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**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 21 June 2011

**8881/11
ADD 1**

**PV CONS 22
JAI 230
COMIX 224**

ADDENDUM to DRAFT MINUTES

Subject: **3081st meeting of the Council of the European Union (JUSTICE AND HOME AFFAIRS), held in Luxembourg on 11 and 12 April 2011**

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¹ Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

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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 amending Regulation (EC) No 1060/2009 on credit rating agencies

PE-CONS 70/10 EF 218 ECOFIN 877 CODEC 1581

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. (Legal basis: Article 114 of the TFEU).

Statement by the Portuguese Delegation

"Portugal strongly supports giving ESMA the statute of a truly European supervisor for credit rating agencies and thus welcomes the proposed regulation assigning ESMA competences on the registration and supervision of credit rating agencies.

Nevertheless, Portugal regrets that the enforcement powers being given to ESMA in the proposed regulation are seemingly weaker than the enforcement powers currently granted to national competent authorities enforcing financial legislation on market participants. Although ESMA is granted sanctioning powers, it would be a mistake, in our view, if those powers were limited to a quasi-mechanical application of criteria and amounts set out in the legislation. Especially in the outset of ESMA's establishment, Portugal expects that ESMA's enforcement powers will not be limited just to whether or not to apply the sanction."

Statement by the United Kingdom, Spain, The Netherlands, Sweden, Austria, Finland, Hungary, Ireland and Luxembourg

"The above mentioned Member States welcome the revision of Regulation 1060/2009, which will allow the European Securities and Markets Authority (ESMA) to supervise credit rating agencies in line with the agreement reached on the supervisory package in the EU. Also, these Member States welcome in particular the fact that ESMA will, in co-operation with EBA and EIOPA, issue and update guidelines on the application of the endorsement regime under article 4(3) by 7th June 2011. These guidelines are necessary to clarify that endorsement can take place if the third country's regulatory regime or, in the absence of such regulatory requirements, the credit rating agency itself applies requirements which are at least as stringent as the requirements set out in articles 6-12 of Regulation 1060/2009. The endorsing credit rating agency shall remain responsible to ESMA for compliance with such requirements, in accordance with paragraph 5 of Article 4 of Regulation 1060/2009."

2. Directive of the European Parliament and of the Council amending Directive 2003/109/EC to extend its scope to beneficiaries of international protection
PE-CONS 66/10 ASIM 128 CODEC 1570

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the Czech and Maltese delegations voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 79(2)(a) and (b) of the TFEU).

Statement by the Commission

"The Commission recalls its commitment towards ensuring that Member States establish correlation tables linking the transposition measures they adopt with the EU directive and communicate them to the Commission in the framework of transposing EU legislation, in the interest of citizens, better-law making and increasing legal transparency and to assist the examination of the conformity of national rules with EU provisions.

The Commission regrets the lack of support for the provision included in the 2007 COM proposal amending the Long-Term Residence Directive which aimed at rendering the establishment of correlation tables obligatory.

The Commission, in a spirit of compromise and in order to ensure the immediate adoption of the Long-Term Residence proposal, can accept the substitution of the obligatory provision on correlation tables included in the text with a relevant recital encouraging Member States to follow this practice.

However, the position followed by the Commission in this file shall not be considered as a precedent. The Commission will continue its efforts with a view to finding together with the European Parliament and the Council an appropriate solution to this horizontal institutional issue."

Statement by Malta

"Malta:

- Regrets that the Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/109/EC to extend its scope to beneficiaries of international protection does not take its difficulties into account. The Directive will render heavier the pressure that Malta is under due to the number of beneficiaries of international protection present on the island combined with Malta's limited absorption capacity.
- Makes particular reference to the Explanatory Statement of the Report of the European Parliament on this Proposal¹, which notes that this Proposal may have the effect of exacerbating the pressure to which Member States that host a disproportionate number of beneficiaries of international protection are subjected, due in particular to their geographical or demographic situation. The Explanatory Statement further stresses that the provisions of the Directive should be applied in such a way as to facilitate the exercise of the right of beneficiaries of international protection who enjoy long-term resident status in a Member State facing such disproportionate pressures, to reside in a Member State other than the one which granted them international protection.
- Calls on the Member States to take up this recommendation and to facilitate the movement of beneficiaries of international protection from Malta once they have acquired long-term residence status there, with a view to mitigating the negative effects that would otherwise derive from the implementation of this Directive.
- Reiterates its call for greater solidarity through the intra-EU relocation of beneficiaries of international protection, as called for by the European Pact on Immigration and Asylum and reaffirmed by the Council Conclusions, endorsed by the European Council, on 17 June 2010.
- Recalls that the European Union's immigration and asylum policy must be governed by the principle of solidarity and fair sharing of responsibility in accordance with Article 80 of the Treaty on the Functioning of the European Union (TFEU) and declares that the Proposal fails to incorporate measures to implement this principle, in spite of the fact that it is the first instrument to be adopted in the establishment of the Common European Asylum System (CEAS).
- Augurs that the other instruments to be adopted in the context of the CEAS fully respect the principle enshrined in Article 80 TFEU, and that the qualified majority voting regime is applied in line with this overarching principle."

