



VIDEOCONFERENCE OF MINISTERS OF JUSTICE

Friday 9 October

The Council will be chaired by **Christine Lambrecht**, German Federal Minister of Justice and Consumer Protection

The Presidency will present draft conclusions on seizing opportunities for **digitalisation in the field of access to justice**. It will also present draft conclusions on the charter of **fundamental rights** in the context of **artificial intelligence and digital change**. Ministers will then hold an exchange of views with the director of the EU Agency for Fundamental Rights on **antisemitism and hate speech**.

Ministers will exchange views on the recent EU strategy to **combat sexual abuse of children**, following a presentation by the European Commission. They will also be informed by the Commission and the European Chief Prosecutor of the latest developments in setting up the **European Public Prosecutor's Office (EPPO)**. Finally, ministers will be briefed on the latest developments regarding **e-evidence**.

A **press conference** will take place at the end of the meeting **(+/-13.00)**

[*Videoconference of ministers of justice, 9 October 2020 meeting page*](#)

[*Press conferences and public events by video streaming*](#)

[*Video coverage in broadcast quality \(MPEG4\) and photo gallery*](#)

¹ This note has been drawn up under the responsibility of the press office.

JUSTICE

Digital justice: access to justice

The Presidency will present draft conclusions on seizing opportunities for digitalisation in the field of access to justice.

Digitalisation of the member states' judicial systems has enormous potential to continue to facilitate and improve access to justice for citizens throughout the EU. Digital tools can help to better structure proceedings and to automate and accelerate the handling of standardised and uniform tasks, thereby increasing the effectiveness and efficiency of court proceedings. The COVID-19 crisis has further confirmed the need to invest and make use of digital tools in judicial proceedings.

In this context, the draft conclusions encourage member states to make increased use of digital tools throughout judicial proceedings and call on the Commission to develop a comprehensive EU strategy on the digitalisation of justice by the end of 2020. They also stress that using digital technologies should not undermine the fundamental principles of judicial systems, including the independence and impartiality of the courts, the guarantee of effective legal protection and the right to a fair and public hearing.

The draft conclusions also note the need to promote digital skills in the justice sector, to allow judges, prosecutors, judicial staff and other justice practitioners to use digital tools effectively and with due respect for the rights and freedoms of those seeking justice.

The draft text notes that the use of artificial intelligence in the justice sector is already being researched and developed and recognises that it has the potential to improve the functioning of justice systems. It underlines that the use of artificial intelligence tools must not interfere with the decision-making power of judges or judicial independence, or infringe the right to a fair trial and effective remedy.

For more information:

> [Digital future for Europe \(background information\)](#)

Fundamental rights

- *Fundamental rights in the context of artificial intelligence and digital change*

The Presidency will present draft conclusions on the charter of fundamental rights in the context of artificial intelligence and digital change. These conclusions are designed to contribute to the debate on digital change in the EU and on how to ensure that these technological developments respect the fundamental rights of citizens.

As indicated by the European Council in its conclusions of 2 October, the COVID-19 pandemic has further underlined the need to accelerate the digital transition in Europe. Seizing the opportunities of this transition is crucial to strengthening the economic base, ensuring technological sovereignty, reinforcing global competitiveness, facilitating the green transition, creating jobs and improving the lives of citizens. Digital development must also safeguard EU values, fundamental rights and security, and be socially balanced. EU leaders also highlighted the need for the EU to be a global leader in the development of secure, trustworthy and ethical artificial intelligence (AI).

The draft conclusions focus on a fundamental-rights based approach to artificial intelligence and provide guidance in particular on dignity, freedoms, equality, solidarity, citizens' rights and justice.

For more information:

> [Digital future for Europe \(background information\)](#)

> [European Council conclusions, 1-2 October 2020](#)

- *Antisemitism and hate speech*

Ministers will hold an exchange of views with the director of the EU Agency for Fundamental Rights (FRA) on antisemitism and hate speech.

The discussion will focus on how to improve the criminal justice response to antisemitism. In particular, ministers will consider what more can be done to encourage victims, Jewish communities and other civil society organisations to report antisemitic incidents, and how to improve recording and collection of data on antisemitism, in order to promote the proper investigation of antisemitic offences.

This discussion follows the publication of FRA's latest annual report on antisemitism. The report provides an overview of the most recent figures on antisemitism and of the existing legal framework and national measures in place to prevent and combat antisemitism.

FRA survey findings show that less than half of those who experience violence report incidents to the police or any other organisation, with only one in five doing so for harassment. Severe under-reporting of antisemitism means that the phenomenon remains largely invisible in criminal justice systems. For victims of antisemitism to obtain redress, every link in the criminal justice chain needs reinforcement: reporting, recording, investigation, prosecution and sentencing.

For more information:

> [FRA report on antisemitism](#)

EU strategy to combat sexual abuse of children

Ministers will discuss the judicial aspects of the recent EU strategy to combat sexual abuse of children, in particular as regards prevention and victim protection, following a presentation by the European Commission.

