



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 30 November 2012

17128/12

**PE 560
JUR 613**

NOTE

from: General Secretariat
to: Delegations
Subject: Summary record of the meeting of the **Committee on Legal Affairs** (JURI) of the European Parliament, held in Brussels on 26 and 27 November 2012

The meeting was chaired by Mr LEHNE (PPE, DE).

Item 3 on the agenda

Exchange of views with Michel Barnier, European Commissioner for the Internal Market and Services, on the state of play of the negotiations on the Treaty on copyright limitations and exceptions for visually impaired persons and persons with print disabilities

Mr BARNIER emphasised the importance of the negotiated treaty for the access of visually impaired persons and persons with print disabilities to books. He welcomed the role of the Parliament in that respect, especially the resolution adopted in February 2012, and recalled that the Commission had requested a negotiating mandate from the Council and that recently Coreper had reached an agreement on the binding character of the treaty. Mr BARNIER informed JURI about the state of play of negotiations held in the framework of the World Intellectual Property Organization, and considered that an agreement on the treaty could be reached in 2013.

The representative of the Cyprus Presidency of the Council indicated that the issue of equal access to literacy was very important and one of their priorities was to make progress on a binding instrument in this area. He welcomed the fruitful work done in the Council and the cooperation between institutions.

The speakers supported the progress made and raised issues such as commercial availability (Ms LICHTENBERGER (Greens, AT), Mr ENGSTRÖM (Greens, SE)), the protection of human rights (Ms REGNER (S&D, AT)) and the inclusion of manuals and science books in the negotiations (Mr STOYANOV (NI, BG)).

Item 4 on the agenda

Statute for a European Foundation

JURI/7/08907

Rapporteur: Ms REGNER (S&D, AT)

- Hearing

In the context of the examination of the proposal for a Council Regulation on the Statute for a European Foundation, during this hearing the members of JURI held an exchange of views with experts from the foundation sector, legal practitioners and academics.

Item 5 on the agenda

Statute and funding of European political parties and European political foundations

JURI/7/10673

Rapporteur for the opinion: Mr BERLINGUER (S&D, IT)

Rapporteur for the responsible committee (AFCO): Ms GIANNAKOU (PPE, EL)

- Exchange of views

Discussion on this item was postponed.

Item 6 on the agenda

Proposal for a regulation of the European Parliament and of the Council amending the Statute of the Court of Justice of the European Union by increasing the number of judges at the General Court

JURI/7/09731

Rapporteur: Ms THEIN (ALDE, DE)

- Exchange of views

Ms THEIN (ALDE, DE) recalled the context of the proposal providing for an increase in the number of judges at the General Court in order to cope with the increasing number of cases. She recalled that, because of the fact that the Council was not able to find an agreement on the method of designation of the additional judges, the institutions agreed to apply a very particular procedure, i.e. to split the proposal into two parts.

The main part of the regulation having already been adopted, Ms THEIN informed the Committee that the Cyprus Presidency of the Council had proposed a new formula for the second part of that regulation, concerning the nomination of the additional judges by rotation. She considered that a compromise could be found on the number of judges and said that she would suggest 9 judges. She also estimated that the main criterion for the selection of judges should be their professional qualifications.

Item 7 on the agenda

Disputes involving Parliament (Rule 128)

In camera

Item 8 on the agenda

Verification of credentials (Rule 3)

In camera

Item 9 on the agenda

Request for the waiver of the parliamentary immunity of Małgorzata Handzlik

JURI/7/10696

Rapporteur : Mr STOYANOV (NI, BG)

- Exchange of views

In camera

***** Voting time *****

Joint JURI/LIBE meeting (Article 51)

Item 11 on the agenda

Justice Programme for 2014-2020

Rapporteurs: Mr BERLINGUER (S&D, IT), Mr CLAEYS (NI, BE)

- Adoption of draft report

The report was adopted by 40 votes in favour, 1 against and 2 abstentions.

