



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 12 April 2013**

**7932/13**

**CRS/CRP 12**

**SUMMARY RECORD**

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**Subject : 2446th meeting of the PERMANENT REPRESENTATIVES COMMITTEE  
held in Brussels on 27 March 2013**

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34. Draft Joint Declaration on a Common Agenda on Migration and Mobility between India and the European Union and its Member States
35. Proposal for a Regulation of the European Parliament and of the Council establishing a Registered Traveller Programme (First reading)
36. Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System to register entry and exit data of third-country nationals crossing the external borders of Member States of the European Union (First reading)
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## II

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**1. Adoption of the provisional agenda and "I" items**

doc. 7855/13 OJ/CRP1 12

7828/13 OJ/CRP2 12 COMIX 190

The above-mentioned agendas are approved.

The Committee approved the "I" items as set out in the summary. Details are contained in the document quoted under item 1.



Statements are made on the following item :

**29. Revised capital requirements rules (CRD IV) (First reading)**

- a) **Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms**
- b) **Proposal for a Directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate**
  - **Approval of the final compromise text**  
7748/13 EF 52 ECOFIN 216 CODEC 651  
7746/13 EF 50 ECOFIN 214 CODEC 649  
7747/13 EF 51 ECOFIN 215 CODEC 650

Statements by the Commission

"Article 443a of the Regulation:

The modifications made to this Article would permit the creation of 27 different national approaches on key elements of the single rule book such as own funds, risk weights and exposure limits. Moreover, in an area governed by co-decision where implementing powers are normally conferred on the Commission, implementing powers relating to national deviations from an EU regulation would be conferred exclusively on the Council, and the Commission be reduced to a mere advisory role, along with EBA and ESRB.

To ensure compatibility with Article 114 TFEU, the Commission is of the opinion that Article 443a, paragraph 2 must be interpreted as requiring that, upon receipt of a proposal from the Commission, the Council must always adopt a reasoned decision within the prescribed deadline. The last sub-paragraph of Article 443a, paragraph 2, which establishes the legal position of the Member State concerned where the Council wrongfully fails to act, cannot be interpreted as releasing the Council from its obligation to act in accordance with the fifth sub-paragraph of Article 443a, paragraph 2, namely the obligation to always adopt a reasoned decision. In the absence of such a reasoned decision of the Council, the last sub-paragraph of Article 443a, paragraph 2, would permit derogations disproportionate with respect to the harmonisation achieved by the Regulation without allowing judicial review, which would be contrary to Article 114 TFEU. The Commission therefore reserves the right to bring the matter before the Court of Justice where the Council would ignore the legal obligations imposed upon it by Article 443a, paragraph 2, and in particular where it would not adopt a reasoned decision within the prescribed deadline.

Article 124d of the Directive:

The Commission regrets that, in the context of the modalities around the conferral on EBA of binding settlement powers as regards higher buffer requirements established by a national authority, the fact that a recommendation of the Commission is given the same weight as that of the ESRB does not reflect the correct institutional balance between the ESRB and the Commission.

Article 151(1) of the Directive:

The Commission considers that Article 151(1) is not in compliance with Article 260(3) TFUE, which provides for the obligation upon Member States "to notify measures transposing a directive adopted under a legislative procedure". Since the Commission interprets such a provision of the Treaty as imposing upon Member States to notify to the Commission all measures aimed at transposing a directive, it will require Member States to communicate to the Commission all laws, regulations and administrative provisions necessary to comply with CRD IV. "

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Statement by Hungary, Malta, Poland and Romania

"Hungary, Malta, Poland and Romania welcome the political agreement on the CRD IV/CRR package, as it is of the utmost importance to implement Basel III and to impose stricter requirements to strengthen the EU financial stability. However, we have strong doubts regarding the transposition deadline set out in the proposal due to the difficulties in both legal compliance and the application point of view. We believe that a realistic deadline for the implementation should be at least 12 months after the date of publication in the Official Journal.

