



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 27 June 2014  
(OR. en)**

**11393/14**

**LIMITE**

**JAIEX 49  
RELEX 550  
ASIM 53  
CATS 95  
JUSTCIV 194  
USA 14**

## **OUTCOME OF PROCEEDINGS**

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**From:** General Secretariat of the Council

**To:** Delegations

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**Subject:** Summary of conclusions of the EU-US JHA Ministerial Meeting held on 25 June 2014 in Athens

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**DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (02.09.2014)**

### **1. INTRODUCTION**

In their opening statements, the EU side (Presidency and Commission) emphasised the main achievements in the JHA area in recent months. It was also noted that there were many similarities between the EU Council's agenda and the EU-US ministerial discussion, suggesting that the priorities, challenges and threats both partners face are not so different.

The US side noted that, although data protection discussions have been prominent in recent months between the EU and the US, cooperation in many more areas has continued and proven robust.

Reference was made in particular to a recent joint operation resulting in the disruption of a significant group of hackers and to the continued threat of terrorism.

## 2. DATA PROTECTION

- **Umbrella Agreement negotiations**

The EU noted that good progress had been made on the negotiations regarding the data protection umbrella agreement, **DELETED**.

The US delegation commended the efforts made towards concluding the negotiations. **DELETED**, as part of the successful conclusion of negotiations on a Data Protection and Privacy Agreement, it would seek to work with Congress to enact legislation that would provide EU citizens with the right to seek judicial redress in the US to the same extent that US citizens could seek judicial redress in US courts for such disclosures of their own law-enforcement information under the Privacy Act. The US delegation added that it could obviously not give more than its sincere political commitment to this objective. It added that such a proposal would be successful only if the draft Agreement did not lead to less law-enforcement information being transmitted and if the US obtained an adequacy statement.

- **DP reform processes in the US and in the EU**
- **Data retention: update**

The US delegation explained the Administration's efforts to implement President Obama's decisions of January 2014 to emphasise the need for judicial oversight by courts, greater transparency by the Government and companies, and for the legal basis of surveillance programmes to be public. In that context, the House of Representatives had passed the USA FREEDOM Act, which would, if enacted, create a new mechanism for the Government to obtain this telephony metadata on the basis of individual requests, rather than in bulk. **DELETED**

**DELETED**

The EU reported on the progress made in terms of data protection reform at the Council in June, in particular the substantial steps made on the draft data protection regulation. It also emphasised the importance of the two recent rulings of the European Court of Justice, on the Google case and on the data retention directive. It was clarified that the issue had never been the principle of data retention as such, but the proportionality of the proposed measures. The EU and Member States would soon assess the possible impact on other law-enforcement instruments and the need for a new directive.

The EU also indicated that the European Council was expected to send a strong message on the importance of data protection at its meeting on 26/27 June 2014.

### **3. MOBILITY, MIGRATION, BORDERS**

- **Visa reciprocity, ESTA**

**DELETED**. It noted that the Commission has to produce a report every six months on certain third countries' maintenance of visa requirements in breach of the principle of reciprocity. The next report would be issued in early October 2014.

The EU also presented the state of play of the Smart Borders proposal and the different phases to reach an entry-exit system and a registered travellers' programme.

**DELETED**

- **Platform on Migration**

**DELETED**

The EU explained how it had reacted to considerable pressure, in particular through by means of the measures taken under the Task Force Mediterranean. Cooperation with countries of origin and transit was key. The EU was ready to share experiences with its US partners and to exchange best practices on regional protection, resettlement, the fight against criminal networks who traffic people and the particular protection needed by minors.

#### **4. JUDICIAL COOPERATION**

- **Criminal matters:**
  - **preparation of next practitioners' seminar**

- **launch of the joint evaluation process**

Both sides acknowledged the good use that is being made of the agreements for mutual legal assistance. A practitioners' seminar would be welcome as soon as possible to reinforce the exchange of best practices, but the funding for Eurojust to organise this seminar before 2016 seemed to be unavailable.

**DELETED**

- **Civil matters**

The EU recalled the progress made within the Hague Conference on the Judgments Project since the begin of 2014, in particular with respect to recognition and enforcement. The project could contribute to boosting international trade. **DELETED**.

