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**PV/CONS 30
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COMIX 357**

DRAFT MINUTES

Subject: **3244th** meeting of the Council of the European Union (**JUSTICE AND
HOME AFFAIRS**) held in Luxembourg on 6 and 7 June 2013

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LEGISLATIVE DELIBERATIONS

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

"A" ITEMS

1. Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters [First reading] (LA)

PE-CONS 7/13 JUSTCIV 47 COPEN 31 CODEC 471 OC 116

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish delegation did not participate in the vote (Legal basis: Article 81(2) of the TFEU).

2. Proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (Recast)

[First reading] (LA + S)

a) Adoption of the position of the Council in first reading

b) Adoption of the statement of the Council reasons

14654/1/12 REV 1 ASILE 124 CODEC 2311 OC 548

+ REV 1 ADD 1

10183/13 CODEC 1241 ASILE 21 OC 325

+ ADD 1

+ ADD 1 COR 1

approved by Coreper, Part 2, on 04.06.2013

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish, Irish and the United Kingdom delegations did not participate in the vote (Legal basis: Article 78(2)(f) of the TFEU).

Statement by Slovenia

"Slovenia wishes to express its concern over some provisions of the Directive for it believes they could have a negative impact in practice.

While acknowledging the necessity to establish an effective asylum reception system aimed at ensuring the rights of asylum seekers and meeting the specific needs of vulnerable persons, we must also provide for an effective means to tackle the abuse of the asylum system.

Slovenia believes some of the provisions lack the necessary balance. In particular: the arrangement of detention, especially with regard to the restricted conditions to apply detention as provided for in Articles 8 and 9, treatment and accommodation of persons legally staying in the EU and not being formal applicants for international protection in asylum facilities. According to Slovenian understanding persons legally staying in the EU and applying for international protection should be not be subject to any material and reception conditions provided for in the Directive."

3. Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person [First reading] (LA + S)

- a) Adoption of the position of the Council in first reading
- b) Adoption of the statement of the Council reasons
 - 15605/2/12 REV 2 ASILE 129 CODEC 2520 OC 601
 - + REV 2 ADD 1
 - 10184/13 CODEC 1242 ASILE 22 OC 326
 - + ADD 1 REV 2
 - + ADD 2
 - approved by Coreper, Part 2, on 04.06.2013

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union, with the Greek delegation voting against. In accordance with the relevant Protocols annexed to the Treaties, the Danish delegation did not participate in the vote (Legal basis: Article 78(2)(f) of the TFEU).

Statement by the Council, the European Parliament and the Commission

"The Council and the European Parliament invite the Commission to consider, without prejudice to its right of initiative, a revision of Article 8(4) of the Recast of the Dublin Regulation once the Court of Justice rules on case C-648/11 MA and Others vs. Secretary of State for the Home Department and at the latest by the time limits set in Article 46 of the Dublin Regulation. The European Parliament and the Council will then both exercise their legislative competences, taking into account the best interests of the child.

The Commission, in a spirit of compromise and in order to ensure the immediate adoption of the proposal, accepts to consider this invitation, which it understands as being limited to these specific circumstances and not creating a precedent."

Statements by the Commission

- "1. In the application of the present Regulation, the Commission reiterates that, when proposing uniform conditions for implementing the provisions on transfers as foreseen under the present Regulation, it will ensure that current standards on transfers, as laid down in Articles 7-10 of Commission Regulation 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003, will be upheld."
- "2. The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 § 4 recourse to subparagraph 2, point b) cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."
- "3. The Commission considers that the provision of Article 28(3), fourth sub-paragraph should be interpreted in the sense that the time limits foreseen in Articles 21, 23, 24 and 29 are calculated taking into account the period already lapsed with the detention procedure.
In these cases, the period of one month for submitting a take charge or take back request and the period of six weeks for carrying out the transfer to the responsible Member State shall be deducted from the periods referred to in Articles 21, 23 and 29."

Statement by Slovenia

"Slovenia agrees with the view of the Dublin Regulation as being one of the core elements of the Common European Asylum System, thus contributing to the efficient functioning of the EU asylum policy.

