



JUSTICE and HOME AFFAIRS COUNCIL

Thursday 7 and Friday 8 October in Luxembourg

The Council meeting will be chaired by Marjan Dikaučič, Minister for Justice of Slovenia, on Thursday and by Aleš Hojs, Minister for the Interior of Slovenia, on Friday.

On Thursday, **justice ministers** will aim to approve Council conclusions on the EU strategy on the rights of the child. They will hold a debate on pre-trial detention and receive an update on the European Public Prosecutor's Office (EPPO).

The meeting is expected to start at approximately 14.00. Before the meeting, ministers will attend a working lunch to discuss the issue of strategic lawsuits against public participation (SLAPP) and the need to protect journalists from abusive litigation.

On Friday, **home affairs ministers** will discuss the challenges posed by screening and detention of migrants at the border. They will also receive an update on the situation in Afghanistan with regard to international protection, migration and security.

Ministers will exchange views on the situation on various migration routes. The Commission and the presidency will also inform ministers about progress on the development of migration action plans for priority countries of origin and transit.

Ministers will hold a debate on the digital dimension of investigating child sexual abuse.

In a working lunch, ministers will have an exchange of views on the implementation of the various JHA databases and the interoperability framework.

In the margins of the Council, the Mixed Committee (EU plus Iceland, Liechtenstein, Norway and Switzerland) will cover the challenges posed by screening and detention of migrants at the border. Exceptionally, the Schengen associated states will be present for the update on the situation in Afghanistan.

Press conferences:

- **Justice Council** (**Thursday** +/-17.30)
- **Home Affairs Council** (**Friday** +/- 17.15)

Press conferences and public events by video streaming: <http://video.consilium.europa.eu>

Video coverage in broadcast quality (MPEG4) and photo gallery:
<https://newsroom.consilium.europa.eu/permalink/228634>

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

JUSTICE

Rights of the child

Justice ministers will aim to approve Council conclusions on the EU strategy on the rights of the child. This strategy, presented by the Commission on 24 March 2021, proposes concrete actions to protect, promote and fulfil children's rights.

The draft conclusions call on member states to develop, where appropriate, comprehensive policies to fulfil the rights of all children without any discrimination, to increase efforts to prevent and combat all forms of violence against children, to strengthen their justice systems so that they are compliant with the rights of all children and to increase opportunities for children to be responsible and resilient members of the digital society.

> [The EU strategy on the rights of the child \(European Commission\)](#)

Pre-trial detention

Ministers will hold a debate on pre-trial detention, an issue which has an impact on individual freedoms and is also important for mutual trust and mutual recognition.

They will focus in particular on how minimum standards for material detention conditions and procedural rights in pre-trial detention should be prioritised in order to enhance mutual trust between member states. They will also discuss what further actions at EU level could help improve detention conditions or enhance the use of alternative measures to detention.

In the 2018 Council conclusions on promoting mutual recognition by enhancing mutual trust, member states were encouraged to make use of alternative measures to detention in order to reduce the population in their detention facilities and prevent poor detention conditions and the problem of overcrowding. In the 2019 Council conclusions on alternatives to detention, specific actions at national and EU level in the field of detention were encouraged.

The issue of detention was discussed further at the informal meeting of justice and home affairs ministers in July 2019. In April 2020, the impact of the COVID-19 pandemic on detention was raised at the informal video conference of justice ministers.

The Commission is currently looking into further ways to improve detention conditions in the EU. In this context, it has prepared a non-paper aiming to identify relevant aspects resulting from existing international standards, where more convergence between member states would help to strengthen EU judicial cooperation in criminal matters.

> [Non-paper from the Commission services on detention conditions and procedural rights in pre-trial detention](#)

> [Council conclusions on mutual recognition in criminal matters \(December 2018\)](#)

> [Council conclusions on alternative measures to detention \(December 2019\)](#)

European Public Prosecutor's Office (EPPO)

The Commission and the presidency will inform ministers about the latest developments regarding the setting up of the European Public Prosecutor's Office (EPPO). The European Chief Prosecutor will attend the discussion on this point.

The EPPO started its operations on 1 June and is already carrying out a number of investigations in relation to cases which fall under its mandate.