We declare to do our best to introduce the necessary changes to the national law before the transposition deadline set out in the directive. Nevertheless, in case of a delay, we strongly believe that in line with its stated intent, the European Commission will use its discretion with regard to the opening of a possible infringement procedure, taking into account the progress and the efforts of Member States as well as their national legislative procedures."

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### Statement by the Czech Republic

"Czech Republic recognizes the major importance of the CRD IV package in the general framework of the EU financial markets regulation and, therefore accepts the compromise package.

However, the Czech Republic stresses again its fundamental disagreement with the provision of Art. 86 (2) 2a of the CRD IV Directive regarding gender balance in management bodies. The Czech Republic continues to be of the opinion that there is no valid legal basis in the Treaties for the adoption of the mentioned provision and that, in any event, it does not comply with the principle of subsidiarity.

Furthermore, the Czech Republic stresses that its acceptance of the compromise on the CRD IV package as a whole is completely without prejudice to Czech Republic's position regarding the draft directive on women on company boards being currently discussed in Council bodies.

Notwithstanding its general disagreement with Art. 86 (2) 2a in the draft CRD IV directive, the Czech Republic underlines its understanding that this provision contains no obligation for nomination committees to decide on a target number quota for the underrepresented gender in the composition of the management body. The Czech Republic furthermore underlines that it will not accept any changes to the compromise text at hand which foresee even more rigid obligations with regard to gender balance in management bodies."

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### Statement by the UK

"The UK cannot support:

- a) The Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms
- b) The Proposal for a Directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate

This package of legislation was intended to ensure financial stability and delivery of the EU's international commitments in the area of banking regulation.

The UK is concerned that the legislation may not be compliant with the Basel 3 agreement for internationally active banks in certain significant areas and therefore awaits international assessments on this matter.

The UK notes, among other concerns, that the remuneration provisions have not been subject to any impact assessment and are not consistent with internationally agreed principles. The UK considers that they will be damaging to financial stability and the soundness of affected credit institutions."

# Coreper Part 1

## II

### 7. Horizon 2020

- (a) **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 294/2008 establishing the European Institute of Innovation and Technology (First reading) (Legislative deliberation)**
- (b) **Proposal for a Decision of the European Parliament and of the Council on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT): the contribution of the EIT to a more innovative Europe (First reading) (Legislative deliberation)**
- **Presidency debriefing on the outcome of the informal trilogue**

The Committee has been informed on the outcome of the informal trilogue with the European Parliament on the Horizon 2020 proposals.

### 8. Horizon 2020

**Proposal for a Regulation of the European Parliament and of the Council laying down the rules for participation and dissemination in "Horizon 2020" - The Framework Programme for Research and Innovation (2014-2020) (First reading) (Legislative deliberation)**

- **Preparation for the informal trilogue**  
7461/13 RECH 70 COMPET 150 ATO 32 CODEC 577

The Committee gave the Presidency the mandate for the informal trilogue.

### 9. Public procurement package (First reading) (Legislative deliberation)

- **Proposal for a Directive of the European Parliament and of the Council on public procurement (Classical Directive)**
  - **Presidency debriefing on the outcome of the informal trilogue**

The Committee took note of the debriefing by the Presidency on the outcome of the second informal trilogue on the above file held on 26 March 2013.

**10. Proposal for a Regulation of the European Parliament and of the Council establishing "Erasmus for all": the Union Programme for Education, Training, Youth and Sport (First reading) (Legislative deliberation)**

**- Preparation for the informal trilogue**

7663/13 EDUC 90 JEUN 29 SPORT 19 SOC 185 RELEX 232 RECH 78

CADREFIN 62 CODEC 622

+ ADD 1

The Committee approved the text as contained in the ADD 1 to document 7663/13, as a basis for the forthcoming informal trilogue.

**11. Proposal for a Regulation of the European Parliament and of the Council on establishing the Creative Europe Programme (First reading) (Legislative deliberation)**

**- Presidency debriefing on the outcome of the informal trilogue**

The Committee took note of the information provided by the Presidency on the outcome of the informal trilogue held on 21 March 2013.

