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**NOTE**

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from: General Secretariat of the Council  
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Subject: Summary of the meeting of the European Parliament Committee on **Civil Liberties, Justice and Home Affairs**, held in Brussels on 5 and 6 November 2014

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The meeting was chaired by Mr MORAES (S&D, UK). An oral question for the November II Plenary on behalf of LIBE on the Situation in the Mediterranean one year after the tragic events in Lampedusa was voted with support from all groups. The item on Equal treatment of persons irrespective of religion or belief, disability, age or sexual orientation, in the presence of the Italian Presidency, proved relatively uncontroversial on disability issues but stirred some controversy on LGBT aspects. S&D, Greens/EFA, GUE and ALDE were in favour of further studying the details of the Agreement between Canada and the European Union on the transfer and processing of Passenger Name Record data. An exchange of view on terrorism and foreign fighters with a panel of experts, including the EU Counter-terrorism Coordinator, Director of Europol, President of Eurojust as well as Chairman of the EU Council's Terrorism Working Party.

## **5-6. Situation in the Mediterranean one year after Lampedusa tragic events LIBE/8/01822**

Rapporteur: Claude Moraes (S&D)

QO – PE541.421v01-00

QO – PE541.420v01-00

Responsible: LIBE –

The Chair presented the draft question to the Commission and the Council for oral answer with debate (Rule 128) on the Situation in the Mediterranean one year after Lampedusa tragic events, as prepared by the coordinators. The question touches upon the following issues : solidarity and fair sharing of responsibility between countries of initial and final destination, fulfilment of search-and-rescue obligations; operation Triton and Frontex; development of safe and legal routes for asylum seekers and refugees into the EU; strengthening the common resettlement policy; the overall strategy of cooperation with third countries and regional protection, addressing the root causes of migration, developing a comprehensive approach to migration, and effective implementation of the Common European Asylum System.

The Chair explained he did not want to hold a discussion on substance as this was the aim of the November II Plenary debate. The question was adopted with support from all groups.

## **7. Equal treatment of persons irrespective of religion or belief, disability, age or sexual orientation**

Rapporteur: Ulrike Lunacek (Greens/EFA)

\*\*\*I 2013/0057(COD)

The Chair introduced the discussion by recalling that the horizontal anti-discrimination directive had been tabled by the Commission already in 2008 , the EP adopted its position in 2009 and Ms LUNACEK was already the third EP Rapporteur, following Ms BUITENWEG (Greens/EFA, NL) and Mr ROMEVA I RUEDA (Greens/EFA, ES). The file had been blocked in the Council, where unanimity was required, for many years.

The Italian Presidency referred to the work done by previous presidencies and recognised that this was a complex dossier. The Presidency expressed the wish to have a fresh look at the text and to prepare a ministerial debate in EPSCO in December. It added that Member States shared the objectives of the directive and there was no opposition as to its principles, but it was important to re-launch the political debate in the Council.

The Commission representative expressed the Commission's clear political commitment to the directive, which would be dealt with as a priority file by Commissioner Jourova.

The Rapporteur emphasised that the adoption of the directive was a question of political will and not of technicalities. Contrary to what the Italian Presidency stated, she claimed that the delays in the adoption of the directive indicated that Member States disagreed on the principles enshrined in it. If high costs were the issue, then it would be helpful to quantify the costs of non-adoption for disabled persons as well as LGBT for example.

During the discussion MEPs called for breaking the deadlock in this longstanding file with several supporting the Rapporteur on clear and quantifiable non-adoption costs. There was strong support from all political groups on the need to address concerns of persons with disabilities, however some divergence of opinion on LGBT. Mr JUREK (PL, ECR) and Mr UJAZDOWSKI (PL, ECR) were critical of the promotion of the EU's LGBT agenda contrasting with traditional European values. In her reply the Rapporteur, supported by several MEPs present, called on Mr JUREK and Mr UJAZDOWSKI to carefully study the proposed legislative text and stressed that the content was not about marriage or EU LGBT ideology, as considered by the two speakers. She concluded by defending the EU's record as a forefront defender of LGBT rights.

## **8. EU agency for law enforcement training (Cepol)**

\*\*\*I 2014/0217(COD) COM(2014)0465 – C8-0110/2014

Rapporteur: Kinga Gál (PPE)

Responsible: LIBE –

Opinions: BUDG – Jens Geier (S&D)

The Chair explained that the aim of the proposal was to bring agencies, set up under the former third pillar where the EP's involvement was limited, in line with the Lisbon Treaty.

The Commission representative explained the various reasons for the review of the CEPOL legal framework, namely to align CEPOL with other agencies following the Common approach on decentralised agencies. This would allow for greater efficiencies in coordinating training at all levels for law enforcement personnel and thus promoting EU police culture.