The EPPO has the authority, under the conditions set out in the regulation, to investigate and prosecute cases of EU fraud and other crimes affecting the EU's financial interests. It brings 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 in Luxembourg.

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

> [European Public Prosecutor's Office website](#)

Any other business

– *Current legislative proposals*

The presidency will inform ministers about the latest developments in work on current legislative proposals.

– *Conference on regulation of artificial intelligence*

Ministers will receive information on the outcome of the virtual conference on regulation of artificial intelligence - ethical and fundamental rights aspects (20 July 2021).

The first part of the event focused on the EU perspective and the recent proposal for a regulation on artificial intelligence. The second part of the conference was dedicated to the international perspective on artificial intelligence and the various ongoing initiatives.

> [Press release on the virtual conference on the regulation of artificial intelligence \(Slovenian Presidency\)](#)

– *Situation of members of the judiciary in Afghanistan*

Ministers will be informed about the situation of members of the judiciary in Afghanistan and the measures which have been taken to support Afghan people who are at risk of persecution due to their involvement in the Afghan justice system.

– *Code of conduct on countering illegal hate speech online*

The Commission will inform ministers of the results of the sixth evaluation of the code of conduct on countering illegal hate speech online.

The code of conduct was drafted in cooperation with member states and agreed in May 2016 by the Commission and IT companies (Microsoft, YouTube, Facebook and Twitter) to ensure the effective countering of illegal hate speech online.

Regular evaluation exercises are organised by the Commission with member states' authorities, IT platforms and NGOs to verify progress by IT platforms in countering illegal hate speech online.

> [The EU code of conduct on countering illegal hate speech online \(European Commission\)](#)

Strategic lawsuits against public participation (SLAPP)

Before the meeting, ministers will attend a working lunch to discuss the issue of strategic lawsuits against public participation (SLAPP) and the need to protect journalists from abusive litigation. They will focus on national experience and good practices in fighting SLAPP, as well as on whether there is a cross-border dimension for which an initiative at EU level would provide added value.

SLAPP refers to lawsuits filed by powerful subjects against individuals or organisations who have expressed a critical position on a substantive issue of public interest. The purpose is to silence defendants by draining their resources and morale with exorbitant claims for damages, long legal proceedings or a combination of different strategies.

The COVID-19 pandemic has provided a further reminder of the importance of protecting European democracies and the key role played by journalists and civil society representatives in exercising public scrutiny and informing citizens.

As announced under the European democracy action plan published in December 2020, the Commission is preparing an initiative to protect journalists and rights defenders against this type of abusive litigation.

HOME AFFAIRS

Challenges of screening and detention at the border

Home affairs ministers will discuss the challenges posed by screening and detention of migrants at the border.

In recent years the EU has faced a number of challenges which have put the spotlight on the importance of a coordinated approach to the protection of the EU's external borders. These include the migration and refugee crisis of 2015-2016, the COVID-19 pandemic, the recent events in Afghanistan and the developments at the Belarus border over the past months.

During this discussion, member states will focus on what common EU action is required to address security challenges at the EU external borders and whether these solutions should be sought in the framework of the proposed regulation on screening.

> [Strengthening the EU's external borders \(background information\)](#)

Situation in Afghanistan

Ministers will receive an update on the situation in Afghanistan with regard to international protection, migration and security.

At their extraordinary meeting on 31 August, ministers adopted a statement highlighting the need to continue coordination with international partners on the stabilisation of the region and to ensure that humanitarian aid reaches vulnerable people. They also stated the need to continue cooperation to prevent illegal migration from the region, as well as to effectively protect the EU's external borders and prevent unauthorised entry.

In that statement, ministers also highlighted that the EU and its member states would do their utmost to ensure that the situation in Afghanistan did not lead to new security threats for EU citizens.

Work has continued since then to take forward a number of strands outlined in the statement. The Commission and the European External Action Service will inform ministers about developments regarding the humanitarian situation and assistance, and outreach and support to neighbouring countries. The EU Counter-Terrorism Coordinator will present the counter-terrorism action plan on Afghanistan as a common framework for future work. The plan was drawn up in close consultation with the EU member states, institutions and relevant agencies.