End of joint JURI/LIBE meeting (Article 51)

Item 12 on the agenda

Award of concession contracts

JURI/7/08524

Rapporteur for the opinion: Mr BALDASSARRE (PPE, IT)

Rapporteur for the responsible committee (IMCO): Mr JUVIN (PPE, FR)

- Adoption of draft opinion

The opinion was adopted by 14 votes in favour, 3 against and 2 abstentions.

Item 13 on the agenda

Securities settlement in the EU and central securities depositories (CSDs), and amendment of Directive 98/26/EC

JURI/7/09124

Rapporteur for the opinion: Mr STOYANOV (NI, BG)

Rapporteur for the responsible committee (ECON): Ms SWINBURNE (ECR, UK)

- Adoption of draft opinion

The opinion was adopted by 17 votes in favour and 2 against.

Item 14 on the agenda

Improving access to finance for SMEs

JURI/7/09948

Rapporteur for the opinion: Ms TAYLOR (ALDE, UK)

Rapporteur for the responsible committee (ECON): Mr DE BACKER (ALDE, BE)

- Adoption of draft opinion

The opinion was adopted by 19 votes in favour.

Legal basis (Rule 37)

Item 15 on the agenda

European Globalisation Adjustment Fund (2014 - 2020)

JURI/7/10293

Rapporteur for the opinion: Ms LICHTENBERGER (Greens/ALE, AT)

Rapporteur for the responsible committee (EMPL): Ms HARKIN (ALDE, IE)

- Consideration of legal basis

Article 175 TFEU was adopted as legal basis by unanimity.

Item 16 on the agenda

Recommendation from the Committee on Legal Affairs concerning the interpretation of the scope of the principle of subsidiarity in relation to the European Parliament's right of inquiry
Rapporteur: Ms THEIN (ALDE, DE)

- Adoption

Ms THEIN explained that the Spanish Congress and Senate had asked the European Parliament to set a starting date for the eight-week timeframe for the subsidiarity check in relation to the proposal for a European Parliament Regulation on the detailed provisions governing the exercise of the European Parliament's right of inquiry. She informed MEPs that President Schulz had asked that JURI, as the committee responsible for respect for the principle of subsidiarity, provide him with its interpretation of the scope of the principle of subsidiarity in order to reply to the letter from the Spanish Parliament.

Ms THEIN recalled that all legislative acts, adopted by ordinary or special procedure, should be submitted to the subsidiarity check but only when they implemented non-exclusive competences of the Union. She said that the proposal for a Regulation on the exercise of the European Parliament's right of inquiry was of an internal organisational character and hence fell within the exclusive competence of the EU. Consequently, Ms THEIN suggested to recommend to reply to the Spanish Parliament that it would be inappropriate to set a starting date for a subsidiarity check by national parliaments.

This recommendation was adopted by unanimity.

***** End of vote *****

Item 17 on the agenda

European Account Preservation Order
JURI/7/06629
Rapporteur: Mr BALDASSARRE (PPE, IT)

- Consideration of working document

Mr BALDASSARRE considered that the European Account Preservation Order (EAPO) was an important instrument for the development of the internal market, as it would facilitate cross-border transactions and ensure that the debtor did not remove or dissipate his assets before the creditor managed to secure and enforce a decision on the matter.

He indicated that he would suggest several modifications to the Commission proposal for a Regulation, especially concerning definitions of some concepts ("matters having cross-border implications", "bank account", "claim"), costs relating to the application of the procedure and, above all, the balance between the rights of debtors and creditors. In this context, Mr BALDASSARRE recalled that the Commission's proposal aimed to ensure that there would be a real "surprise effect" in the implementation of the EAPO, so as to prevent debtors from withdrawing or transferring amounts. He explained that, to that effect, the Commission proposed that the EU procedure be available even before an enforcement order had been obtained in the Member State where the debtor was located and that the EAPO be issued in an *ex parte* procedure, i.e. without having first heard the debtor. Mr BALDASSARRE stressed that the "surprise effect" should be maintained, but considered that modifications should be introduced in order to preserve the debtor's rights.

