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NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	Summary of the meeting of the Civil Liberties, Justice and Home Affairs Committee of the European Parliament, held in Brussels on 16, 17 and 18 September 2013

Item 4 on the agenda

Protection of the euro and other currencies against counterfeiting by criminal law (replacing Council Framework Decision 2000/383/JHA)

*****I 2013/0023(COD) COM(2013)0042**

Rapporteur: Anthea McIntyre (ECR)

PR – PE510.737v03-00

AM – PE516.694v01-00

Responsible: LIBE –

Opinions: ECON – Pablo Zalba Bidegain (PPE)

PA – PE514.677v01-00

IMCO – Decision: no opinion

Consideration of amendments

The Rapporteur identified two outstanding issues, namely territoriality and the question of minimum sanctions proposed. Mrs Matthieu (on behalf of Mr Voss) said he wanted to prevent forum shopping, however did not support minimum/maximum sanctions system at this stage. Mr De Jong strongly opposed the idea of minimum/maximum sanctions and stressed that legal traditions in member states had to be respected. This should be discussed as a horizontal issue and particular care should be taken to define the crimes for which such harmonised sanctions could apply. Ms Fajon on the other hand supported minimum sanctions. The Commission defended its approach in view of alarming statistics on counterfeiting and stressed that so far the transposition had been high and additional solutions could be proposed to take into account individual assessment of the case.

Item 5 on the agenda

Judgement in Case C-648/11 of the EU Court of Justice on the Member State responsible for examining an asylum application made in more than one Member State by an unaccompanied minor is the State in which the minor is present after having lodged an application there

Commission has committed to adapt Dublin II Regulation (Asylum package) if necessary following the judgment in this case. The EP Legal Service commented on the case concerned minors, without family members, to be transferred from the UK to the country of first application in another Member State, considered the state of first application. The question for a preliminary ruling was which Member State does the second paragraph of Article 6 make responsible for determining the application for asylum where an applicant for asylum who is an unaccompanied minor with no member of his or her family legally present in another Member State has lodged claims for asylum in more than one Member State? The judgment concerned Article 6 of the regulation which was already controversial during the negotiations of this instrument. ECJ ruled, taking into account in the best interest of the child, that Member State where the minor is present was responsible for examining the application. Ms Wickström (ALDE, SW) recalled that the situation of unaccompanied minors was indeed a very controversial issue during negotiations between the EP and the Council. She was very satisfied with this judgment. Ms Sippl (S&D, DE) asked about effects of this ruling stressing that burdens of unaccompanied minors were not spread equally among Member States. Commission representative said that they were satisfied with the judgment, confirming Commissions interpretation of the wording.

Item 6 on the agenda

LIBE Delegation to the European Agency for the operational management of largescale IT systems in the area of freedom, security and justice (eu-LISA)

Headquarters, Tallinn, Estonia, 29/30 April 2013

DV – PE510.789v01-00

Mr Coelho briefly presented the delegation visit (a full report is available on line). The agency was operational and functioning well, however some problems arose in Estonia due to the fact that staff was not attracted to work in Estonia, because of lower wages compared to the Strasbourg site. he did not understand how this was possible. He congratulated the management on both location for the work accomplished. Mr Kirkhope (ECR, UK) asked if the costs related to agencies and host countries contributions were transparent. Mr Coelho said the financing issues in host countries were transparent but candidates clearly did not want to move to Estonia for lower wages. Ms Sippel asked about security leakages. Mr Coelho replied that leakages could not be attributed to the agencies but to national antennas.

Item 7 on the agenda

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]

******I 2013/0081(COD) COM(2013)0151***

Rapporteur: Cecilia Wikström (ALDE)

PR – PE514.798v01-00

Responsible: LIBE –

Opinions: EMPL – Antigoni Papadopoulou (S&D)

PA – PE516.703v01-00

JURI – Dimitar Stoyanov (NI)

PA – PE514.664v01-00

AM – PE516.904v01-00

CM – PE513.168v01-00

***JURI (AC) –Francesco Enrico Speroni
(EFD)***

The Rapporteur spoke about the need to attract educated third country nationals to stay for work in the EU. During the discussion the following issues were raised : improve intra EU mobility through simplified and harmonised rules (Ms Corazza-Bildt); support for attracting "knowledge migrants" (Mr Kirkhope). Ms Papadopoulou (S&D, EL) said she was not so optimistic and said that third country nationals studying in Europe should return home after their studies and contribute to the economy of their country of origin. The Council Presidency explained the proposal was being examined in the WG and was progressing relatively well, however it was necessary to take into account difficult economic situation in Member States and the situation in domestic labour markets. It was necessary to have safeguard in order to avoid misuse. A more ambitious proposal from the EP's would be likely met with caution in the Council.

