



VIDEOCONFERENCE OF JUSTICE MINISTERS

Wednesday 2 December

The meeting will be chaired by **Christine Lambrecht**, German Federal Minister for Justice and Consumer Protection.

Following the recent attacks in France, Germany and Austria, ministers will discuss the **justice aspects of counter-terrorism**. Under this item, they will focus on how to better combat hate speech online and how to improve digital cooperation. The presidency will also inform ministers about ongoing work regarding support for the victims of terrorism, particularly in cross-border situations, and about the expected conclusions on the European arrest warrant.

Ministers will also exchange views on **rule of law developments in the field of justice**, following the Commission's presentation in September of its 2020 annual rule of law report.

Ministers will be informed by the presidency of the state of play on the proposal for a regulation on **assignments of claims**. They will also be informed about the latest developments regarding the setting up of the **European Public Prosecutor's Office (EPPO)**. Ministers will also be briefed on other ongoing files.

The incoming Portuguese presidency of the Council will present its **work programme** for the first half of 2021.

A **press conference** will take place at the end of the meeting **(+/-16.30)**

[Videoconference of justice ministers, 2 December 2020 - meeting page](#)

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

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

JUSTICE

Counter-terrorism

Following the recent attacks in France, Germany and Austria, ministers will discuss the justice aspects of counter-terrorism. They will cover a number of issues and assess whether the EU should take further actions with a view to fighting terrorism more effectively in justice-related sectors.

- Hate speech online

Incitement to violence and hatred and the dissemination of propaganda through social media platforms is increasingly playing a harmful role in the run-up to and aftermath of terrorist attacks. In this context, ministers will discuss their experience at national level regarding the reporting of criminal offences related to hate crime and hate speech online and possible further action.

The framework decision on racism and xenophobia defines a common criminal law approach to racist and xenophobic hate speech and hate crimes. Currently, law enforcement authorities rely on cooperation with online service providers to effectively prosecute these criminal offences. In 2016, the European Commission together with several internet companies presented a 'code of conduct on countering illegal hate speech online', whereby these companies committed to reviewing valid removal notifications of illegal hate speech in less than 24 hours.

However, a key element of the ongoing debate on the responsibility of online platforms is to further define the obligations incumbent upon them with regard to law enforcement. Any such obligations would have to be carefully framed in relation to possible impacts on the fundamental rights of online service users, including freedom of expression, the right to a private life and data protection.

A further issue to be considered is what constitutes criminal hate speech. In its work programme for 2021, the European Commission announced a proposal to include hate crimes in the list of offences requiring approximation under the EU treaties.

- Digital cooperation

Digitalisation has an impact on criminal proceedings related to terrorist offences, as regards both the access to electronic evidence and the use of digital tools to improve and speed up judicial cooperation.

Work is currently ongoing to develop a more efficient mechanism for cross-border access to **e-evidence**. The legislative proposals under discussion aim to allow member states' competent authorities to request e-evidence directly from service providers active within the EU irrespective of their place of establishment and data location. This will remedy some of the existing challenges, including the long response times for mutual legal assistance requests and the possible inadmissibility of data obtained through voluntary cooperation. The Council adopted its negotiating position in December 2018 and discussions with the European Parliament will start once the latter has adopted its own mandate.

The EU is also engaged in two sets of international negotiations on this topic, with similar objectives. These are 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, 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.

Efficiency in judicial cooperation in criminal matters can also be improved through further **digitalisation of cross-border judicial cooperation**. Work has already been done to set up digital tools to support efficient interaction and judicial cooperation within the EU. However, more can still be done. In September 2020, the European Commission presented a study on cross-border digital criminal justice, which sets out several possible ways to implement the digital justice concept.

- Support for victims of terrorism

Supporting victims of terrorism and strengthening their rights is a fundamental part of the EU's counter-terrorism policy. The presidency will inform ministers about ongoing work in this field.

Discussions on this topic have taken place at technical level within the Council in the past months, on the basis of existing EU law and the recent EU strategy on victims' rights 2020-2025. Best practices and challenges in supporting victims of terrorism have been identified and the definition of national contact points for victims of terrorism has been further developed. A number of member states have already set up such contact points, while several others are planning to do so soon.

- European arrest warrant

The presidency will present the expected Council conclusions on the European arrest warrant and extradition procedures.

