



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 3 November 2011

15498/11

**CATS 98
COMIX 629**

OUTCOME OF PROCEEDINGS

of: CATS

on: 6 & 7 October 2011

Subject : Outcome of proceedings of CATS on 6 & 7 October 2011

1. Adoption of the provisional agenda

The agenda has been approved.

2. SIS II

- State of play

The Presidency recalled that it intends to present a written report at the December JHA Council.

The Chairman of the informal Friends of SISII group (FOSIS) presented the task force report pointing out several risks that could lead to delays in the overall schedule.

The COM confirmed the possibility of such a delay arising as a result of delays in central system testing, availability of C.SIS resources, contractual issues in some MS and the large number of MS in group 4 for the CTE tests. However, COM stated that possible parallelising of some tasks was being examined and that it did not want to revise the global schedule at this time as more information would be available by the end of the month.

On the issue of financing by the EBF, COM stated that 90% of the necessary funds would be available and could be disbursed this year if applications were entered within the specified time limit.

DE recalled that decisions were to be taken in official groups only and regretted that COM did not report in writing on the state of play. AU, UK and NL agreed that a written report by COM would be desirable.

The Presidency concluded by inviting COM, as several delegations requested, to submit a written report for the next CATS.

3. Outcome of the discussion on the future of CATS

The Presidency gave a short presentation for the associated States on the state of play of discussions on the future of CATS.

CATS (Home Affairs - after Comix)

1. Adoption of the provisional agenda

The agenda has been approved. Two items were added under AOB.

2. Implementation of Article 222 TFEU

14840/11 JAI 685 CATS 84 COSI 72

The meeting held an exchange of views on the future implementation of Article 222 TFEU on the basis of a document prepared by the Presidency (14840/11 + COR 1). Following the introductory remarks by a representative of the Commission, who outlined the next steps to be taken by COM, and the EU CTC who provided his understanding of the Article, the delegations, while agreeing that the core discussion on the implementation of the Article would be held in COSI and PSC, welcomed the opportunity to provide their preliminary views on the orientation of the future process.

The delegations agreed in general that the solidarity clause should only be invoked in specific exceptional and emergency circumstances, at the request of a concerned Member State, and that it can only apply on the territory of EU Member States. The impact of a particular incident on a neighbouring Member State not directly affected should also be considered. The general triggering criteria to be defined would have to take account of the differences in size and capacities of Member States as well as the nature of the event. Instruments that already exist in the area of crisis management, such as the crisis coordination arrangements or disaster rescue procedure, should be exploited to the extent possible in order to avoid duplication. Regarding the regular assessment of the threat by the European Council referred to in Article 222 (4), it was noted that the analytical work done at EU level (e.g. Frontex analyses or OCTA) should not be duplicated. A single umbrella instrument to be proposed jointly by the Commission and the High Representative should be the basis of a functional implementation mechanism and should not entail creation of new structures. Some delegations were of the view that, in principle, the solidarity clause should only apply to incidents that had happened already, since its application in order to prevent a crisis could interfere with other instruments. The question of the involvement of EU institutions in the decisions on whether to invoke solidarity or the bearing of costs should be discussed at a later stage.

On the basis of the discussion, the Presidency would prepare a written contribution by CATS to the joint meeting of COSI and PSC, which should also serve as a part of the background for further work by the Commission and COSI and PSC on the implementation of Article 222 TFEU. The Chair invited delegations wishing to provide written comments to send them to the Presidency.

3. Exchange of data within AFSJ and EU data retention and data protection standards: need for further harmonisation/approximation?

14957/11 JAI 695 DATAPROTECT 104

The Presidency presented its note. Delegations were opposed to a horizontal harmonisation of the data retention periods in the various EU instruments, arguing that each instrument had its own specificity. A number of delegations argued in favour of a harmonisation of retention periods among Member States. One Member State opined that Article 16 TFEU did not provide a legal basis for establishing data retention periods (or other data protection rules) for purely internal data processing operations.

4. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on cooperation in the area of Justice and Home Affairs within the Eastern Partnership. Orientation debate on its future application

14864/11 JAI 689 JAIEX 95 COEST 325 NIS 115 RELEX 969 VISA 188 MIGR 148
FRONT 122 ASIM 96 CATS 87 COSI 73 JUSTCIV 250
14960/11 JAIEX 97 ASIM 98 CATS 88

The Committee debated the relations with the EaP countries, after the recent summit in Warsaw and in line with the Commission Communication and the Presidency note/questionnaire.