**12. Proposal for a Regulation of the European Parliament and of the Council on the European Union Programme for Social Change and Innovation (PSCI) (First reading) (Legislative deliberation)**

**- Preparation for the informal trilogue**

7631/13 SOC 183 ECOFIN 203 COMPET 161 CADREFIN 61 CODEC 618

+ ADD 1

The Committee approved the mandate in 7631/13 ADD 1 for the next informal trilogue, with the following two modifications:

- amendment 145 to be replaced by a new recital 12(c) (SE suggestion, based on a Commission suggestion): "In accordance with Article 18 of Regulation 492/2011, the European Coordination office for EURES (the Commission) will set up minimum common criteria for the accreditation of EURES partners in line with the EURES principles in general and the principle of fair mobility.";
- an article on Progress axis co-financing to be included in the 4-column table; this article was included in the Council General Approach 10211/12 Annex as Article 15a(new) but omitted from 7631/13 ADD1.

**13. Proposal for a Regulation of the European Parliament and of the Council on the European Globalisation Adjustment Fund (2014-2020) (First reading) (Legislative deliberation)**

**- Preparation for the informal trilogue**

7383/13 SOC 165 ECOFIN 189 FSTR15 COMPET 140 AGRI 167 CODEC 549

The Committee took note of the state of play of discussions on the proposal on the basis of document 7383/13. The delegations reiterated their positions especially on the three outstanding issues (scope, beneficiaries and co-financing). Several delegations insisted that the decision taken by the European Council on 8 February 2013 to continue the EGF under the new Programming period 2024-2020 outside the MFF should be implemented rapidly.

DE (doc. 7927/13) and MT (doc. 8261/13) presented their new wording proposals. Other delegations entered scrutiny reservations on both as they did not have the time to scrutinize them in detail.

EE and SK lifted their general scrutiny reservations on the proposal.

In view of the mostly unchanged positions and the still remaining divergences, and bearing in mind the urgency of the file, the Committee authorised the Presidency to hold exploratory discussions with the European Parliament without negotiating any elements of the package, and asked the Presidency to report back to the Committee.

**14. SMA I monthly update**

**(a) Posting of workers**

7606/13 SOC 180 MI 214 COMPET 160 CODEC 613

**(b) E-identification**

**- State of play/ Guidance for future work**

(a) The Committee took note of the state of play of discussions on the proposal for a Directive on the enforcement of Directive 96/71/EC concerning the posting of workers on the basis of a report by the Presidency (doc.7606/13) and of the Presidency's roadmap with a view to the Council (EPSCO) reaching a general approach at its session on 20 June 2013. It instructed the Social Questions Working Party to undertake a detailed examination of Articles 9 and 12 and to report back to the Committee by mid-May.

(b) Presidency informed the Committee on the state of play as well as of the Presidency's intentions regarding the future work on this file.

- 15. Setting of the provisional agenda for the Council meeting (Agriculture and Fisheries) on 22 and 23 April 2013  
(For the items in the remit of the Permanent Representatives Committee)**

The Committee agreed on the provisional agenda for the forthcoming Council meeting (Agriculture and Fisheries) on 22 and 23 April 2013 as set out in 8384/13.

- 16. Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy (First reading) (Legislative deliberation)**  
**- Presidency debriefing on the outcome of the informal trilogue**

The Presidency debriefed the Committee on the second trilogue held on 26 March 2013. The negotiations made only limited progress, relying to a large extent on subsequent work to be done at the technical level.

- 17. Proposal for a Directive of the European Parliament and of the Council amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy (First reading) (Legislative deliberation)**  
**- Guidance for the Presidency**  
7734/13 ENV 238 SAN 107 CHIMIE 35 AGRILEG 38 CODEC 644

The Committee examined the proposals made by the European Parliament and the Commission at the last trilogue in particular as regards the deadlines for implementation and the newly added recital on explanatory documents. In consultation with these institutions, a revised text will be prepared by the Presidency with a view to the Committee meeting on 10 April 2013. The revised text can be found in 8186/13.