The Rapporteur, Ms GAL, welcomed the proposal and stressed that limited budgetary resources should focus on thematic issues, with clear EU priorities, in a pragmatic manner, whilst keeping the human rights based approach.

During the discussion the following issues were raised : specific training on procedural rights and rights of minors, budgetary implications of the choice of Budapest over The Hague as a seat.

## **9. Agreement between Canada and the European Union on the transfer and processing of Passenger Name Record data**

\*\*\* 2013/0250(NLE) 12652/2013 – C8-0089/2014

Rapporteur: Sophia in 't Veld (ALDE)

Responsible: LIBE –

Opinions: AFET – Charles Tannock (ECR)

PA – PE539.512v01-00

TRAN – Decision: no opinion

The Chair explained this was already a third PNR agreement, after the ones with the US and Australia.

The Commission representative said that the approval of the agreement would send an important political signal to a strategic EU partner as well as third countries. He gave assurances to MEPs that there were strict data protection safeguards and an improved processing of sensitive data.

The Rapporteur, Ms IN 'T'VELD (ALDE, NL) was irritated by the fact that data was already being transmitted and stored and pointed out that the agreement would actually provide a framework *ex post* for an existing practice. She refused the idea of rushing through the approval process and, with the support of Greens/EFA and S&D members, insisted that their concerns be discussed in detail. Both the Rapporteur and Mr ALBRECHT (Vice Chair, Greens, DE) put forward the proposal to submit the agreement to the ECJ for an opinion. Mr ALBRECHT also asked for Commissioner AVRAMOPOULOS to clearly state his views on the data retention implications as promised during his hearing. On the other hand, Mr KIRKHOPE (ECR, UK) and Mr VOSS (EPP, DE), both expressed support for the proposed agreement.

**10. Modernisation of the Council of Europe Convention 108 (Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data)**  
**LIBE/8/00918**

The first guest speaker, Mr Walter, Chair of the Consultative Committee of Convention 108 and Deputy Commissioner of the data protection and transparency Authority of Switzerland, presented the state of play on the modernisation of the COE Convention 108. He recalled the process of discussion leading to the modernised draft proposal, which is awaiting its final adoption in the form of a future Protocol, since 2012. He expected these works to be concluded in December 2014. He emphasised that the modernised convention would be more coherent with EU law and would play a central role in developing a universal law of data protection. The work on modernisation had been slowed down in 2012 in order to wait for the new EU Data protection package. However, the time was ripe for the COE to wrap up its work in order to further promote data protection in Europe and beyond.

During the discussion, MEPs raised the following issues : the right to be forgotten, explicit consent, the request that Commission reports to the EP on state of play of negotiations regarding modernisation.

**11. Common European visa policy (including visa reciprocity, implementation of revised Regulation 539/01, visa liberalisation negotiations, visa facilitation/readmission agreements)**

On behalf of the Commission, Mr RUETE, Director General (DG Home), offered an in-depth update of negotiations by themes and regions. He presented the state of play of 17 ongoing visa waiver negotiations, namely with the UAE, 5 Caribbean countries as well as 11 Pacific countries, which could be concluded by 2015. Following the Commission's positive assessment regarding the fulfilment by Peru and Colombia of the relevant criteria in view of the negotiation of a visa waiver agreement, he was looking forward to Member States' assessments and a swift start to the negotiations, which could be also finalised in 2015.

During the discussion the MEPs raised the following issues : the state of play regarding notified non reciprocity situations; more information to be provided on Colombia and Peru; a court challenge regarding reciprocity mechanism and whether the Commission would consider withdrawing its action; humanitarian visas, practical guarantees on human rights in visa waiver negotiations.

In his replies, Mr Ruete explained that tripartite meetings were being organised with the third countries concerned and he was satisfied with the process so far. None of the Member States concerned had requested a suspension for the time being and there was still time available before non-reciprocity conditions had to be implemented, as the deadline was set for April 2016. Regarding the case pending before the ECJ on Visa code and reciprocity rules, he explained this related in principle to a wider debate of a constitutional nature, namely on implemented/delegated acts, and the Commission did not plan to withdraw its action. Regarding humanitarian visas, he explained that the situation on the ground was clearly getting worse and the EU would have to step up its efforts on relocation and resettlement.