Several delegations intervened in support of the process (CZ, HU, FIN, BG, CY, UK, LT, SV) and agreed that there was no need to establish new structures, although they supported the idea of a yearly ministerial meeting. The Eastern Partnership should have a broad content: mobility, security and justice should all be areas for cooperation.

The Polish questionnaire will also be discussed in other working parties/committees (SCIFA, Civil law, HLWG, JaieX) so as to prepare a broad consensus for Council conclusions that will be submitted in December

AOB

- AT : Statistics on crime

The AT delegation informed the Committee that the Statistics Working Party is dealing with the issue of statistics on crime in the framework of a Regulation on harmonisation of EU statistics. This would cost AT 1.8 Million Euros. AT would like the opinions of delegations on the cost / benefits of those statistics.

CATS (Justice 7/10/2011 - 10 h)

5. Eurojust : Strategic seminar

- New perspectives in Judicial Cooperation (Budapest 15-17 May 2011)

14428/11 COPEN 227 CATS 78

14742/11 CATS 83 COPEN 254 EUROJUST 152 GENVAL 97

CATS had an exchange of views on the basis of the outcome of the Eurojust Strategic Seminar held in Budapest in May 2011 in order to provide preliminary opinions on the functioning of Eurojust. In particular, delegates addressed the following two questions put forward by the Presidency: 1. do delegations see any particular areas of possible improvement of the functioning of Eurojust?; 2. in particular the Presidency encouraged the delegations to express their opinions on the preferable order of activities with regard to the evaluation and possible improvement of Eurojust, i.e. (a) finalisation of implementation of the Decision; b) evaluation provided for under Art. 41a of the Decision; c) amendment of the legal framework. Observations made by the delegations in response to these questions will be taken into account by the Council preparatory body (GENVAL) in the process of preparation of the VI Round of mutual recognition. CATS took note of the outcome of the Eurojust Strategic Seminar.

6. Proposal for a directive of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest
14861/11 DROIPEN 108 COPEN 258 CATS 86 CODEC 1552

The Committee had an exchange of views on two questions with a view to providing guidance to the Working Party.

7. Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime

- **guidance to be provided by CATS on selected issues**

14956/11 DROIPEN 110 JUSTCIV 254 ENFOPOL 331 DATAPROTECT 103 SOC 833 FREMP 91 CODEC 1574

CATS had an orientation debate on three key issues outlined in 14956/11 DROIPEN 110 JUSTCIV 254 ENFOPOL 331 DATAPROTECT 103 SOC 833 FREMP 91 CODEC 1574. On the basis of this debate the Working Party will continue its discussions of the proposal on 19 and 20 October.

8. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions
"Towards an EU Criminal Policy: Ensuring the effective implementation of EU policies through criminal law" .

- **Presentation by the Commission and exchange of views**

14856/11 CATS 85 DROIPEN 107 COPEN 257 GENVAL 99

This point was discussed during lunch.

9. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions
Building trust in EU-wide justice - A new dimension to European Judicial Training

14196/11 JAI 623 JUSTPEN 4 JUSTCIV 234

14937/11 JAI 694 JUSTPEN 6 JUSTCIV 253

The Presidency encouraged the JHA Counsellors to reach agreement on the draft Council conclusions on European judicial training with a view to their adoption at the October JHA Council. In this context, the Presidency reiterated the deadline for any written comments and drafting suggestions by 18.00 on 11 October 2011. The Commission also expressed a positive view on the draft Council conclusions.

10. AOB

- **Agreement of 28 June 2006 between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway**

- **Missing notifications and declarations**

10879/1/11 REV 1 JAI 378 COPEN 134

The Presidency drew attention to the fact that 10 Member States still had not sent in their declarations and notifications under the 2006 Agreement

- **LT : Abuse by third states of MLA agreements**

The LT delegations informed the Committee of the abuse committed by a certain third state of MLA agreements by using the information thus received in politically motivated prosecutions. Some Member States informed the Committee that they had had the same experience.
