



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from: General Secretariat of the Council
to: Delegations

Subject: Summary record of the meeting of the European Parliament **Committee on Civil Liberties, Justice and Home Affairs (LIBE)**, held in Brussels on 17 and 18 December 2012

The meeting was chaired by Mr LÓPEZ AGUILAR (S&D, ES) and Ms GÁL (EPP, HU). The agenda was adopted with the following changes: items 9 (vote on the KIRKHOPE report on EU PNR), 12 (working document on the situation of fundamental rights in Hungary), 13 (vote on the CLAEYS opinion on the integration of migrants) and 14 (vote on the DÍAZ DE MERA report on visas) were postponed. A report on the EU visas agreement with Moldova and Ukraine was added under item 17.

Item 2 on the agenda

Chair's announcements

- Ms GABRIEL (EPP, BG) was appointed rapporteur for the report "Listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement".

Item 3 on the agenda

The minutes of the meetings of 4-5 October 2010 and 10 January 2011 were approved.

Item 4 on the agenda (in camera)

Joint meeting with the Committee on Constitutional Affairs on the EU accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)

- Exchange of views on the state of play of negotiations with Mr Kraemer, Member of the Legal Service of the Commission

Item 5 on the agenda

Implementation of the Audiovisual Media Services Directive

LIBE/7/09943

Rapporteur for the opinion: Mr de JONG (GUE/NGL, NL)

Rapporteur for the committee responsible (CULT): Mr BORYS (EPP, PL)

- Consideration of draft opinion

Mr de JONG presented his draft opinion, focusing on such issues as concentration of media ownership, advertising and commercial communications, the role of public media services and the protection of minors.

Mr LUHAN (EPP, RO) and Ms LUDFORD (ALDE, UK), speaking on behalf of Ms WEBER (ALDE, RO), agreed with the broad lines of the draft opinion. Ms LUDFORD considered that prohibiting advertising in children's programmes would be going too far, and called for restrictions instead. Mr LUHAN called for more exchanges of information between Member States in this area and urged that further studies should be carried out into the impact of advertising on children. Mr de JONG agreed that studies on this issue would be useful.

The Commission representative replied that there were already rules on the protection of minors in the current directive and that the high-level group chaired by the former President of Latvia, Professor Vaira Vīķe-Freiberga, would shortly issue an opinion on media pluralism and freedom.

Next steps:

- Deadline for tabling amendments: 15 January 2013, 12.00;
- Vote in LIBE: 31 January 2013.

***** *Electronic vote* *****

Item 6 on the agenda

Establishment of 'Eurodac' for the comparison of fingerprints (recast version)

LIBE/7/01143

Rapporteur: Ms MACOVEI (EPP, RO)

- The draft report was adopted as amended.

Item 7 on the agenda

Increasing the co-financing rate of the European Refugee Fund, the European Return Fund and the European Fund for the Integration of third-country nationals as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability

LIBE/7/10701

Rapporteur: Mr TORVALDS (ALDE, FI)

- The legislative resolution was adopted (no amendments were tabled to the Commission proposal).

Item 8 on the agenda

Increasing the co-financing rate of the External Borders Fund for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability

LIBE/7/10707

Rapporteur: Mr TORVALDS (ALDE, FI)

- The legislative resolution was adopted (no amendments were tabled to the Commission proposal).

Item 9 on the agenda: item postponed

Use of Passenger Name Record data (EU PNR)

LIBE/7/05286

Rapporteur: Mr KIRKHOPE (ECR, UK)

- Adoption of a decision on the opening of negotiations

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

Item 10 on the agenda

Conclusions on the achievements of the Cyprus Presidency in the area of Justice and Home Affairs and debriefing on the JHA Council of 6 - 7 December 2012

- Presentation by Ms MAVROU, Minister for the Interior of the Republic of Cyprus representing the President-in-Office of the Council
- Presentation by Mr LOUCA, Minister for Justice and Public Order of the Republic of Cyprus representing the President-in-Office of the Council

Ms MAVROU outlined the Presidency's achievements in completing the Common European Asylum System (CEAS), considering that final decisions were imminent. She mentioned especially the political agreement on the reception conditions directive and on the Dublin regulation. She said that considerable progress had been made on the procedures directive, where very few outstanding issues remained, and that the first triologue on Eurodac was taking place on 18 December. On legal migration, she stressed that significant progress had been made on the proposed directives on seasonal workers and on intra-corporate transfer. She mentioned that the first triologue on Eurosur had taken place on 17 December and hoped that Eurosur would become operational in 2013. Ms MAVROU also spoke about the implementation of the EU global approach to migration and mobility, i.e. the dialogue with Morocco and Tunisia and the dialogue which had just started with Jordan. She also pointed out that programmes were being developed with India, China, the US and Russia. Finally, on the MFF programmes on home affairs, she informed MEPs that two partial general approaches had been agreed on the horizontal regulation and on the "ISF¹ Borders" and said that the two remaining regulations on the asylum and migration fund and on the "ISF Police" would be submitted to Coreper on 19 December with a view to requesting a mandate for negotiations with the European Parliament.