The Rapporteur concluded that proper balance had to be found between various interests at stake in order to stop the brain drain.

Item 8 on the agenda

Follow-up on the Delegation of Legislative Powers and the Control by Member States of the Commission's Exercise of Implementing Powers 2012/2323(INI)

Rapporteur for the opinion:

Monika Flašíková Beňová (S&D)

PA – PE506.206v01-00

Responsible: JURI – József Szájer (PPE)

PR – PE510.803v01-00

DT – PE506.179v02-00

This item was postponed.

Item 9 and 10 on the agenda

Joint debate on the Smart Borders Package

Registered Traveller Programme

******I 2013/0059(COD) COM(2013)0097***

Rapporteur: Ioan Enciu (S&D)

DT – PE514.630v01-00

Responsible: LIBE –

Opinions: AFET – Decision: no opinion

DEVE – Decision: no opinion

BUDG –

Entry/Exit System to register entry and exit data of third country nationals crossing the EU Member States' external borders

******I 2013/0057(COD) COM(2013)0095***

Rapporteur: Renate Sommer (PPE) DT – PE514.706v01-00

Responsible: LIBE –

Opinions: AFET – Decision: no opinion

DEVE – Decision: no opinion

BUDG –

CONT – Decision: no opinion

The Rapporteur for EES , Ms Sommer, explained the functioning of the electronic system of record of biometric data for persons entering and existing the EU. This This new electronic system would allow for easier tracking of overstays I particular in those cases where third country nationals did not require a visa. The numbers of travellers were to increase and the existing system needed to be improved. It also be useful in defining EU visa policy towards third countries. She stressed the need to examine the proportionality of the proposal as well as its added value. Indeed it was quite costly but it also opened up the possibility to use the data stored for law enforcement purposes. According to her this provided real added value.

The Rapporteur for RTP, Mr Enciu, presented a number of political questions raised by the RTP proposal, namely the differentiation in treating EU and not EU nationals at borders, questions of necessity of such a system and possible alternatives, huge financial implications of such proposal in the present context of budget restrictions; as well as on the need to the package approach; adopted by the Commission as he believed the EES was not really necessary in order to have a RTP.

The representative for the EDPS concentrated on the EES, which raised most questions. The compatibility of the proposal with Charter of fundamental rights had been examined and proposal raised serious doubts about the necessity as well as modalities. It seemed that the main aim was to gather information on overstays however unclear what was the policy in such cases. The EP should carry out its own impact assessment.

A representative for A. 29 working party recognized the need for efficient border management and fight against illegal migrations, however their analysis showed that thresholds of necessity and workability were not met. He pointed out that nowhere in world existed such a system were exists would be recorded and any mistake in this record would compromise statistics and generate false notifications. He questioned the workability of such a system at land borders. Even if overstays identified the whereabouts of an individual would still be unknown; also it was possible that a person had a legitimate reason not to exit the EU etc. To conclude this system would mainly apply to those nationals who already benefit from visa waiver and are deemed to pose less risky anyway.

During the discussion MEPS raise a number of issues : against the focus on overstays and the need to protect illegal migrants, their fundamental rights and right to data protection, as well as against lawenforcement access to such information (Ms Keller, Ms Sippl, Ms Romero Lopez, in t'Veld, ALDE, NL); huge costs and workability of the system as well as the need to use the existing databases, such as SIS, VIS, Eurodac, to their full potential (Mr Kirkhope, ECR, UK; Mr Coelho, EPP, PT; Ms Corazza-Bildt, SW, EPP); access to data for law enforcement was essential and provided real added value (Ms Matthieu, EPP, FR); problems with returns procedures would produce little practical results and unknown whereabouts of a person overstaying was also limiting the added value of information (Mr Coelho).

The Commission representative explained that they were fully aware of the budgetary implication and that the main aim was to help border guards implement efficiently the Schengen border code. The old fashioned stamp system would be replaced by an electronic one. Policies on overstay exist but cannot be implemented without identifying those who overstay first. Access to database fro law enforcement purposes would only be possible at a later stage if so decided.

A representative for the Council Presidency explained that the proposals were being examined at the WG level, that the scope of the proposal was large and an agreement could not be reached quickly on such complex issues. Work would continue and it was hoped that a result could be reached by the end of the year. The Presidency took note of the various views presented.