- 18. Proposal for a Directive of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings (Accounting Directive) (First reading) (Legislative deliberation)**  
**- Preparation for the next informal trilogue**  
7729/13 DRS 56 COMPET 168 ECOFIN 210 CODEC 643

The Committee provided a mandate to the Presidency for the negotiations with the European Parliament at the seventh trilogue on the Accounting Directive on the basis of the Presidency compromise package with an amendment as regards the equivalence mechanism (maintenance of the equivalence mechanism in the form of delegated acts for the criteria and implementing acts for the list of countries).



19. **New Legislative Framework Alignment Package (First reading) (Legislative deliberation)**
- **Proposal for a Directive of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles**
    - **Presidency debriefing on the outcome of the informal trilogue**
    - **Analysis of the final compromise text with a view to agreement**  
7560/13 ENT 81 MI 208 CONSOM 46 CODEC 605 COMPET 155

The Presidency debriefed the Committee on the trilogue that took place on 19 March 2013.

The Committee approved the text of the proposal as set out in 7560/1/13 REV1, with the following modification to Recital 45c and to Article 45 (2b) which had received unanimous support: "... concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with the standard rules of procedure".

The Committee agreed that a letter be sent to the European Parliament with a view to reaching an agreement at first reading (Procedural decision according to Art. 19 (7) (k) of the Council's Rules of Procedure).

20. **Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/98/EC on re-use of public sector information (First reading) (Legislative deliberation)**
- **Presidency debriefing on the outcome of the informal trilogue**

The Chair debriefed the Committee on the 3rd trilogue which took place on 25 March 2013 and at which provisional agreement was reached. The focus of the negotiation was on Art. 6 and 11, and related articles. Council managed to preserve its position on the exceptions set out in Art. 6(2) and on the nature of the impartial body in compensation for increased transparency (Art. 7) and some review (Art. 13) of the provisions on charging.

The Committee will return to this item on 10 April 2013 to analyse the outcome of the trilogue.

## Coreper Part 2

### II

- 38. Draft Regulation of the European Parliament and of the Council amending Council Regulation (EC) n° 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 (First reading)**
- **Approval of the final compromise text with a view to an agreement**  
7787/13 VISA 73 CODEC 659 COMIX 187

The outcome of the discussions in the Mixed Committee concerning this item was confirmed by the Committee (doc. 7990/13).

- 39. Presentation of the agenda of the Council meeting (Foreign Affairs) on 22/23 April 2013**

The Executive Secretary General of the EEAS informed the Committee of the way in which the High Representative intends to conduct the exchange of views at the Foreign Affairs Council on 22/23 April 2013.

The Foreign Affairs Council, in Foreign Ministers configuration, is expected to start on 22 April at 12H30. The main items foreseen for discussion, at the stage, are: Energy, Eastern Partnership, Southern Neighbourhood, Mali and CSDP.

The Foreign Affairs Council, in Defence Ministers configuration, is expected to start on 22 April in the evening, and it will continue on 23 April. The main items foreseen for discussion, at the stage, are: Sahel; EUTM Mali and CSDP.

- 40. Report on EU statements in Multilateral Organisations - Implementation of General Arrangements**

The Committee took note of the EEAS report on the EU statements in Multilateral Organisations - Implementation of General Arrangements.

**41. Proposals for External Financing Instruments under Heading 4 (2014-2020) (First reading)**

**- Preparation of the fourth informal trilogue**

7827/13 CADREFIN 66 DEVGEN 73 ACP 41 RELEX 246 COASI 45  
ASIE 12 COMAG 33 COHOM 50 COEST 62 COWEB 39 ELARG 39  
CODEC 663 PE 145 FIN 153

The Committee was debriefed by the Presidency on negotiations with the European Parliament. It also held an exchange of views on the Presidency proposal for a revised mandate for negotiations on the proposals for external financing instruments under Heading 4 contained in document 7827/13. The Chair noted broad support for the proposed revised mandate, while taking note of the additional observations made by delegations.