In the ensuing discussion, all speakers agreed that such an instrument was necessary but expressed their strong concern over the respect of debtors' rights. Ms THEIN (ALDE, DE) stressed that if the "surprise effect" was maintained, the terms under which it could be applied should be seriously modified, and declared her strong opposition to EAPO procedures without any justification. Mr COFFERATI (S&D, IT) insisted on careful identification of confidential information in the framework of EAPO, while Mr BODU (EPP, RO) argued in favour of the "surprise effect" but with guarantees against abuses. Ms NIEBLER (EPP, DE) regretted that a serious impact assessment had not been provided by the Commission, and was supported in this by Mr GARGANI (EPP, IT) and Mr LEHNE (EPP, DE), who called for respect of the rule of law.

The representative of the Commission expressed its readiness to reply to the concerns expressed and to provide the impact assessment, which had already been drawn up.

Timetable: consideration of draft report - January 2013

Joint debate (18,19)

Item 18 on the agenda

Corporate Social Responsibility: accountable, transparent and responsible business behaviour and sustainable growth

JURI/7/09590

Rapporteur: Mr BALDASSARRE (PPE, IT)

- Consideration of draft report

Item 19 on the agenda

Corporate Social Responsibility: promoting society's interests and a route to sustainable and inclusive recovery

JURI/7/09587

Rapporteur for the opinion: Mr BALDASSARRE (PPE, IT)

Rapporteur for the responsible committee (EMPL): Mr HOWITT (S&D, UK)

- Consideration of draft opinion

Mr BALDASSARRE presented his draft report and draft opinion. In his draft report, he welcomed the new definition of Corporate Social Responsibility (CSR) suggested by the Commission and stressed the importance of including both voluntary and obligatory measures for companies, with the ultimate goal of improving competitiveness and innovation. He underlined the need to enhance the trust of investors and consumers by improving transparency and openness when it came to the information provided by companies regarding social and environmental matters. Nevertheless, he considered that the new CSR regime should not create any unnecessary administrative burdens, in particular for SMEs, to the detriment of performance and competitiveness.

Concerning the draft opinion for EMPL, Mr Baldassarre expressed concerns about the effects of the financial crisis on matters such as working time, security of employment and equal treatment. The rapporteur for EMPL, Mr HOWITT (S&D, UK), pointed out his satisfaction with the cooperation between the rapporteurs and explained some suggestions he would propose.

In the ensuing discussion, Ms TAYLOR (ALDE, UK) supported the new definition of CSR and stressed the importance of transparency, while Ms THEIN (DE), for the same group, expressed her opposition to any binding reporting for companies and, in general, some scepticism on the proposals. Mr COFFERATI (S&D, IT) said that the most important issue was the nature of the CSR - binding or not. Ms NIEBLER (PPE, DE) supported the rapporteur's approach and argued in favour of non-binding reporting and the reduction of bureaucracy for companies.

Timetable: deadline for amendments – 29.11.2012

Joint debate (20,21)

Item 20 on the agenda

Amendment of Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts

JURI/7/08047

Rapporteur: Mr KARIM (ECR, UK)

- Consideration of amendments

Item 21 on the agenda

Specific requirements regarding statutory auditing of public-interest entities

JURI/7/08135

Rapporteur: Mr KARIM (ECR, UK)

- Consideration of amendments

Mr KARIM (ECR, UK) noted that his amendments were aimed *inter alia* at defining the content of the audit report, which should be prepared in accordance with international auditing standards, and at enhancing the role of the audit committee. He considered that an initial audit engagement of one year was necessary, renewable up to a maximum of 25 years under certain conditions. Mr KARIM emphasised that more than 900 amendments were tabled and presented them briefly, but underlined that he was encouraged by the numerous similarities with his own approach.

In contrast, Ms THEIN (ALDE, DE) stressed that the proposal for regulation was not really necessary and that companies did not have any need of it. She indicated that she had tabled an amendment to reject the proposal, supported by Mr STOYANOV (NI, BG). Mr BODU (EPP, RO) emphasised that the amendments tabled were quite contradictory and not determined by political or national criteria, and that several issues should be further discussed. Mr MASIP HIDALGO (S&D, ES) argued in favour of the adoption of the proposal, supported by Ms REGNER (S&D, DE).