Item 11 on the agenda

Framework Statute for the Promotion of Tolerance

LIBE/7/13695

Presentation by the Group of Eminent Legal Experts from the European Council on Tolerance and Reconciliation (ECTR)

The Chair explained that the Conference of Presidents has asked LIBE to invite the international NGO European Council on Tolerance and Reconciliation (ECTR) to present their model statute for promotion of tolerance.

Mr Bill; the Secretary General of the organisation presented its origins, members, functioning and aims. He explained that in the in context of failing multiculturalism, rising xenophobia and anti-Semitism, their project looks at the best practices regarding controversial issues such as the use of veil, building places of worship, FGM; or circumcision.

Mr Dienstam, former dean of University of Tel Aviv briefly presented the model statute. He emphasised that there was in Western democracies an amorphous commitment to tolerance, without really having a definition what it meant. The focus at present was rather on non-discrimination. The *vox populi* in Europe was fluctuating and there was clear urgency to address the issues of tolerance in multicultural societies through national legislation. The present statute was prepared in order to be used as a common framework and could be adapted to specify situations in each country. He pointed out the challenge was to have a single society without assimilation as well as diversity without disintegration. He concluded that tolerance could not be without limits, it also had to be mutual. Europe cannot avoid such a debate and should start working more actively on this issues.

Item 13 and 14 on the agenda

Joint debate

European Public Prosecutor's Office

2013/0255(APP) COM(2013)0534

Responsible: LIBE –

Opinions: BUDG, CONT, JURI, PETI

EU Agency for Criminal Justice Cooperation (Eurojust)

******I 2013/0256(COD) COM(2013)***

Responsible: LIBE –

Opinions: BUDG, CONT, JURI

The Chair announced that Mr Iacolino had been nominated rapporteur for the EPPO and Mr Voss for the report on EU Agency for Criminal Justice Cooperation (Eurojust).

First speaker, Mr Kessler, OLAF Director, explained the background to the Commission proposal create an EPPO. He stressed the importance of fighting financial fraud to the EU budget in times of financial crisis, pointing out that only national actions had by its nature a fragmented perspective. This would ultimately save European taxpayer's money. He quoted conviction rates of cases detected by OLAF varies by less than 5% to 90% in some, clearly demonstrating uneven application among Member States. The EPPO would have a decentralised structure with a central office and EPPO offices in national systems with national prosecutors working as European Public Prosecutors.

Second speaker, Ms Le Bail; Director General, European Commission stressed that the main feature of EPPO was its independence. Regarding the nominations procedure and accountability she stressed the role of the EP in these. The EPPO would be close to national judicial system thus enabling it to work efficiently. She pointed out that the proposal contained the safeguards necessary to protection of individual right (right to interpretation, access to lawyers). She concluded that the proposal would be cost neutral, with resources from OLAF and EUROJUST.

During the subsequent discussion MEPs, whilst generally welcoming the proposal, raised the following issues : questioning the package approach by the Commission and rumours about Council opposing the EPPO proposal (Ms Weber, ALDE, RO); the scope should be extended to cross border crime (Ms Matthieu, EPP, FR, Ms Romero Lopez, S&D, ES); extension of the scope to organized crime and money laundering (Mr Iacolino, EPP, IT); the need to ensure adequate protection of procedural rights (Mr Albrechts, Greens, DE); questioning the quality of OLAF work and the need to have more information on how prosecution functions in Member States, national priority settings versus EU priorities (Mr De Jong,); general reservation regarding the scope and investigation order as a base for procedural rights (Mr Voss, EPP, DE); concern at coordination with national judiciary systems taking into account different traditions in Member States Mr Kirkhope, ECR, UK); opposition in principle against new repressive, supranational institutions and the need to protect EU citizens procedural rights (Mr Wojciewski, xx, PL).

Replying to the issues raised Ms Le Bail pointed out that Commission kept to the legal base in the treaties with possible extension of scope at a later stage; she explained that a certain number of Member States would most likely not participate; and that the procedure for the adoption of EPPO proposal required unanimity or else change to enhanced cooperation.

Mr Kessler explained that the EPPO proposal is result of cooperation between OLAF and the Commission and explained that the reason for the proposal was inadequate protection of financial interests of the EU as the existing procedures were too long and inefficient and the aim was not to regulate the way judicial acts were executed as national rules would have to be followed when carried out in practice hence there was no contradiction. Some national procedures would possibly have to be changed, namely in order to increase the protection of individuals due to requirement of authorisation of judicial acts by national judges.