## 12. Exchange of views on terrorism, foreign fighters and presentation of TE-SAT report

LIBE/8/01811

Mr de Kerchove, EU Counter-terrorism Coordinator, opened the discussion by presenting a detailed overview of various security threats affecting the EU, namely foreign fighters and 'wanabbi jihadists', a phenomena which was further amplified by the military strikes against Da'esch in Syria and Iraq. The EU's strategic response proposed a panoply of measures to cope with this developments. Mr Wainwright, Director of Europol, completed the picture by presenting the results of the terrorist threats report and, in particular, pointing to the role of social media in recruitment. He also mentioned the increasing difficulty with which law enforcement officers access relevant information, given that private companies are becoming increasingly reluctant to allow access to share their information. Ms Coninx, President of Eurojust, presented the various challenges posed by collecting electronic evidence as well as UNSC efforts to have a consistent approach in targeting foreign extremist fighters travelling to conflicts anywhere in world. Mr Galzerano, Chairman of the EU Council's Terrorism Working Party (TWP), stressed that the priority was to improve cooperation between various law enforcement and intelligence agencies. Mr Soreca, Director in DG HOME, European Commission, briefly outlined the Commission's work in the framework of the Radicalisation Awareness Network (RAN), facilitating the exchange of experience and best practice between local practitioners.

During the discussion the following issues were raised: the need to have an in-depth understanding of the foreign fighters phenomenon, including the increasing participation of women ; the role of social media; the need to do more on the prevention side as well as helping returnees; the need to focus also on extreme right movements, not only Islamists ; support was expressed for an efficient law enforcement response, despite opposition against excessive surveillance, in order to safeguard our own freedoms; possible single definition of terrorism in the EU.

**13. The transitional provisions in the field of judicial cooperation in criminal matters and police cooperation (Lisbon Treaty - Protocol 36) – “UK opt out and opt back in”**

The Chair explained the background to Protocol 36, clarifying that the UK had opted out of police and criminal justice measures and had subsequently expressed its intention to opt back in to 35 instruments in that area. In total three decisions would have to be agreed upon by the Council : on transitional arrangements, on the financial consequences as well as well on the opt back in to some Schengen measures.

The Commission representative presented the on- going work in order to prepare for a smooth transition to a new legal set up on 1 December 2014. The various decisions discussed aim to ensure there are no unintended legal gaps in police and criminal justice cooperation.

On behalf of the Italian Presidency, Mr COLOMBO assured the EP that work in the Council had been progressing well and the overall package of measures would be agreed by 1 December.

Mr KIRKHOPE (ECR, UK) expressed the hope for a swift conclusion of the discussions, while MS IN T' VELD (ALDE, NL) requested further information on the number of measures that were the subject of an opt-in. The Chair stated that a full statement from the Commission and the Council on the matter, preferably in one of future Plenary sessions, would be most useful.

**14. Written question to the Commission on the definition of "national security" by Sophie in't Veld (E-006381-14)**

**LIBE/8/01820**

LIBE briefly discussed the written question to the Commission on the definition of 'national security' by Ms in t'VELD (E-006381/14). The item was presented by Ms IN T'VELD (NL, ALDE) who expressed her dissatisfaction with the Commission's reply and more generally with the absence of a clear legal definition of the term 'national security' in the context of the Safe Harbour Agreement.

The Commission representative (from the Legal service, but speaking as chef de file on the EP question discussed) referred to the substance, and added that this was a term enshrined in the Treaty and which also appears in secondary legislation. It was an autonomous term, subject to an autonomous definition and ultimately to be interpreted by the ECJ. National security is the responsibility of MS. The concept might depend on the instrument, and it is essential to establish the will of legislator on a case by case basis. It may well be that there are different meanings for the same term depending on whether the instrument is for internal use or to be used internationally. The Commission expressed readiness to give further replies to more specific questions and concepts in secondary legislation.

Ms IN T' VELD commented that the term can be used as grounds for exceptions and suspension of fundamental rights and freedoms, and in particular raised the question of the scope of 'national security' exception as interpreted by the US. For the sake of legal certainty and predictability, it was essential to establish a proper definition. She wanted to continue this discussion in particular with Council and EP LS. She requested that the Commission provide a clear definition in writing. In addition, a wider explanation of the concept would be useful for future discussions and any future agreements.

Members across the political groups were in favour of further discussions on the matter. The Chair, Mr MORAES (UK, S&D), agreed that a more nuanced position would be important in particular in relation to international agreements. Mr ALBRECHT (Vice Chair, Greens, DE) asked if a national economic interest and spying on EU governments was also covered by the term in the context of the Safe Harbour Agreement. Ms HOHLMEIER (DE, EPP, coordinator) stressed that more generally the definition would depend on a particular situation and facts, but it should be possible to determine some general requirements and identify some limitations. Ms LAURISTIN (S&D, ET) raised the issue of the relation between national security and freedom of expression and media freedoms, and requested a clear statement on what was not an issue of national security.

**Next LIBE meeting :**

- 10 November 2014, 15.00 – 18.30 (Brussels)
- 11 November 2014, 9.00 – 12.30 and 15.00 – 18.30 (Brussels)