Past experience has shown the need to improve the functioning of the Dublin System, but it has also taught us that this should be done with prudence and with due attention to the horizontal nature of the Regulation. It is Slovenia's opinion that this was not duly taken into account in the process of negotiations, which is why Slovenia wishes to express serious concerns over the recast of the Dublin Regulation.

Several amended provisions could present significant administrative and financial burden and prolong the procedure. This could endanger the proper functioning of the system as a whole and as a consequence seriously exacerbate the situation of persons subjected to it.

Slovenia regrets the new arrangements regarding additional personal interview in the Dublin procedure. In our opinion the institute of this interview is sufficiently regulated in Asylum Procedures Directive which also provides for the use in this Regulation. Such duplication could present a significant administrative burden to relevant authorities of Member States.

Slovenia also regrets the shortening of the deadlines for detention in Article 28 and the provision that a person must not be restricted only because they are being subject to Dublin procedure. It is the opinion of Slovenia that this could seriously affect the ability of the Member States to efficiently carry out Dublin transfers and could have negative effect throughout the EU as a result of absconding of the applicants, which cannot be effectively prevented.

Slovenia expresses concerns over the adopted arrangements for Unaccompanied Minors and dependent persons in the procedure. Despite being fully aware of special needs and vulnerable situation of these persons, we fear that the obligation to establish and consequently bring together the persons concerned with family members and relations to such an extended scope will prove to be very difficult in practice, and will present a significant administrative burden especially to relevant authorities of smaller Member States as well as prolong the situation of uncertainty for the asylum seekers concerned.

Finally, Slovenia would like to emphasize once again its hesitation towards the placement of the Early Warning System in the framework of this Regulation since it is not primarily connected to the Dublin procedure."

Statement by Greece

- "1. The completion of the Common European Asylum System (CEAS) will allow for further development of initiatives, focusing on sincere and genuine solidarity towards Member States, especially those at the EU external borders. The Treaty for the Functioning of the European Union (TFEU) institutionally establishes, for the first time, the notion of "solidarity" as well as the fair sharing of responsibilities between Member States (art. 80)¹ in the areas of Migration and Asylum.
2. Asylum issues are of particular importance and priority to Greece, as one of the Member States facing strong pressures at its external borders due to mixed flows of illegal migrants. In this context Greece is implementing a comprehensive reform of its Asylum and Migration Management systems, thus supporting in an effective and constant manner the CEAS development.
3. Greece believes that the "Dublin Regulation" recast has proved to be less ambitious than it should have been since, among others, it does not offer substantial answers to the concerns and pressing issues that Member States at EU's external borders face. This is due to three major reasons:
 - The first entry criterion provision was never examined at the discussions of the "Dublin Regulation" recast.
 - A provision for the suspension of transfers was not included in the final text.
 - The new art. 33 limits itself to the Asylum System and does not contain any reference to pressures which are due to mixed migratory flows.
4. For the above reasons, Greece cannot offer its support to the adoption, as presented in the "A" items."

¹ *Art. 80: "The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle."*

4. Proposal for a Directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection (Recast)
[First reading] (LA + S)

- a) Adoption of the position of the Council in first reading
- b) Adoption of the statement of the Council reasons
 - 8260/1/13 REV 1 ASILE 14 CODEC 755 OC 192
 - 8260/13 ADD 1 ASILE 14 CODEC 755 OC 192
 - 10152/13 CODEC 1233 ASILE 20 OC 323
 - + ADD 1 REV 1approved by Coreper, Part 2, on 04.06.2013

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish, Irish and the United Kingdom delegations did not participate in the vote (Legal basis: Article 78(2)(f) of the TFEU).

Statement by Germany

“The German delegation believes that the provisions under Article 23 (4) (b) of Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status are covered by Article 31 (8) (a)-(j) of the Commission’s recast proposal for the Directive in the version of Council document 8260/13 ASILE 14”

Statement by Slovenia

"Slovenia fully subscribes to the German declaration regarding Article 31 (8) (a)-(j) of the Commission’s recast proposal for the Directive in the version of Council document 8260/13 ASILE 14.

At the same, Slovenia wishes to express additional remarks.

