INTRODUCTION

Section 2(5) of the European Union (Scrutiny) Act 2002 provides that each Minister of the Government shall provide to the Oireachtas, on a six-monthly basis, a report on relevant “measures, proposed measures and other developments” in the European Union.

This report is divided into the following three parts:

- **Part 1** provides an overview of key legislative and policy developments between 1 July 2019 and 31 December 2019 in areas relevant to the work of this Department.

- **Part 2** provides updates on the legislative proposals for which this Department submitted information notes to the Oireachtas between 1 July 2019 and 31 December 2019 in accordance with section 2(1) of the 2002 Act.

- **Part 3** outlines the main priorities of the Croatian EU Presidency that are relevant to the work of the Department of Justice and Equality.
Part 1:

Summary of significant EU policy and legislative developments

1 July 2019 – 31 December 2019

Brexit
Brexit preparations continued and the Departmental Brexit Working Group met in September and October 2019 in anticipation of the UK leaving the EU on 31 October 2019. Once this was postponed, immediate no-deal planning was stood down until the outcome of the UK election.

European Council
European Council meetings were held in October and December. The December meeting was a special meeting of the Council (Art.50). Migration featured in the agenda for the October Council.

Ireland has continued to demonstrate solidarity with our EU Partners in relation to migrant issues in the Mediterranean.

Justice and Home Affairs Council Meetings
Finland held the Presidency of the Council of the European Union for the third time from 1 July 2019 – 31 December 2019. During this period, the Presidency hosted an informal Justice and Home Affairs (JHA) Ministerial meeting in Helsinki (18-19 July). It also chaired two formal meetings of the JHA Council on 7-8 October in Luxembourg and on 2-3 December in Brussels.

Key Policy and Legislative Developments in the JHA Council
Key Policy and Legislative Developments in the JHA Council during the six-month reporting period are set out below.

Protocol 21
It should be noted that Protocol 21 of the Treaty on the Functioning of the EU (TFEU) provides that no measure adopted, no provision of any international agreement concluded and no
decision of the Court of Justice of the European Union pursuant to Title V (area of freedom, security and justice) shall be binding on Ireland. The Protocol provides for two opt-in mechanisms under Article 3 of the Treaty (within 3 months of a measure being circulated) or Article 4 of the Treaty (anytime after a measure has been adopted).

**Home Affairs**

Migration and Asylum continued to feature on the agenda for each Council meeting over the six-month reporting period.

- **Migration**

  Migration policy was discussed at all Justice and Home Affairs Council meetings under the Finnish Presidency. At the informal Council in Helsinki, Member States discussed the future of migration policy with the need for an EU-wide agreement on asylum and return that balanced the principles of solidarity and responsibility.

  Implementation of the future Regulation amending the *European Border and Coast Guard Regulation* was discussed at the October Council. The Commission underlined the significant progress undertaken under the current Commission’s mandate as regards the protection of EU external borders. The Commissioner called on Member States’ commitment both political and operational in the process of strengthening the European Border and Coast Guard. The EBCG Agency presented the ongoing work on the operationalisation of the Agency. The Regulation on the European Border and Coast Guard constitutes a development of provisions of the Schengen acquis in which Ireland does not participate. Therefore, Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

  At the December Council meeting Ireland stated that migration and asylum remains a very important but also a very contentious issue and called on all Member States to engage actively on any new package. Ireland also called on Member States to show leadership, providing international protection for those in need, working with third countries on returns and restoring public confidence in matters related to migration.

- **Counter Terrorism**

  *Counter Terrorism* was another topic discussed at each Justice and Home Affairs Council meeting. At the informal Council in Helsinki, the Finnish Presidency prepared a scenario-based
policy discussion on Hybrid Threats. During the discussion, the Commission agreed there was a need to deepen cooperation between Member States in this respect and to set up relevant mechanisms to be better prepared to address such new threats.

In October the discussion continued with Ministers highlighting the importance of cooperation between Member States and with EU agencies in addressing threats arising. The importance of cooperation with the private sector and academia was also mentioned and the benefits of existing and newly created cooperation mechanisms at EU level were pointed out.

