



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 September 2011

14174/11

LIMITE

| | |
|----------------|------------|
| JAIEX | 87 |
| RELEX | 903 |
| ASIM | 92 |
| CATS | 76 |
| JUSTCIV | 231 |

OUTCOME OF PROCEEDINGS

from: General Secretariat of the Council

to: Delegations

Subject: Summary of conclusions of the meeting of the JHA-RELEX Working Party (JAIEX) on 9 September 2011

1. Adoption of the agenda

The agenda was adopted as set out below.

2. Thematic discussion: Cooperation with Eastern Partnership countries

The Eastern Partnership is a priority of the Presidency as there is a need to strengthen cooperation with countries in the area. The Presidency seeks to promote a "more for more" principle by formulating long-term objectives in the area of mobility, migration and asylum, as well as in security and justice matters, whilst improving the efficiency of the implementation mechanisms.

Conclusions might be adopted on 13 December 2011 at the Council, in light of the future Commission Communication and on the basis of the results of the Eastern Partnership Summit to be held in Warsaw on 29 and 30 September 2011.

- ***Presentation by the EEAS on activities in the EaP countries***

The cooperation between the EU and the EaP countries is very important as the partner countries have numerous aspirations. In December 2008, the Commission issued a Communication on bilateral and multilateral cooperation. Four thematic platforms have been set up: democracy-good governance-stability, economic integration and convergence with EU policies, energy security and contacts between people. There are six other flagship initiatives the implementation process: Integrated Border Management Programme, promotion of regional electricity markets, energy efficiency and renewable energy sources, development of the Southern energy corridor, cooperation on prevention of, preparedness for and response to natural and man-made disasters. In the near future, possible steps might include enhancing mobility and the security environment, market access, combating climate change and environmental degradation. The representative of the EEAS called on MS to contribute to the efforts to achieve a consensus on the final declaration for the Summit in Warsaw.

- ***Presentation by the Commission***

A Commission Communication, drafted in cooperation with the EEAS, will soon be released accompanied by two reports on the implementation of the visa action plan in Ukraine and Moldova and two draft negotiation mandates for visa facilitation and readmission with Azerbaijan and Georgia. The Commission did not favour the setting up of new tools but was ready to look positively on any concrete proposals in order to achieve a common JHA area with the Eastern partners.

At this moment, actions take place bilaterally, regionally and multilaterally, including through subcommittees. Mobility partnerships have proven to be very effective tools. The EU agencies should also be involved in new steps.

Further steps might be considered in four areas: on migration, mobility and asylum, on integrated border management (which is already well advanced thanks to cooperation with Frontex and EUBAM), on public order and security and finally on the rule of law, in particular on data protection.

The Commission's overall aim is to achieve mobility in a secure environment.

- ***Presentation by Sweden and Czech Republic on bilateral cooperation with the EaP countries***

Sweden outlined the cooperation that had developed with 4 of the 6 EaP countries, Moldova, Georgia, Ukraine and Belarus within the Söderköping process (SkP). Expert-level seminars and workshops on thematic issues (asylum, migration, border management, human rights protection), and meetings of the National Coordinators Network regularly take place. A web portal in Russian has been developed to enhance access to EU policy documents, EU legislative acts and best practices by a wider population.

The Czech delegation highlighted its policies towards Moldova, Georgia, Ukraine and Belarus; these policies cover several areas such as migration management, judicial reforms and judicial cooperation as well as the fight against corruption. The Prague process organising the political dialogue on migration would continue to be consistent with the EU global approach to migration. The second ministerial conference of the Prague process will take place in Poznan in November 2011 with the endorsement of an action plan. The Czech priority for external migration policy also explained its engagement with Sweden in the Söderköping process.

- ***Comments***

Several MS pointed to the necessary balance between the attention focused on the Eastern Partnership and the commitments that had already been made towards the Mediterranean area (FR, PT, DE, AT). They underlined the possibilities offered by existing tools such as the EU Liaison Officers' network and ICMPD, instead of creating new tools. The focus on visa liberalisation seemed to be premature for some MS as it is a long-term goal (AT, FR, NL). Attention has been drawn to needs in the justice area especially as regards the rule of law, data protection (DE, Eurojust, Europol) and direct mutual legal assistance. Supplementary action might be taken in the field of cybersecurity (GB, FI). Several delegations welcomed the possibility to discuss the new influx of illegal migrants at the next Council.