In this context, the Chair Mr LEHNE suggested discussing the matter again in December and postponing the finalisation of the dossier in JURI to February - March 2013.

Item 22 on the agenda

Application of Directive 2004/25/EC on takeover bids

JURI/7/10977

Rapporteur: Mr LEHNE (PPE, DE)

- Exchange of views

Mr LEHNE recalled that in June the Commission had published a report reviewing the application of Directive 2004/25/EC on takeover bids, describing the impact of the Directive and how it had been complied with.

He emphasised that the period covered was unusual because of the economic crisis and, consequently, the application of the Directive could not be evaluated in an objective way. Mr LEHNE said that he would suggest a new five-year period to that effect and would not request a new text.

Ms TAYLOR (ALDE, UK) underlined that the report had identified a number of issues emerging from the application of the Directive and concluded that there was a need for some clarifications of the concepts in the Directive, in order to improve its legal certainty.

The representative of the Commission indicated that the Commission did not advocate a revision of the Directive and would identify the issues for clarification.

Item 23 on the agenda

Proposal for a Council Decision authorising the Member States which are Contracting Parties to the Vienna Convention on Civil Liability for Nuclear Damage of 21 May 1963 ('Vienna Convention') to ratify the Protocol amending that Convention in the interest of the EU, or to accede to it

JURI/7/10774

Rapporteur: Mr MÉSZÁROS (PPE, SK)

- Exchange of views

Mr MÉSZÁROS (PPE, SK) explained that the Commission had proposed that the Council authorise the Member States which were Parties to the Convention on Civil Liability for Nuclear Damage ("Vienna Convention") – i.e. Bulgaria, the Czech Republic, Estonia, Hungary, Lithuania, Poland and Slovakia - to ratify or conclude the 1997 Protocol amending the Convention, because the EU had exclusive competence over those provisions set up in the 1997 Protocol.

The representative of the Commission presented the proposal. He explained that the international nuclear liability regime was governed by two instruments: the "Vienna Convention", as amended by the 1997 Protocol, and the "Paris Convention" on Third Party Liability in the Field of Nuclear Energy, amended by several protocols and supplemented by the Brussels Convention of 1963. He recalled that the 1997 Protocol included provisions on jurisdiction and the recognition and enforcement of judgments relating to the application of the Vienna Convention, which affect provisions contained in European Union law, in particular, in Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

He stressed that the Union therefore had exclusive competence over those provisions set up in the 1997 Protocol and, consequently, the Member States could not become Contracting Parties to the 1997 Protocol, as far as those provisions were concerned, without Council authorisation, which was the aim of the proposal.

Item 25 on the agenda

Any other business

1. Consultation with the Legal Service:

Following a request from the Greens/ALE Group, the Parliament Legal service delivered an oral opinion on the Unitary Patent dossier. The Legal service considered that the compromise adopted by Coreper on 19 November had improved compatibility with Article 118 of the Treaty but that the suggested reference to an international agreement was questionable.

Ms LICHTENBERGER (Greens, AT) reiterated the scepticism of her group, mentioned in this context the issue of the role of the Court of Justice and said that she would prefer a written opinion from the Legal service. Mr LEHNE pointed out that the compromise suggested by the Council and examined by JURI during its meeting on 19 November was in conformity with the wishes of the EP. He underlined that he maintained his position and suggested discussing the issue at the coordinators' meeting.

Mr LEHNE later informed the Committee that the coordinators' meeting had decided not to request a written opinion on this issue from the EP Legal service.

2. Vote - consideration of a legal basis:

Fight against fraud to the Union's financial interests by means of criminal law

JURI/7/10180 - 2012/0193(COD)

Rapporteur for the opinion: Ms LICHTENBERGER (Greens, AT)

(Item proposed by the Chair)

Article 83 TFEU was adopted as legal basis by unanimity.

Item 26 on the agenda

Next meeting(s)

17 December 2012, 15.00 – 18.30

18 December 2012, 9.00 – 12.30