**42. Debrief of the Commission visit to Moscow (21-22 March 2013)**

The Committee heard a debrief by the Commission on the meeting of the College of the European Commission with the Russian Government in Moscow on 21-22 March 2013. There were no comments by delegations.

**43. Proposal for a Directive of the European Parliament and of the Council on the right access to a lawyer in criminal proceedings and on the right to communicate upon arrest (First reading)**

**- Questions on selected issues**

7564/13 DROIPEN 29 COPEN 41 CODEC 606

The Committee discussed the two selected issues on the basis of document 7564/13. On the issue of confidentiality, the Chair noted that there was not sufficient support for the suggestion presented by the Presidency. The Chair therefore invited the Working Party to examine the possibility of redrafting the derogations to Article 4. The Chair also invited the Working Party to consider deleting Article 4 altogether, while keeping a reference to confidentiality in the recitals. On the issue of the European arrest warrant, the Chair noted that the Committee could in principle accept to provide a right of access to a lawyer in the issuing Member State, on condition that the relevant provisions be drafted with caution, so as not to jeopardise the efficient functioning of the EAW system. The Chair invited the Working Party to further examine this issue.

Finally, some Member States pointed to other points in the Directive which are of particular interest to them. The Committee took note thereof.

**44. Amended proposal for a Directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (Recast) (First reading)**

- **Analysis of final compromise text with a view to an agreement**  
7695/13 ASILE 10 CODEC 629

The Committee confirmed overall agreement on the consolidated compromise text, resulting from the eighth informal trilogue (which took place on 21 March 2013), as set out in 7695/13 + COR1.

DE statement on Art. 31(6):

"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 (6) (a)-(g) of the Commission's recast proposal for the Directive in the version of Council document 7695/13 ASILE 10 of 22 March 2013."

**45. Amended proposal for a Regulation of the European Parliament and of the Council on the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of Regulation (EU) No [.../...] (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) and to request comparisons with EURODAC data by Member States' law enforcement authorities and Europol for law enforcement purposes and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (Recast version) (First reading)**

- **Analysis of final compromise text with a view to an agreement**  
7713/13 EURODAC 5 CODEC 639 ENFOPOL 79  
+ COR 1

The Committee confirmed overall agreement on the consolidated compromise text, resulting from the fourth informal trilogue (which took place on 21 March 2013), as set out in 7713/13 + COR1.

**46. Presentation of the agenda of the Council meeting (General Affairs) on 22 April 2013**

Le Comité a pris note de la liste des points susceptibles de figurer à l'ordre du jour provisoire de la session du Conseil susvisée.

47. **Proposed single supervisory mechanism**
- a) **Council Regulation conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions**
  - b) **Regulation of the European Parliament and of the Council amending Regulation (EC) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards its interaction with Council Regulation (EU) No.../... conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (First reading)**
- **Approval of the final compromise text**  
7774/13 EF 53 ECOFIN 219 CODEC 656  
7775/13 EF 54 ECOFIN 220 CODEC 657  
7776/13 EF 55 ECOFIN 221

The Committee had an exchange of views on the basis of the above-mentioned documents and agreed to continue its examination on the occasion of its next meeting on 10 April 2013.

48. **Proposal for a Regulation of the European Parliament and of the Council amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union (*restricted session*)**
- **Draft mandate for the Working Party on the Staff Regulations**  
7815/13 STAT 8 FIN 152

The Committee exchanged views in restricted session on the draft mandate for the Working Party on the Staff Regulations (doc. 7815/13).

Based on delegations' suggestions a revised mandate will be submitted for consideration at the following Committee meeting on 10 April 2013.

49. **Multiannual Financial Framework (*restricted session*)**

The Committee examined, in a restricted session, key issues in relation to the MFF.