Mr LOUCA outlined achievements in the fight against terrorism and cross-border crime. He stressed that the Council was convinced of the need for an EU PNR system and that it was looking forward to negotiating with the European Parliament on the proposed directive. As regards the EU PNR agreement with Canada, the Presidency called on the Commission to speed up the negotiations and to reach an agreement similar to the one with Australia. He thanked the EP rapporteurs for their willingness to cooperate on the two Schengen governance proposals and believed that an agreement was achievable.

¹ Internal Security Fund

He regretted that, despite the Presidency's efforts, no Council decision could be adopted on the accession of Bulgaria and Romania to the Schengen area. On the migration to SIS II, he indicated that it should be operational by March 2013 and that, according to the Commission, a solution could be found to the problems with the national system of one particular Member State. He then outlined the main elements of the Council general approach reached on the proposed directive on the freezing and confiscation of the proceeds from crime and on the proposed directive on criminal sanctions for insider dealing and market manipulation. He also referred to the progress made during the negotiations on the proposal on the right of access to a lawyer which, he thought, constituted a good basis for reaching agreement. He was pleased that trialogues had started on the "MFF justice" and "MFF rights and citizens" programmes. He also mentioned that negotiations had started again on the EU's accession to the ECHR. On the data protection reform, he outlined the progress made on the draft regulation and added that the next meeting of the Working Party would be devoted exclusively to the draft directive. Finally, he thanked LIBE for its constructive cooperation on the new MFF for the Fundamental Rights Agency.

Ms ROMERO LOPEZ (S&D, ES) did not share the view that the asylum package was a step forward, since the Dublin regulation did not solve current problems and Eurodac would create a more repressive system. She thought that the regulation and directive on data protection should be addressed at the same time. Mr MORAES (S&D, UK) shared the same concerns.

Mr PAPANIKOLAOU (EPP, EL), Ms TRIANTAPHYLLIDES (GUE/NGL, CY) and Ms PAPADOPOULOU (S&D, CY) felt that the Presidency had achieved good results on many issues despite difficult conditions. Mr PAPANIKOLAOU asked about the Presidency's cooperation with third countries. Ms TRIANTAPHYLLIDES (GUE/NGL, CY) stressed the need for adequate funding in the asylum and migration field. Ms PAPADOPOULOU was worried about the small budget allocated to the European Year of Citizens in 2013.

Ms MAVROU replied that compromises had to be found on the CEAS and felt that the agreements reached so far would lead to a higher level of protection compared to the present situation. She outlined ongoing cooperation with third countries. Mr LOUCA explained that more time had been devoted to the regulation on data protection since general principles had to be agreed first, adding that the work done on the regulation would facilitate progress on the directive.

Item 11 on the agenda

EU Charter: Standard settings for Media Freedom across the EU

LIBE/7/07291

Rapporteur: Ms WEBER (ALDE, RO)

- Consideration of amendments

Ms WEBER believed that it would be possible to find compromises on many of the amendments tabled. Ms FAJON (S&D, SI), speaking on behalf of Ms KÖNCZ (S&D, HU), called for an EU commitment to strengthen media freedom, pluralism and independence, especially for public service media. Mr MARINESCU (EPP, RO) called on Member States to reinforce ownership rules and the transparency of those rules. Mr TAVARES (Greens/EFA, PT) considered that the freedom of media was at risk in the current economic context and called for a Commission study on the ongoing changes in the media landscape. Mr de JONG (GUE/NGL, NL) stressed the need for the strongest possible investigative journalism.

Next steps:

Vote LIBE: 21-22 January 2013.

Item 12 on the agenda: item postponed

The situation of Fundamental Rights: standards and practices in Hungary (pursuant to the EP resolution of 16 February 2012)

LIBE/7/09747

Rapporteur: Mr TAVARES (Greens/EFA, PT)

- Consideration of working document

***** Electronic vote *****

Item 13 on the agenda: item postponed

The integration of migrants, its effects on the labour market and the external dimension of social security coordination

LIBE/7/09936

Rapporteur: Mr CLAEYS (NI, BE)

Rapporteur for the committee responsible (EMPL): Ms HIRSCH (ALDE, DE)

- Adoption of draft opinion

Item 14 on the agenda: item postponed

Amendment of Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement

LIBE/7/06107

Rapporteur: Mr DÍAZ DE MERA GARCÍA CONSUEGRA (EPP, ES)