The Presidency will pursue the discussion on the cooperation with the Eastern Partnership at the next meeting on 14 October 2011, in light of the Commission Communication and the results of the Warsaw Summit and with a view to future Council conclusions. The Presidency also invited those MS which stated that they would send their contribution to the Ukraine matrix soon to the Council Secretariat to do so.

3. Recommendation for JAIEX working methods - discussions on the document concluding the analysis of the replies received from delegations

The synthesis provided by the Presidency of the recommendations for JAIEX working methods was broadly supported. They will be sent to COREPER on 21 September for approval.

4. Ensuring complementarity between the EU and Member States' actions in the external dimension in the area of freedom, security and justice - discussion

The Presidency had issued a note on complementarity between the EU and Member States' actions in the external dimension in the area of freedom, security and justice in line with the Stockholm Programme. The objective was to promote the effective achievement of objectives whilst optimising the use of resources. One crucial element in this process is to ensure the best possible flows of information between all actors, the EU institutions, the Member States, agencies and other relevant partners.

The Presidency would still consider refining the questionnaire but invited delegations to send their comments before 26 September 2011. Then, a consolidated note taking account of the scope and key challenges that posed by complementarity issues would be discussed at the next JAIEX meeting and later with other relevant committees such as COSI, CATS, SCIFA and the HDG. A consolidated document should be ready in December.

In their initial reactions, many delegations supported the efforts of the Presidency; information flows must be strengthened between MS and EU institutions, but duplication must be avoided in order to enhance effectiveness (SE, SI, DE, HU, NL, COM, EEAS). Financial instruments, as essential tools, should certainly be taken into consideration. Another topic of discussion will certainly be the role and the contribution to be expected from the EU delegations in third countries. The JAIEX group should also discuss the tools it had developed itself (such as the matrix) and whether to perform gap-analysis (UK) on third countries. Europol pointed to document 11050/11 as an important basis for defining priorities.

5. Information on bilateral activities of Member States

- Referring to the debate at the previous JAIEX meeting, the UK delegation reported on the demarche it had undertaken in Minsk based on the support of 11 Member States. The EEAS had also acted in the same spirit towards the Belarus authorities.

- SI reported to JAIEX on the recent meeting of Chiefs of Police and Liaison officers in the Balkans, which had discussed migration and the fight against organised crime.

- SE informed the group of the upcoming seminar of the Nordic-Baltic cooperation forum which would discuss cooperation with Russia.

6. EU-US relations in the field of Justice and Home Affairs

- ***Outcome of the EU-US JHA Senior Officials Meeting, Cracow, 25-26 July 2011***

The Presidency informed the group of EU-US cooperation since the meeting in Krakow. The date for the EU-US Ministerial meeting (21 November 2011) was now confirmed. A letter had been sent to the authorities in Norway following the tragedy on 22/7.

The Commission had again raised the visa issue concerning four MS and also the question of the ESTA fee. It would now consider the drafting of a mid-term report two years after adoption of the Washington Declaration on EU-US cooperation in JHA matters.

SE suggested deepening the discussion with the US on trafficking of human beings.

- ***Review of activities in the EU-US Cyber working party - information by the Commission***

The Commission informed the group of the main activities so far in the working party that had been set up by the EU-US Summit of 30 November 2010. A draft work paper was issued on 14 April 2011. Four working groups had been set up, of which three are related to cybersecurity (computer incident, public/private sector cooperation, awareness raising) and one related to cybercrime. The Commission coordinated its efforts with the U.S Department of Homeland Security for the realisation of a timeframe for the upcoming joint exercise which would be held in Brussels in November 2011. In the fight against cybercrime 3 priorities have been chosen:

- Abuse of domain names and IP address abuses:

Domain name anonymity is of great concern to the EU. ICANN did not follow the law enforcement recommendations that had been agreed in the JHA dialogue by the EU with its US counterparts. As ICANN is a self-regulating enterprise, the U.S authorities had no direct leverage. So far, the ICANN's tactic had been to delay the implementation process.