Presentation by the Commission

Item 15, 16, 17 and 18 on the agenda

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

LIBE/7/11156

*****I 2012/0309(COD) COM(2012)0650**

Rapporteur: Mariya Gabriel (PPE)

PR – PE504.389v01-00

AM – PE514.815v01-00

Responsible: LIBE –

Opinions: AFET – Decision: no opinion

JURI – Decision: no opinion

Voting postponed.

Unleashing the Potential of Cloud Computing in Europe

2013/2063(INI) COM(2012)0529

Rapporteur for the opinion:

Judith Sargentini (Verts/ALE)

PA – PE504.203v01-00

AM – PE513.269v01-00

Responsible: ITRE* – Pilar del Castillo Vera (PPE)

PR – PE506.114v01-00

AM – PE516.774v01-00

The report was adopted with xx votes in favour (x against and x abstentions).

Agreement between the European Union and the Republic of Armenia on the readmission of persons residing without authorisation

***** 2012/0332(NLE) 05859/2013 – C7-0113/2013**

Rapporteur: Edit Bauer (PPE) PR – PE513.036v01-00

Responsible: LIBE –

Opinions: AFET – Tomasz Piotr Poręba (ECR) AD – PE506.357v02-00

The report was adopted with 45 votes in favour (2 against and no abstentions).

EU-Armenia Agreement on the facilitation of the issuance of visas

LIBE/7/11496

***** 2012/0334(NLE) 05835/2013 – C7-0112/2013**

Rapporteur: Edit Bauer (PPE) PR – PE510.849v01-00

Responsible: LIBE –

Opinions: AFET – Tomasz Piotr Poręba (ECR) AD – PE506.356v02-00

The report was adopted with 45 votes in favour (2 against and no abstentions).

Item 19 on the agenda

High common level of network and information security across the Union

*****I 2013/0027(COD) COM(2013)0048 – C7-0035/2013**

Rapporteur

for the

opinion:

Carl Schlyter (Verts/ALE)

PA – PE514.755v01-00

Responsible: IMCO – Andreas Schwab (PPE)

PR – PE514.882v01-00

The Rapporteur explained that the security of essential networks remained too low in Europe and therefore minor incidents could have huge repercussions. It was important to improve this situation and achieve high common level of protection. He explained his amendments concern strengthening references to data protection legislation, stressing its the civil aspects, and excluding social networks from 'critical infrastructure'. He called for various key concepts, such as public administration, cyberspace etc. to be clarified.

Ms Hanikss (EPP, HU) expressed support for the rapporteurs work and agreed on the need to have more clear definitions about information sharing and compatibility with data protection rules as well as what was included in critical infrastructure. She supported the proposal of national single points of contacts and the need to distinguish between essential services and consumer services. Mr Brons (NI, UK) spoke about the necessity to have good old back up system.

The Commission representative said that in Commission's view data protection rules were not be discussed in the framework of the proposed act as it primarily concerned the resilience of network systems. The Commission did not want these file to become hostage to general data protection regulation discussions. He also explained that nowadays social networks presented an economic platform which was important for businesses.

Item 20 on the agenda

European Parliament (DG IPOL Policy Department C) Study " Democratic accountability and parliamentary control in the area of freedom, security and justice - Towards the negotiation and adoption of the Stockholm Programme's successor for the period 2015-2020"

Presentation by Professors Henri Labayle, University of Pau-Pays de l'Adour and Philippe De Bruycker, European University Institute/University ULB Brussels

The authors briefly presented their study, which is also available in a written form. Prof. Labayle highlighted what were in his view persistent unbalances in the Area of freedom, security and justice, namely freedom versus security; justice versus security, different situation of Member States themselves (opt ins, opt out, Romania's and Bulgaria's accession to Schengen); legal versus irregular migrations. He spoke also of positive achievements, *inter alia* the asylum package, procedural rights penal proceedings, and civil law cooperation. He stressed the main challenges for the future of this policy would be political, namely the protection of fundamental rights, issues of solidarity among Member States, as well as limited financial resources for such policies; institutional, the fact that the European Parliament should be included in the preparation of a new programme to succeed the Stockholm programme (after the 2014 elections); and last but not least technical issues such as monitoring of implementation to be done by the Commission more vigorously in the future.

Next meeting(s)

- ***24 September 2013, 9.00 – 12.30 and 15.00 – 18.30 (Brussels)***
- ***30 September 2013, 15.00 – 18.30 (Brussels)***