The Counter-Terrorism Group gave an update on its work in a restricted session at the December Council meeting.

**Justice and Fundamental Rights**

- **Cross-border Crime**

  In July, the Presidency introduced its draft Council Conclusions which were welcomed by the Commission as an important further empowerment of Eurojust. The Council Conclusions were adopted without dissent. Eurojust also provided information to the Member States on its newly-launched Counter-Terrorism Register (CTR).

- **e-Evidence**

  In July, the Finnish Presidency invited the Commission to provide updates on the EU/US and Budapest Convention negotiations following the adoption of negotiating mandates at the JHA Council in October. Commission outlined the developments since June, confirming that both sets of negotiations were underway.

  Discussions continued on this issue in December. The Commission emphasised that the EU/US negotiations were at an early state and had not progressed beyond opening positions during the first two negotiating rounds. Ireland intervened to stress the importance of finalising the internal e-Evidence package as quickly as possible and to making sure it provided added value to the existing acquis. The Commission also updated Ministers on the Budapest negotiations and expressed satisfaction with progress made since receiving its mandate from the Council in June 2019. Ireland has not currently opted-in to the Council Decision authorising negotiations or the negotiations on the 2nd additional protocol to the Budapest Convention.
• **Victims’ Rights**

The draft council conclusions on Victims’ Rights were adopted at the December Council meeting. On the domestic front, Ireland said it has made considerable strides to improve rights and new legislation has allowed the ratification of the Istanbul Convention.

• **Conclusions on the Future of Civil Justice Cooperation**

The Council adopted the Conclusions on the Future of Civil Justice Cooperation in December. During the discussion, Member States reiterated the need for strengthening awareness, enforcement of existing legislation and the need to limit new legislation to situations with an evidence based requirement. There was also support for the role of the European Judicial Network and the e-Justice portal in the field of civil and commercial law.

• **European Public Prosecutor’s Office Regulation (EPPO)**

Implementation of the EPPO regulation was discussed at both the October and December Councils. In October, Member States were urged to complete the nomination of European Prosecutors and to adapt national legislation as necessary, especially transposition of the PIF Directive which is incomplete in many Member States.

In December, the Presidency introduced the newly appointed Chief Prosecutor of EPPO, Ms. Laura Kovesi. The Chief Prosecutor outlined her plans for the operational set up of EPPO by 2020 and called on the Council to pursue a budgetary increase to allow for the efficient operation of the new organisation. The Commission outlined recent developments on the operational set-up, stressing the importance of full transposition of the PIF Directive and cooperation with third countries.

Ireland did not opt in to this measure for a number of reasons, including concerns about implications for the ability of Irish courts to exclude evidence that would contravene Irish constitutional rights.
## Part 2:

Current status of EU legislative proposals submitted for the attention of the Joint Committee on Justice and Equality

1 July – 31 December 2019

<table>
<thead>
<tr>
<th>CION Ref No</th>
<th>Proposal Title</th>
<th>Date Reviewed and decision of Oireachtas Committee</th>
<th>Current Status</th>
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No further scrutiny required. | The Council authorised the signing of this agreement on the 19 December 2019 and subsequently the European Union and Belarus signed a readmission agreement on 8 January 2020. Ireland has not opted into this measure. |
No further scrutiny required. | The Council authorised the signing of this agreement on the 14 October 2019 and subsequently the European Union and Belarus signed a visa facilitation agreement on 8 January 2020. As this is a Schengen measure, Ireland does not participate. |
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<tbody>
<tr>
<td>5</td>
<td>COM(2019)471</td>
<td>Proposal for a COUNCIL IMPLEMENTING DECISION on a mechanism for compensating the Member State whose national member is elected President of Eurojust.</td>
<td>Considered by the Committee 4 December 2019. No further scrutiny required. All necessary actions taken. S.I. 637 of 2019, the national legislation to transpose the new Eurojust Regulation (EU) 2018/1727, allows for this measure and was signed by the Minister for Justice and Equality on 13 December 2019.</td>
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Part 3: Croatian Presidency priorities in the areas of Justice, Home Affairs and Equality

Under the motto “A strong Europe in a world of challenges”, the Republic of Croatia will preside over the Council of the European Union for the first time from January to June 2020.