- Fight against child pornography: the U.S proposed on 29 June 2011 to use a photo DNA software made by Microsoft and available for free for detecting and deleting child pornography pictures on internet; the EU was interested by the proposal.
- Ratification by all MS of the Council of Europe Cybercrime Convention is a priority of the U.S. Attorney General and would allow a clear message to be sent to the international community. Commissioner Malmström sent a letter to the MS which have not yet ratified this important legal instrument.

The Presidency would seize the opportunity provided by the next JAIEX meeting to organise a joint session of JAIEX with the COTRA delegates.

7. Preparation of the EU-Western Balkans JHA Ministerial Meeting, Ohryd, 3-4 October 2011

The Presidency presented the programme for the upcoming Western Balkans Forum. The same diplomatic measures would be applied towards the countries in the region as during the previous meeting under Belgian Chair in 2010. Apart from the countries and agencies that usually participate, other MS can participate in the meeting as non-speaking observers.

The Commission representative pointed at worrying figures concerning asylum applications from Bosnia and Herzegovina and from the former Yugoslav Republic of Macedonia, and more reassuring figures from Serbia. The Commissioner would take several measures to act in response to these worrying figures. The issue would also be discussed at the next Council meeting.

Greece pointed at the sensitive issue of the designation of the host country (the meeting takes place in Ohryd).

8. Preparation of the EU-Russian Federation Permanent Partnership Council, Warsaw, 10-11 October 2011

The Presidency made it clear that until now, the agenda had not been agreed with Russia but it would certainly cover all main areas (Mobility, Security, Justice) though it could be streamlined, so as to leave more time for an in-depth discussion. The Commission underlined that the mobility part could be examined quite in detail in the light of the progress on the common steps for the visa dialogue, the launching of an action plan for the Migration Dialogue and the importance of focusing on trafficking in human beings.

Delegations were invited to comment on the line to take before 13 September when the Presidency would summarise all comments and forward them to COEST. Sweden suggested following up on activities undertaken in 2009 as regards judicial cooperation. It also asked whether a "mid-term review" for cooperation with Russia would be envisaged.

9. Information on agreements and contacts between Eurojust and third countries

Eurojust informed the delegations, as it had already done several times in the JAIEX group, of the contacts it had, or was envisaging, with third countries. All priorities are consistent with the procedures agreed. Eurojust gave more precise details of the state of play with Croatia (and with the other Western Balkans countries), Switzerland, Liechtenstein and Cyprus, as well as with Russia, Ukraine, Israel and Cape Verde. Answering a question from DE, Eurojust confirmed that data protection concerns are at the very top of the issues it addressed during these contacts. Actually, the lack of satisfactory data protection provisions had been the cause of limited progress with some of these external partners. Cyprus stated that any future contact with Turkey should also be seen in relation to the lack of cooperation shown by Turkey towards Cyprus.

10. Information about recent and upcoming meetings and activities

- ***EU Dialogue on Drugs with Armenia, Moldova, Azerbaijan and Georgia***

Drugs trafficking is an important issue for the EU as it is often linked to other criminal activities such as money laundering, trafficking in human beings and arms and terrorism financing. The Presidency therefore attaches great importance to these recent meetings. The drugs aspects of external relations will be discussed in greater depth at the December meeting of JAIEX.

11. Preparation of the next meeting

The next meeting of JAIEX will be held on 14 October 2011. The main topics would be the Eastern Partnership, the preparation of the EU-US ministerial meeting, EU-US cybersecurity/cybercrime (in cooperation with COTRA), the complementary of action of the EU, as well as the follow -up to the EU-Russia PPC and to the Western Balkans Forum.

12. AOB

- *EU-Mexico Security Dialogue, Brussels, 15 July 2011*

Sweden and the Commission emphasised the importance of the EU-Mexico discussions on topics such as the fight against organised crime, judicial reform, arms smuggling, arms trafficking, border control and trafficking in human beings.

Now that the dialogue has started, it is important to translate the intentions into concrete actions in the area of law enforcement training, border management and the prevention of violence during football matches. Mexico has expressed particular interest in cooperation with Europol even if the country is, at this moment, not on Europol's priority list. Contacts with the Anti-Trafficking Coordinator would also be useful.

- AOB

The Netherlands informed its partners in JAIEX of a critical weakness that had been detected in the security certificates issued for Dutch public services by a company called DigiNotar. It would inform its partners shortly through the JAIEX distribution list. The Netherlands would be grateful to hear about any experiences gained in other MS.
