framework in the EU, backed by strong enforcement that will allow the digital economy to develop across the internal market, put individuals in control of their own data and reinforce legal and practical certainty for economic operators and public authorities. Data protection in the European Union is a fundamental right. The EU data protection reform seeks to ensure a very high level of protection of personal data.

In June 2013 the Council reached a partial general approach on the text of Article 3(2) (territorial scope), the text concerning the respective definitions of "binding corporate rules" and "international organisations" (Articles 4(17) and (21)), and the transfer of personal data to third countries or international organisations (Chapter V) of the draft regulation ([10349/14](#)). This agreement does not mandate the Presidency to engage in informal trilogues with the European Parliament on the text.

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<sup>2</sup> Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data ([OJ L 281, 23.11.1995](#))

## European Public Prosecutor's Office

- State of play/Orientation debate

The Council will be briefed by the Presidency on the state of play on the proposal regarding the setting up of a European Public Prosecutor's Office (EPPO) and will hold a policy debate on the basis of a document prepared by the Presidency ([13509/1/14 REV 1](#))

The debate will focus on how the concept of "single legal area" (used in Article 25 in the Commission proposal) shall be interpreted. In practice, the question is whether the EPPO will be able to operate across the borders of participating member states as one single office, or if there is a need to have recourse to traditional mechanisms of mutual legal assistance and mutual recognition when, for example, two European Delegated Prosecutors based in two member states work on the same cross-border case. If one uses the traditional mechanisms, it will also mean that all grounds for refusal will become applicable.

In March 2014 the Council held a discussion on the structure of the Office, and on the delimitation of its tasks and competences. Ministers generally agreed that the European Prosecutor's office will be organised on the basis of a college of prosecutors originating from the member states.

In June 2014 the Council confirmed, as the basis for further discussion, the principles of a collegial organisation of the EPPO. Ministers also confirmed the principle that the EPPO has a priority competence to investigate and prosecute offences affecting the Union's financial interests ([9834/1/14 REV 1](#)), but that national authorities will retain a concurrent competence in principle.

The proposed regulation aims to help combat crimes against the Union's financial interests by the introduction of a European Public Prosecutor's Office with competence in that area. The legal basis and the rules for setting up the EPPO are laid down in Article 86 of the Treaty on the Functioning of the European Union (TFEU). The proposed regulation will be adopted in accordance with a special legislative procedure: the Council will decide unanimously after obtaining the consent of the European Parliament. If unanimity cannot be reached in the Council, the Treaties provide that a group of at least nine member states may enter into an enhanced cooperation.

The Commission presented its proposal on 17 July 2013 ([12558/13](#)).

## Presumption of innocence

- Policy debate

The Council will hold a policy debate on the proposal for a directive on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings.

On the basis of a document prepared by the Presidency ([13538/14](#)), the Council's debate will focus on the aspect of the burden of proof (article 5 of the proposal). Ministers will be invited to confirm that:

- the text of the article should take account of the fact that in some member states not only the prosecution but also judges are charged with seeking both inculpatory and exculpatory evidence;
- a reference should be made to the possibility of using presumptions of facts or law, while clearly stating that the rights of the defence should always be respected.

The Commission presented its proposal on 27 November 2013 ([17621/13](#)). In a package adopted on the same date, the Commission presented also the following texts:

- a proposal for a directive on procedural safeguards for children who are suspected or accused in criminal proceedings
- a proposal for a directive on the right to provisional legal aid for citizens suspected or accused of a crime and for those subject to a European Arrest Warrant;
- a recommendation on procedural safeguards for vulnerable people suspected or accused in criminal proceedings;
- a recommendation on the right to legal aid for suspects or accused persons in criminal proceedings.

Since 2009, the work in the European Union on strengthening procedural rights for suspects and accused persons in criminal proceedings has been carried out on the basis of the [roadmap](#), which was adopted by the Council on 30 November 2009. The roadmap provides a step-by-step approach – one measure at a time – towards establishing a full catalogue of procedural rights for suspects and accused persons in criminal proceedings. The European Council has made the roadmap part of the Stockholm programme, in which explicit reference was made to a measure on the presumption of innocence.

Three measures have already been adopted on the basis of the roadmap: [Directive 2010/64/EU](#) on the right to interpretation and translation in criminal proceedings ([see press release](#)), [Directive 2012/13/EU](#) on the right to information in criminal proceedings ([see press release](#)), and [Directive 2013/48/EU](#) on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty ([see press release](#)).

In June 2013 the Council reached a general approach on the proposal for a directive on procedural safeguards for children ([10065/14](#)). The negotiations with the European Parliament to reach an agreement on that text will probably start at the beginning of next year.

### **Mutual recognition of public documents**

#### – Policy debate

The Council will hold a policy debate on the draft Regulation on promoting the free movement of citizens and businesses by simplifying the requirements for presenting certain public documents in the European Union.

The debate will be focused on three issues: one relating to standard forms, the second one relating to Article 18 (on the relations between the future regulation and other instruments) and the third one on the future use of electronic means in the exchange of information between the member states ([13566/14](#)).

The proposed regulation aims at simplifying the procedures for cross-border use and acceptance of public documents between the member states, thereby contributing towards the creation of a citizens' Europe and a well-functioning Single Market for EU businesses.

The scope of this proposal covers public documents issued by authorities of the member states and having formal evidentiary value relating to birth, death, name, marriage, registered partnership, parenthood, adoption, residence, citizenship, nationality, real estate, legal status and representation of a company or other undertaking, intellectual property rights and absence of a criminal record. Under this proposed regulation, such documents will be exempted from all forms of legalisation and similar formalities. Documents drawn up by private persons and documents issued by authorities of third states are excluded from its scope.

The proposal also establishes EU multilingual standard forms concerning birth, death, marriage, registered partnership and legal status and representation of a company or other undertaking.

The Commission presented its proposal on 24 April 2013 ([9037/13](#)).



## **MIXED COMMITTEE**

### **Task Force Mediterranean**

- Follow up / Information from the Commission, Frontex and EASO

The committee will be briefed by the Commission, Frontex and EASO on the latest developments concerning the operational actions within the context of the Task Force Mediterranean.

See item above

### **Revised Greek Action Plan on Asylum and Migration Management**

- State of play on the implementation

The Greek minister will inform the committee about progress in the implementation of the revised Greek national action plan on asylum and migration.

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