The EU also suggested cooperating with the US to ensure a successful entry into force of the 2005 Hague Convention on Choice of Court Agreements.

## **5. COUNTER-TERRORISM, SECURITY**

- **CVE, Foreign fighters**

**DELETED**

The EU presented its new strategy on radicalisation and recruitment and the set of measures it was taking with respect to the specific threat which foreign fighters in Syria now represent. It was important to gather specialists from different background to exchange views and best practices. The private sector, and in particular internet players, must be involved in this dialogue. The prevention aspect was also underlined so as to make parties more resilient. The EU feared that recent developments in Iraq could significantly augment the threat since the jihadist forces had seized considerable financial and military means. The EU and the US could do more on returnees by improving the counter-narratives, on the criminal side by ensuring proper incrimination and investigations, and in relations with third countries. The EU would share its strategic engagement plan with its US partners.

A conference at Europol on 25 June would provide an opportunity to exchange experiences among relevant services, notably on travellers. **DELETED**.

Eurojust was also involved in information-sharing among counter-terrorism prosecutors from the EU and certain partner countries on the different criminal/legal approaches. Gathering e-evidence made investigations even more difficult.

- **PNR**

**DELETED**

- **Explosives**

Both sides agreed to step up cooperation in the fight against explosive devices, the sophistication of which had substantially improved. The next meeting of experts should lead to concrete deliverables for further cooperation. The main priority areas remain information sharing, training and detection.

It should be possible to exchange information more quickly after important incidents occurred. The input of 16 Member States in the WCO's Global Shield programme was also welcomed by the US. The US would focus significant efforts on the risks of explosives in airports.

## **6. ORGANISED CRIME**

- **Trafficking in firearms, wildlife trafficking and confiscation**

The US presented two of its offices that play a prominent role in the fight against organised crime: the ATF office (Alcohol, Tobacco, Firearms), which had prevented the smuggling of numerous weapons, and the National Ballistic Service.

The EU highlighted its continuous efforts to improve legislation on confiscation and asset recovery. On the latter, successful cooperation had been established between Europol and the US Department of Treasury.

## **7. RIGHTS AGENDA**

- **Victims, disability**

The EU reported on the state of the acquis with respect to the protection of victims and cooperation with Member States to ensure the best possible implementation of the Directive. The Commission would share relevant information on the matter with the US.

The US side valued the dialogue that had taken place among US and EU experts, particularly on victims' compensation.

The EU also reported on the connected issue of hate crimes and the recent conferences organised with the Fundamental Rights Agency.

On the issue of disability, both sides underlined the importance on continuing the dialogue on these matters, notably because of the impact of standard setting on trade and on innovation.



## **8. CYBERSECURITY, CYBERCRIME**

The US recalled the importance of ratifying the Budapest Convention.

The EU clarified that substantial progress had been made in three of the five remaining countries (LU, SE and EL). The EU also highlighted the excellent cooperation between the Cybercrime unit at Europol and its counterparts in the US, the Secret Service, FBI and ICE. Recent operations had focused on credit card fraud and on virtual currencies. The identification of IP addresses and evidence was a real challenge, which also required deepening cooperation among prosecutors. The Global Alliance against Child Pornography was commended by all sides for its success in attracting up to 53 States, for the awareness it had raised, and the reinforced training and operational cooperation. The US was likely to take the chair of this Alliance after the next plenary conference in Washington at the end of September 2014.

On travelling sex offenders, cooperation should be deepened as well. A first EU-US conference is scheduled for the coming autumn in Brussels.

## **9. ITALIAN PRESIDENCY**

The Italian delegation mentioned several of its priorities for the forthcoming Presidency, in particular the fight against organised crime in the legal economy, facilitation of transmission of documents within the EU, the protection of financial interests of the EU and the reforms of Europol, Eurojust and the European Public Prosecutor. Italy will host an important conference on confiscation in Syracuse at the end of September.

The Italian Presidency intended to strengthen cooperation with the US, particularly in the fight against radicalisation and terrorism, as well as on border security, immigration and legal migration. The next EU-US Ministerial meeting is envisaged for mid-November 2014.