The European arrest warrant is a key instrument in the fight against cross border crime and terrorism. It functions satisfactorily overall. However, its operation can still be further improved. The conclusions set out a number of areas for improvement, including remedying shortcomings in national legislation, increasing training for practitioners, providing further support to executing authorities with regard to fundamental rights evaluations and strengthening surrender procedures in times of crisis, following the experience of the COVID-19 pandemic.

- Cumulative prosecution of foreign terrorist fighters

Ministers will also consider the report by Eurojust and the Genocide Network on the cumulative prosecution of foreign terrorist fighters for core international crimes and terrorism-related offences.

The investigation and prosecution of foreign terrorist fighters returning to their EU countries of origin has focused mainly on preventing and punishing terrorism-related offences. However, under international humanitarian law ISIS should be considered not only a terrorist organisation but also an organised non-state armed group. Therefore, its members could be responsible for committing war crimes and other core international crimes and be the subject of cumulative prosecutions. This also applies to other terrorist organisations. The report concludes that prosecuting terrorism offences together with core international crimes ensures the full criminal responsibility of perpetrators, results in higher sentences and delivers more justice for victims.

For more information:

- > [Response to the terrorist threat and recent terrorist attacks in Europe \(background information\)](#)
- > [Better access to e-evidence to fight crime \(background information\)](#)
- > [Draft Council conclusions on the European arrest warrant and extradition procedures - current challenges and the way forward](#)
- > [Cumulative prosecution of foreign terrorist fighters for core international crimes and terrorism-related offences \(Eurojust report\)](#)

Assignments of claims

Ministers will be informed by the presidency of the state of play on the proposal for a regulation on assignments of claims.

During the past months, significant progress has been made on a number of elements, including certain exclusions from the scope of the regulation, the definition of third-party effects of assignments of claims and the treatment of states with more than one legal system.

However, further work is still needed in a number of areas, such as the general rule to be applied, other aspects related to the scope of the proposal and the treatment of assignments of claims secured by immovable property or registered assets.

Work on this proposal is expected to continue at technical level under the upcoming Portuguese presidency of the Council.

The assignment of a claim refers to a situation where a creditor transfers the right to claim a debt to another person in exchange for payment. This system is used by companies to obtain liquidity and access credit. At the moment, there is no legal certainty as to which national law applies when determining who owns a claim after it has been assigned in a cross-border case, because no uniform EU conflict-of-law rules have been adopted on the law applicable to the third-party (or proprietary) effects of assignments of claims.

This regulation will set out uniform rules to designate which national law should determine the ownership of a claim after it has been assigned on a cross-border basis. By ensuring greater legal certainty for investors, the proposal aims to foster cross-border investment in the EU and facilitate access to finance for businesses and consumers.

For more information:

> [Presidency paper - proposal for a regulation on the law applicable to the third-party effects of assignments of claims](#)

Rule of law

Ministers will exchange views on rule of law developments in the field of justice, following the Commission's presentation in September of its 2020 annual rule of law report.

The aim of this discussion is not to duplicate the annual rule of law dialogue taking place within the General Affairs Council, but to have a more targeted, in-depth discussion on developments related to justice-specific matters. Ministers will focus in particular on the following topics:

- which justice-related aspects, developments and best practices of the rule of law are particularly important with regard to judicial independence and the quality and efficiency of the justice system;
- whether it could be beneficial to encourage judges to participate in a dialogue forum to exchange views on EU values and the rule of law.

The Commission report assessed the rule of law situation both at EU level and in all EU member states, covering four topics: justice systems, anti-corruption framework, media pluralism and other institutional issues linked to checks and balances.

For more information:

> [First annual report on the rule of law situation across the European Union, 30 September 2020 \(European Commission\)](#)

European Public Prosecutor's Office (EPPO)

Justice ministers will be informed by the Commission about the state of play with regard to the implementation of the EPPO regulation. Work is ongoing in several areas, with the aim of having the EPPO fully established and operational as soon as possible.

In the past months progress has been made on the appointment of the European Delegated Prosecutors, as well as on the EPPO's relations with third countries and with the member states not participating in the enhanced cooperation.

The EPPO will have the authority, under the conditions set by the regulation, to investigate and prosecute 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:

> [European Public Prosecutor's Office \(background information\)](#)

Other items

State of play on current files

The presidency will inform ministers about the latest developments regarding other current files.

Work programme of the incoming presidency

The upcoming Portuguese presidency of the Council will present its work programme and priorities for the next six months.

Any other business

The Commission will briefly present two non-legislative initiatives which are expected to be adopted shortly before the video conference: a communication on the digitalisation of justice in the EU and a new strategy for the implementation of the Charter of Fundamental Rights.