Slovenia believes the revised text introduces several legally problematic solutions which could potentially delay and interrupt asylum procedures and considerably reduce the ability of the Member States to fight abuse and to conclude procedures in due time. It could also bring about additional administrative and financial burdens.

The following seem the most problematic: the introduction of certain categories of applicants and their *a priori* exclusion from procedures without any substantial correlation to their procedural needs, a revised concept of implicit withdrawal of application and its favourable treatment in relation to explicit withdrawal, inclusion of subsequent applications in the framework of inadmissibility, and limited grounds for the suspensive effect of such applications."

5. Regulation of the European Parliament and of the Council amending Regulation (EC) No 1185/2003 on the removal of fins of sharks on board vessels (First reading) (LA)
PE-CONS 76/12 PECHE 549 ENV 952 CODEC 3067 OC 765

The Council approved the amendments set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the Spanish and Portuguese delegations voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 43(2) of the TFEU).

Joint Declaration of Spain and Portugal

"Portugal and Spain deeply regret the adoption of the amended Regulation of the European Parliament and of the Council for a fin-attached policy, abandoning the current fin-to-carcass weight regime foreseen in the Council Regulation (EC) 1185/2003. Portuguese and Spanish operators are not involved in "finning" practices and there is no risk of sustainability associated with the surface sharks they catch.

The amended regulation will severely damage the economic viability of the Union long line fleet, preventing or hampering the activity of dozens of vessels with the consequent loss of jobs.

Moreover, this modification will not solve the practice of finning by Third Country fleets that accounts for 93% of world shark catches, being such regrettable practices completely unaffected by this legislation and continue damaging the sustainability of these fisheries.

PT and ES insist that the EU delegations to the relevant RFMOs continue to demand the introduction of a finning ban so that effective practice of finning will no longer be performed at a global level."

AGENDA ITEMS

3. Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) [First reading]

– Key issues

10227/13 DATAPROTECT 72 JAI 438 MI 469 DRS 104 DAPIX 86 FREMP 77
COMIX 339 CODEC 1257

+ ADD 1

Delegations engaged in a lengthy debate regarding the draft General Data Protection Regulation. All delegations congratulated the Presidency on the very important progress which had been achieved on this major legislative file during its Presidency. In conclusion of the debate, the Chair indicated the following:

– the level of data protection under the future Regulation should be equivalent and possibly higher than that of the 1995 Data Protection Directive;

- the current draft of Chapters I-IV will remain a living document and nothing will be agreed regarding any part of the Regulation until everything is agreed;
- without prejudice to the legal avenue chosen for achieving this, there is agreement that same data protection principles should become applicable to the EU institutions at the same time as to the Member states;
- there is a willingness to progress the further negotiation of the draft Regulation as dynamically as possible in the interests of both citizens and the business community, including small and medium-sized enterprises; and
- it is important to ensure that the future Regulation will allow for technological evolutions.

4. Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law [First reading]

- General approach
10232/13 DROIPEN 67 JAI 439 GAF 25 FIN 303 CADREFIN 126 CODEC 1260

The Council reached a general approach on the text of the draft Directive as set out in the annex to doc. 10232/12.

The Council noted that the general approach is based on Article 83(2) in the Treaty and that the day the general approach has been reached will mark the commencement of the opt-in period for Ireland and the United Kingdom in accordance with Article 3 of Protocol No 21 to the Treaty. The United Kingdom thereby noted that it reserves its position on whether the general approach commences the said opt-in period.

5. Proposal for a Regulation of the European Parliament and of the Council creating a European Account Preservation Order to facilitate cross border debt recovery in civil and commercial matters [First reading]

- Orientation debate on specific principles relating to the balance between the creditor's and the debtor's interests
10047/13 JUSTCIV 133 CODEC 1200

The Council

- endorsed the key principles relating to the balance between the creditor's and the debtor's interests set out in doc. 10047/13 and
- called for the work to be continued at technical level on that basis.

6. Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1346/2000 on insolvency proceedings [First reading]

- Orientation debate
10050/13 JUSTCIV 134 EJUSTICE 51 CODEC 1201

The Council

- took note that there was a wide agreement on the guidelines for the future work set out in document 10050/13 and
- called for work to be continued at technical level on the basis of these guidelines and taking into account the comments expressed by delegations.