> [Statement on the situation in Afghanistan \(31 August 2021\)](#)

External dimension of migration

– *Migration action plans*

The Commission and the presidency will inform ministers about progress on the development of migration action plans for priority countries of origin and transit. Discussions have already taken place at technical level within the Council on action plans regarding Afghanistan, Bosnia and Herzegovina, Tunisia, Niger, Nigeria and Iraq.

The effective functioning of a comprehensive EU migration and asylum system requires the significant strengthening of tailor-made and mutually beneficial migration partnerships with countries of origin and transit. In June 2021, the European Council called for action plans to be put forward in autumn 2021 and to include clear objectives, further support measures and concrete timelines.

> [European Council conclusions on COVID-19 and migration \(24 June 2021\)](#)

- *Migratory situation on various routes*

Ministers will exchange views on the situation on various migration routes.

The number of illegal border crossings at the EU's external borders in the first eight months of 2021 was 64% higher than one year ago when COVID-19 restrictions were in place. However, overall the numbers of irregular migrants remain significantly below the levels prior to the 2015 crisis.

The Central Mediterranean route has experienced the highest increase of all routes, with an increase also seen in Spain, in particular due to arrivals in the Canary Islands. On the Eastern Mediterranean route, the overall figure is lower than last year, although arrivals in Cyprus have increased.

New modi operandi have been applied, with the instrumentalisation of migration for political ends, in particular the state-sponsored organised smuggling of migrants by Belarus.

The role of smugglers on all these routes cannot be ignored.

> [EU migration policy \(background information\)](#)

> [Migration flows: Eastern, Central and Western routes \(infographic\)](#)

Digital dimension of investigating child sexual abuse

Ministers will hold a debate on the digital dimension of investigating child sexual abuse. They will focus on how access to data for competent authorities can be guaranteed in order to effectively counter these crimes. They will also discuss the role of proactive measures by social media platforms, hosting services and electronic communications providers in addressing this phenomenon.

Virtually all criminal activity now features a strong digital dimension and child sexual abuse is no exception. It is estimated that the COVID-19 pandemic has led to an increase in the number of criminal activities relating to child sexual abuse on both the web and the dark web.

To fight child sexual abuse effectively it is essential to ensure and preserve the ability of law enforcement and judicial authorities to exercise their powers, as prescribed and authorised by law, both offline and online. The current situation, however, poses various challenges as regards access to data by competent authorities, and a number of technological developments and ongoing legislative files will be critical in this regard, including the digital services act, e-evidence, e-privacy, data retention, the introduction of 5G and encryption.

Any other business

- *Current legislative proposals*

The presidency will inform ministers about the latest developments regarding work on current legislative proposals.

- *Salzburg Forum ministerial conference*

The Czech Republic will brief ministers on the Salzburg Forum ministerial conference which took place on 23 and 24 June. Marking the 20th anniversary of the signing of the first Salzburg Forum joint declaration, ministers evaluated their cooperation so far and discussed the future direction of the forum.

> [Salzburg Forum ministerial conference joint declaration and declaration on political guidelines](#)

Implementation of interoperability

Over lunch, ministers will have an exchange of views on the implementation of the various JHA databases and the interoperability framework.

The Commission will inform ministers of the state of play regarding the implementation of the entry/exit system (EES) and the Schengen information system (SIS) in particular.

The new interoperability framework, which will help to improve border management and internal security in Europe, is a game-changer in the field of information exchange. Its implementation is closely linked with the creation and upgrading of a number of IT systems in the area of justice and home affairs, in particular the EES, the European travel information and authorisation system (ETIAS) and the European criminal records information system regarding third-country nationals (ECRIS-TCN).

The interoperability regulations establish four new tools to improve information flows:

- a European search portal for searching simultaneously in multiple EU information systems
- a shared biometric matching service for searching for and cross-checking biometric data in relevant EU information systems
- a common identity repository containing biographical and biometric data of non-EU citizens available in several EU information systems
- a multiple identity detector to detect multiple identities linked to the same set of biometric data

The new rules will help authorities to better detect security threats and combat identity fraud. They will also help to improve checks at external borders and to prevent and combat illegal immigration.

> [IT systems in the area of freedom, security and justice \(background information\)](#)

> [How interoperable databases will boost Europe's security \(infographic\)](#)