- Adoption of draft report (confirmation vote)

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

Item 15 on the agenda

Exchange of views with Vice-President Reding, Commissioner for Justice, Fundamental Rights and Citizenship and mid-term review of the Stockholm programme

Ms REDING listed the achievements so far in her areas of competence under the Stockholm programme. As to future initiatives, she highlighted the forthcoming "justice scoreboard" which will assess the justice systems of all Member States. She indicated that the Commission would submit a proposal on a European Public Prosecutor's office with the reform of Eurojust and that the European Parliament would be involved in this issue. She also mentioned that the Commission would present a second package on procedural rights in the second half of 2013, including proposals on the presumption of innocence, vulnerable persons and legal aid. She felt it was important that existing framework decisions (pre-Lisbon) on detention be implemented and that rapid progress be made on the EU's accession to the ECHR.

Mr LÓPEZ AGUILAR (S&D, ES), as rapporteur of a LIBE own-initiative report on the mid-term review of the Stockholm programme, stressed the importance of the timeframe and the need to deliver in 2013 given the end of the European Parliament's current term in 2014. He supported the idea of a justice scoreboard and announced that a conference with national parliaments on the oversight of fundamental rights would take place in spring 2013.

Ms MATHIEU (EPP, FR) emphasised the need for EU funding in the area of justice, given the lack of resources in some Member States, and asked whether the scope of the proposal on a European Public Prosecutor's office would also cover organised crime.

Ms FAJON (S&D, SI) and Ms FLAUTRE (Greens/EFA, FR) were disappointed that the Commission had not responded adequately to the EP resolution of 11 September 2012 on alleged transportation and illegal detention of prisoners in European countries by the CIA.

Mr DUFF (ALDE, UK) asked for Ms Reding's assessment of UK opt-outs in JHA. He felt that convening a convention on the reform of the EU Treaties in spring 2015 and receiving the Commission's proposals on that matter in 2014 would be late, given the timing of the European Parliament's elections. Ms SARGENTINI (Greens/EFA, NL) called for the inclusion of indicators in the justice scoreboard and for Member States which did not respect fundamental rights to be named and shamed. Mr KIRKHOPE (ECR, UK) wondered about the nature of the assessment of the justice scoreboard and called for a clear Commission internet policy to protect children. Ms JÁRÓKA (EPP, RO) and Ms FLAUTRE stressed the need for follow-up on the Roma national integration strategies.

Referring to Article 6 of the ECHR on the right to a fair trial, Ms ROMERO LÓPEZ (S&D, ES) emphasised the importance of a proposal on free legal aid. She was critical of the fact that the proposed regulation on data protection was moving much faster than the draft directive. She also asked the Commission to deal with the issue of tax havens. Ms JIMÉNEZ-BECERRIL (EPP, ES) asked about the state of play of discussions on the Commission proposal on increasing gender equality in the boardrooms of listed companies. Ms SIPPEL (S&D, DE) felt that there should be no exemptions to the right of access to a lawyer in criminal proceedings. Mr TAVARES (Greens/EFA, PT) said that there was a need for a Commission proposal on fundamental rights monitoring in Member States, i.e. a more qualitative analysis to verify the enforcement of the Copenhagen criteria. Ms PAPADOPOULOU (S&D, CY) asked the Commission whether the small budget of EUR one million would be sufficient for the European Year of Citizens 2013.

On legal aid, Ms REDING replied that the Commission would submit a proposal as part of a package but that it would not be possible to pay for legal aid at EU level. She said that the proposal for a European Public Prosecutor's office would focus on the fight against crimes affecting the financial interests of the EU. She said that, further to the EP resolution of 11 September 2012, the Commission had written to the Member States concerned but that, whilst Member States have obligations under the ECHR in this field, this is not the case under the EU Treaties.

She said that the UK opt-outs on some JHA legislation was a sovereign decision of the UK Government in line with the EU Treaty. She agreed that the earlier the Commission could come up with proposals on Treaty reforms, the better. She said that the justice scoreboard would be included in the European semester and that the Commission was working with the Council of Europe on indicators. She mentioned that cyber-crime was included in the EU Digital Agenda. On the Roma national strategies, she said that a pilot group of Member States had been set up to look at problems and solutions and that the Commission would propose a Council recommendation on this basis. She gave it as her assessment that Member States' current positions on the Commission proposal on quotas for women amounted to around one-third in favour, one-third against and one-third undecided. She stressed that data protection reform should be dealt with as a package and was pleased that it was one of the main priorities of the forthcoming Irish Presidency. On the European Year of Citizens, she said that the preparations had started and that the first town meetings had taken place. Finally, she informed MEPs that the Commission had referred cases against six Member States to the European Court of Justice for infringements to the free movement directive.