The Croatian Presidency's work programme will focus on four main priorities:

1. A Europe that develops
2. A Europe that connects
3. A Europe that protects
4. An influential Europe

Justice and Home Affairs Council Meetings
The informal JHA Council meeting was held in Zagreb on 23-24 January 2020 and the agenda covered the role and importance of the European Judicial Network in civil and commercial matters in facilitating judicial cooperation, further strengthening of judicial training, the implementation of interoperability, migration: combatting organised smuggling networks and the challenges and prospects for the implementation of the European Border Coastguard Regulation. Both the Justice and Home Affairs days featured a discussion on looking ahead to the area of freedom, security and justice.

The next JHA Council will take place on 13 March in Brussels with the final Council under the Croatian Presidency taking place on 4-5 June in Luxembourg.

Strategic Guidelines
Draft Strategic Guidelines in the field of Justice and Home Affairs have been published and will be discussed at Coreper with a view to them being submitted to the Council for adoption at the JHA Council on 13 March 2020. They will then be endorsed by the European Council at its meeting on 26/27 March 2020.
The Strategic Guidelines cover both Justice and Home Affairs issues and focus on the following topics:

**Justice**

- Rule of Law
- Restoring Mutual Trust
- Judicial Training
- Digital Justice
- Establishment of the European Public Prosecutor’s Office (EPPO)

**Home Affairs**

- Protecting the integrity of our common European space
  - The development of a functioning migration policy
  - Fight against terrorism
  - Cross-border crime
- Artificial intelligence and new technologies

**Judicial Cooperation**

Some priorities of note in the field of judicial cooperation in criminal matters will be to finalise triilogue negotiations on the e-evidence package and lay the necessary groundwork for initiating the work of the European Public Prosecutor's Office. Emphasis will also be placed on the efficient implementation of the EU’s existing legal instruments in the field of judicial cooperation in criminal matters.

**e-Justice**

Special attention will be dedicated to the further development and promotion of e-Justice, digital platforms and modern technologies so that the work of the judicial authorities can be made more efficient, and access to justice for citizens and economic operators can be improved.

**Internal Security**

In order to strengthen the EU’s internal security, the Presidency will work towards full and effective application of the existing legislation and towards modernising police cooperation. Special emphasis will be placed on improving efficiency in the fight against serious and organised cross-border crime and migrant smuggler networks, and on strengthening
connections between customs, police, border, migration and asylum services. The Presidency attributes special importance to the implementation of the Directive laying down rules facilitating the use of financial information for the prevention and detection of certain criminal offences, and to the adoption of the Regulation on preventing the dissemination of terrorist content online.

The Presidency will continue to work on the application and impact assessment of new technologies (drones, artificial intelligence, encryption and 5G networks), in cooperation with national authorities in charge of legislative implementation and with the competent EU agencies. A comprehensive approach to internal security includes strengthening resilience to cyber-attacks, hybrid threats and the dissemination of fake news.

**Migration**

The Croatian Presidency will work towards comprehensive, effective and humane migration management on all migration routes. In addition to strengthening the system for the supervision of the EU’s borders, it will continue to work on the establishment of a sustainable and efficient framework for the Common European Asylum System.

To ensure the effective prevention of illegal migration and a more systematic implementation of the return policies, the Presidency will try to reach an agreement on the list of safe third countries and safe countries of origin. It will continue to work towards the consistent implementation of the readmission agreement and a more coherent implementation of economic, development-related, and other measures in cooperation with the countries of origin and transit of migrants.

The Commission intend to publish a Pact on Asylum and Migration in the first six months of 2020 and it is anticipated that this will be discussed at a JHA Council under the Croatian Presidency.