On 24 July 2020 the Commission put forward an EU strategy to make the fight against child sexual abuse more effective. This strategy proposes a series of initiatives for 2020-2025, which aim to:

- implement and develop the right legal framework to protect children
- strengthen the law enforcement response and improve cooperation between all stakeholders

To achieve these aims the Commission intends to launch an extensive study to identify legislative gaps, set up a prevention network to support member states and work towards the creation of a European centre to prevent and counter child sexual abuse. It will also work with the internet industry to assess possible technical solutions for detecting and reporting child sexual abuse in end-to-end encrypted electronic communications. In addition, the creation of an innovation hub and lab at Europol will help member states to keep up with technological developments and ensure an effective law enforcement response.

For more information:

[EU strategy for a more effective fight against child sexual abuse \(European Commission\)](#)

Digital justice: e-evidence

Justice ministers will be informed by the Presidency about the state of play regarding the e-evidence legislative proposals. The European Commission will also report on ongoing international negotiations regarding e-evidence.

The **e-evidence legislative proposals** aim to speed up access to electronic evidence saved in another member state by creating a legal framework for judicial orders addressed directly to service providers or their legal representative in another member state. The proposals include:

- a regulation on European production and preservation orders for electronic evidence in criminal matters
- a directive laying down harmonised rules on the appointment of legal representatives for the purposes of gathering evidence in criminal proceedings

The Council agreed its negotiating position on the regulation in December 2018 and on the directive in March 2019. As soon as the European Parliament has adopted its position negotiations on both files will start.

Ongoing **international negotiations regarding e-evidence** include negotiations for an EU-US agreement on cross-border access to e-evidence and negotiations in the Council of Europe on a second additional protocol to the Budapest Convention. In June 2019 the justice ministers authorised the Commission, on behalf of the EU, to open negotiations with the US and to participate in the negotiations within the Council of Europe.

Currently, US-based service providers work with European law enforcement authorities through direct cooperation on a voluntary basis or through procedures for mutual legal assistance (MLA) and are not always allowed, under US law, to respond directly to European requests for access to electronic evidence. An EU-US agreement would provide a framework for cooperation with the US, including for direct cooperation with service providers. It would also ensure strong mechanisms were in place to protect fundamental rights.

In September 2017, the Council of Europe undertook to prepare a second additional protocol to the Budapest Convention on Cybercrime. The objective of the protocol is to lay down provisions for a more efficient mutual legal assistance (MLA) regime for direct cooperation with service providers in other states that are parties to the Convention and for searches to be extended across borders. The protocol will include strong safeguards and data protection requirements. The advantage of such an agreement is its potential to apply across the globe. A total of 65 countries are currently parties to the Convention, including 26 member states.

If concluded, these agreements will complement the future EU framework on access to e-evidence currently being discussed by the EU institutions.

For more information:

- > [Council gives mandate to Commission to negotiate international agreements on e-evidence in criminal matters, 6 June 2019 \(press release\)](#)
- > [Council agrees its position on rules to appoint legal representatives for the gathering of evidence \(press release\)](#)
- > [Council agrees its position on the regulation on cross border access to e-evidence \(press release\)](#)
- > [Better access to e-evidence to fight crime \(background information\)](#)

European Public Prosecutors Office (EPPO)

Justice ministers will be informed by the Commission about the state of play in the implementation of the EPPO regulation. Work is ongoing in several areas with the aim of having the EPPO fully established and operational by the end of 2020.

The EPPO will have the authority, under the conditions set by the regulation, to investigate and prosecute in cases of EU fraud and other crimes affecting the EU's financial interests. It will bring together European and national law-enforcement efforts to counter EU fraud. To date, 22 member states have formally decided to join the EPPO.

The EPPO's central office is based in Luxembourg. The date on which the EPPO will assume its investigative and prosecutorial tasks will be set by the Commission on the basis of a proposal to be made by the European Chief Prosecutor once the EPPO has been set up.

For more information:

- > [Agreement on the EPPO regulation \(Council press release, 8 July 2017\)](#)
- > [Council confirms Laura Codruța Kövesi as first European chief prosecutor \(Council press release, 14 October 2019\)](#)
- > [Council appoints European prosecutors \(Council press release, 27 July 2020\)](#)
- > [European Public Prosecutor's Office \(background information\)](#)

Any other business

- Follow-up to the Schrems II judgement

The Commission will update ministers on the judgement of the Court of Justice in case C-311/18 (the Schrems II case), which deals with transfers of personal data to the US. The Court declared the EU-US Privacy Shield invalid. However, it considered that the Commission decision on standard contractual clauses for the transfer of personal data to processors established in third countries is valid.

> [Judgement of the Court of Justice in case C-311/18 \(press release\)](#)

- Transfer of sentenced prisoners from third countries to their member state of origin

Lithuania will invite member states to consider if the EU could take action in any form to facilitate the transfer of sentenced prisoners, who are citizens in member states and serve imprisonment penalties in third countries, to their member state of origin.