Item 16 on the agenda

Second joint review of the implementation of the TFTP Agreement²

LIBE/7/11445

- Presentation by Mr Priebe, Director for Internal Security, DG Home Affairs

The Commission representative presented the report of 14 December 2012 on the above-mentioned subject. He said that the review confirmed the clear added value of the TFTP in fighting and preventing terrorism, with the EU increasingly benefiting from it, and that the programme was managed in accordance with a set of effective safeguards. However, he mentioned that the current practice of deleting data older than 5 years was an issue that required further monitoring. He said that, by 1 August 2013, the Commission and the U.S. Treasury Department would prepare a joint report regarding the value of TFTP-provided data in accordance with Article 6(6) of the agreement. He added that the Commission would also adopt a report on an equivalent EU system allowing for a more targeted transfer of data in accordance with Article 10 of the agreement.

² Terrorist Finance Tracking Program

Ms SIPPEL (S&D, DE), Mr ALVARO (ALDE, DE), Ms in 't VELD (ALDE, NL) and Mr ALBRECHT (Greens/EFA, DE) were very critical of the fact that there was no access to the full report and to related confidential information and that the agreement was still not functioning as it should. They stressed the many shortcomings, for example concerning data deletion. Ms in 't VELD wondered why it had taken so long for the Commission to propose an EU system for the extraction of data and asked whether data on EU citizens were included in other US authorities' databases. Mr ALBRECHT (Greens/EFA, DE) considered that the collection of data was not compatible with EU data protection law and that proceedings to abolish this agreement should begin. Ms MATHIEU (EPP, FR) was pleased at the improvements to the verification process and stressed the benefits of the agreement for citizens' security.

The Commission representative replied that the report was based on facts, that the Commission was carrying out an impact assessment on a comparable EU system and was respecting the three-year deadline for this issue. Lastly, he pointed out that the TFTP was not connected to other databases.

Item 17 on the agenda

Report from the Commission to the European Parliament and the Council: Seventh report on certain third countries' maintenance of visa requirements in breach of the principle of reciprocity

- Presentation by the Commission

The Commission representative presented the above-mentioned report. Mr ALVARO (ALDE, DE) advocated equal treatment of EU citizens in terms of visa freedom and the need for an EU response on visa reciprocity. He was concerned that some Member States had been compelled to provide access to their police databases in exchange for visa reciprocity. Mr ENCIU (S&D, RO) regretted that the Commission report did not suggest measures against third countries which did not respect the reciprocity principle, and called for the adoption of the new EU reciprocity mechanism as soon as possible. He asked about the state of play of the negotiations with Canada and the US, and the existing agreement with Japan.

The Commission representative replied that bilateral agreements with some third countries had been concluded before the entry into force of the Lisbon Treaty. He explained that the development of the situation with the US with regard to visa reciprocity was highly dependent on the adoption of the new US visa waiver programme legislation.

He also said that the Commission would assess the US ESTA³ system once its final rules had been adopted by US authorities. The Commission representative said that the Canada's new asylum law should be able to function as a deterrent to future unfounded asylum applications from the EU and should enable Canada to decide to lift the visa requirement for Czech citizens and possibly for Bulgarian and Romanian citizens. Finally, he said that the Japanese authorities had not yet decided to extend the temporary visa waiver for Romanian citizens after December 2012.

- **Report on the EU agreements with Ukraine and with Moldova on the facilitation of the issuance of visas**

The Commission explained that the existing agreements had been updated. He outlined the content of the new agreements and added that the Commission had submitted them for signature and conclusion. Mr PROTASIEWICZ (EPP, PL) and Mr MORAES (S&D, UK) supported the agreement with Ukraine, stressing its political dimension and its importance for Ukrainian citizens.

Item 18 on the agenda

Report from the Commission to the European Parliament and the Council: Second biannual report on the functioning of the Schengen area - 1 May 2012 - 31 October 2012

- Presentation by the Commission

The Commission representative presented the above-mentioned report. Mr PAPANIKOLAOU (EPP, EL) stressed the improvements that had been made on the Greek-Turkish border and asked the Commission whether those positive developments were sustainable. Ms SIPPEL (S&D, DE) stressed that the absence of internal border control should be part of the Schengen evaluation.

The Commission representative replied that the Commission was pleased at the developments at the Greek borders and that, given the repercussions for the sea borders, Frontex had reinforced the Poseidon sea operation. She hoped that the improvements would be sustained and said that the Commission would continue cooperating with the Greek public authorities to that effect. She added that evaluation on the absence of internal border control was an important element of the ongoing negotiations on the new evaluation mechanism.

³ « electronic system for travel authorization »

Next meeting(s)

- 10 January 2013, 9.00 – 12.30 (Brussels)
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