¹ Committee on Civil Liberties, Justice and Home Affairs, A7-0347/2010, 1 December 2010

3. Regulation of the European Parliament and of the Council implementing the bilateral safeguard clause of the Free Trade Agreement between the European Union and its Member States and the Republic of Korea

PE-CONS 8/11 WTO 75 COMER 41 COASI 36 CODEC 260

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. (Legal basis: Article 207(2) of the TFEU).

AGENDA ITEMS

3. Common European Asylum System

- State of play

7986/11 ASILE 21 CODEC 463

The Council took note of the Progress report on the State of Play of the legislative proposals on the Common European Asylum System, instructed its preparatory bodies to continue work with a view to finding agreements both within Council and between Council and the European Parliament and welcomed the Commission's announcement that the revised proposals for the amendment of the Reception and Procedures Directives would be tabled in advance of the June Council.

4. Proposal for a Regulation of the European Parliament and of the Council on establishing an Agency for the operational management of large-scale IT systems in the area of freedom, security and justice

- Preparation of a possible agreement with the European Parliament

8327/1/11 REV 1 JAI 198 SIRIS 22 VISA 59 EURODAC 10 ENFOPOL 86

EUROJUST 37 COMIX 188 CODEC 519

The Council confirmed the text that will constitute the basis for the high-level trilogue, as set out in doc. 8327/1/11 REV 1.

5. Proposal for A directive of the European Parliament and the Council on the use of Passenger Name record data for the prevention, detection, investigation and prosecution of terrorist offenses and serious crime

- Possible inclusion of intra-EU flights

8016/1/11 REV 1 GENVAL 27 AVIATION 62 DATAPROTECT 16 CODEC 466

8023/11 JUR 115 GENVAL 29 AVIATION 72 DATAPROTECT 21 CODEC 509

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As set out in detail in 9103/11, it was concluded that the preparatory work on the draft PNR Directive will continue at expert-level on the basis of the indication that the Directive should allow individual Member States the option to mandate the collection of PNR data with regard to targeted intra-EU flights and that the collection and processing of such data should be subject to the legal regime created by the PNR Directive. The possibility of inserting a review clause will also have to be studied.

6. Proposal for a Directive of the European Parliament and of the Council on combating the sexual abuse, sexual exploitation of children and child pornography, and repealing Framework Decision 2004/68/JHA

- State of play in follow-up to the second Trilogue meeting held on 31 March 2011 in Brussels

The Council took note of the oral report by the Presidency on the state of play of the ordinary legislative procedure with regard to this file.

7. Proposal for a Directive of the European Parliament and of the Council on the right to information in criminal proceedings

- Information from the Presidency on the Trilogue with the European Parliament

The Council took note of the oral report by the Presidency on the state of play of the ordinary legislative procedure with regard to this file.

8. Proposal for a Directive of the European Parliament and of the Council on attacks against information systems, replacing Council framework Decision 2005/222/JHA
- Orientation debate and state of play
8795/11 DROIPEN 27 TELECOM 43 CODEC 609

The Council examined the issues submitted for its political guidance in doc. 8795/11. The discussion focused in particular on the level of penalties for the basic offences covered by the proposal, the aggravating circumstances and the jurisdiction rules. While some delegations maintained their positions that the level of penalties should be lowered to one year, the majority supported the original Commission proposal, providing for a maximum of at least two years imprisonment for the basic offences. This solution was considered appropriate taking into account the already limited scope of the proposal, as resulting from the Council preparatory bodies' deliberations.

The discussions demonstrated that further work will be needed at technical level in relation to the aggravating circumstances. The majority of delegations supported the Presidency's proposal on jurisdiction (Art. 13) and as regards the criminalisation of devices, as a tool used for committing cyber attacks (Art. 7).

The Council also took note of the provisional agreement reached on certain articles, on the understanding that further discussions may show that there is a need to revisit any of those provisions.

The Council preparatory bodies will continue their work on the proposal in the light of the political guidance provided by the Council with a view to reaching a general approach in June.

9. 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
- State of play
8369/1/11 REV 1 COPEN 57 EUROJUST 38 EJM 27 CODEC 525

The Council took note of the state of play on the discussions in the Council, including the statement by Sweden regarding constitutional difficulties relating to the freedom of the press.

10. Proposal for a regulation of the European Parliament and of the Council on Jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of succession

- Oral report by the Presidency

The Council took note of the oral report made by the Presidency.

11. Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes

The Council took note of the oral presentation of the proposal made by the Commission.

12. Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions on the property consequences of registered partnerships
- Presentation by the Commission

The Council took note of the oral presentation of the proposal made by the Commission.

13. Proposal for a Council Regulation on electronic publication of the Official Journal of the European Union

- Presentation by the Commission

8609/11 JURINFO 17 INF 51 JUR 150

The Council took note of the oral presentation made by the Commission.

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