7. Proposal for a Regulation of the European Parliament and of the Council on promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents in the European Union and amending Regulation (EU) No 1024/2012 [First reading]

- Presentation by the Commission
9037/13 JUSTCIV 108 CODEC 952
+ COR 1

The Council took note

- of the presentation of the proposal by the Commission and
- that the first meeting of the Working Party should take place on 24 June 2013.

8. Any other business

- Information from the Presidency on current legislative proposals

The Council took note of the information provided by the Presidency concerning the state of play of the:

- = Proposal for a Directive of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest
- = Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters
- = Proposal for a Directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime in the European
- = Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes

- = Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships
- = Proposal for a Regulation of the European Parliament and of the Council establishing for the period 2014 to 2020 the Rights, Equality and Citizenship Programme
- = Proposal for a Regulation of the European Parliament and of the Council establishing for the period 2014 to 2020 the Justice Programme.

14. **Common European Asylum System [First reading]**

- State of play

The Council was briefed by the Presidency on the state of play on the legislative proposals in the field of asylum and welcomed the progress made towards the completion of the Common European Asylum System (CEAS).

15. **Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA [First reading]**

- Orientation debate
10213/13 JAI 436 CATS 26 ENFOPOL 167 CODEC 1254

The debate on the merger of CEPOL and Europol as proposed by the Commission in the above-mentioned proposal showed that a very large majority of delegations opposed it essentially because it would not be beneficial for either agency and they were not convinced that savings could be made through a merger. A few delegations suggested that solutions could be examined which would guarantee the independence of both agencies while sharing some services. Several delegations stated they would volunteer to host CEPOL when its current site closes.

The Chair concluded that given the majority view, experts would start examining the text later on in the month focusing on issues not related to the merger or training. The Commission was invited to re-consider its position in this matter and search for another solution regarding CEPOL and training issues.

The proposed obligation for Member States to transmit information to Europol was not favourably viewed by a majority of delegations, while some others welcomed it as a step forward and suggested that the concerns expressed could be taken into account by providing for some exceptions to the obligation.

16. Any other business

a) Legal Migration

- i) Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing (Recast) [First reading]**
- ii) Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer [First reading]**
- iii) Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals for the purpose of seasonal employment [First reading]**
 - State of play

The Presidency briefed the Council on the state of play in relation to the three legal migration proposals.

b) Information from the Presidency on current legislative proposals

The Council was informed by the Presidency on the state of play with respect to the relevant MFF Home Affairs Regulations.

17. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances [First reading]

- State of play

The Council took note of the state of play in relation to the proposal.

EL made a statement on the Schengen Governance Package as set out hereafter.

Statement by Greece

"Greece has supported from the outset the call of the European Council in its Conclusions of 24.6.2011 for an enhancement of the cooperation and mutual trust between the Member states in the Schengen area. It has also supported the establishment of an effective and reliable monitoring and evaluation mechanism so as to strengthen the Schengen governance, taking into consideration that Europe's external borders must be effectively and consistently managed, on the basis of common responsibility, solidarity and practical cooperation.

However, Greece wishes to reiterate its position, regarding the deletion of the reference to "*the closing of a specific border crossing-point*" on recital (8), former recital (5a), of the *proposal for a Regulation amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances*.

Greece has consistently underlined that the recommendation for the closing of a specific border crossing-point is an excessive and not proportionate measure of no particular added value. Furthermore, it should be noted that in many cases border crossing-points are set up following bilateral agreements with third countries. This could have negative implications to the relations of Member States with third countries.

Moreover, Greece wishes to point out again that the opening and the closure of border crossing-points is a matter of Member States competence, in accordance with Article 77.4 of the TFEU."

NON LEGISLATIVE ACTIVITIES - PUBLIC DELIBERATION
(in accordance with Article 8(1) of the Council's Rules of Procedure)

- 18. Proposal for a Council Regulation on the establishment of an evaluation mechanism to verify the application of the Schengen acquis**
- State of play

The Council took note of the state of play in relation to the proposal.
