



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 25 November 2011

**14602/11
ADD 1**

**PV/CONS 54
JAI 671
COMIX 590**

ADDENDUM to DRAFT MINUTES

Subject: **3111th** meeting of the Council of the European Union (**JUSTICE AND HOME AFFAIRS**), held in Brussels on 22 and 23 September 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).

LEGISLATIVE DELIBERATIONS

(public deliberation in accordance with Article 16(8) of the Treaty on European Union)

"A" ITEMS

- 1. Proposal for a Decision of the European Parliament and of the Council on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list**
PE-CONS 42/11 VISA 134 COMIX 475 CODEC 1223

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 German delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish, Irish and the United Kingdom delegations did not participate in the vote. (Legal basis: Article 77(2) of the TFEU).

Statement by Germany

"In principle, the German delegation welcomes the Commission proposal concerning the list of travel documents which may be endorsed with a visa. Nevertheless, Germany cannot agree to the proposal submitted, because it still has misgivings concerning some aspects of the proposal.

In particular:

- Recognition of a document through absence of notification (Article 4(1), second sentence):
The proposal provides that a document is deemed to be recognised if a Member State does not express its position on recognition within the time limit of three months. In Germany's view, establishing an automatic legal consequence of absence of notification conflicts with Member States' competence for the recognition of travel documents, as laid down in Article 1(3) of the proposal.
- Legal force of the EU list and relationship between the EU list and a national list:
In Germany's view, the relationship of the future EU list to the national recognition decisions still required is not clear. In Germany's opinion, if Member States remain competent for recognition, the national legal act of recognition must also continue to have external force.

Adoption of the proposal submitted could lead to a third-country national with a travel document not accepted by Germany being granted a visa valid throughout the Schengen area, as result of a transmission error, but being refused entry at the German border on the basis of the differing German list.

Germany has therefore suggested adding the following second sentence to Article 8:
"The publication will contain the advice that references to Member States' recognition or non-recognition of listed travel documents are not legally binding."

Statement by Greece

"In accordance with recitals (7) and (8) of the Decision on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list, Greece would like to state the following:

Travel documents that following the procedure referred to in Articles 4 and 5 of the above Decision have been listed as recognised by Greece, shall be considered as non valid, in case place names (toponyms) situated on the territory of the Hellenic Republic are recorded with inaccurate and, thus, unacceptable denominations,.

Entry to holders of such passports will not be allowed by the Hellenic border authorities. The measure applies to any travel document listed in all three parts of the list.

Greece would like to ask the Commission to include the aforementioned statement in the list to be drawn up."

AGENDA ITEMS

3. Common European Asylum System

- State of play/guidance on further negotiations on CEAS
13930/11 ASILE 74 CODEC 1412
+ COR 1 (hu)

The Council reviewed the state of play of the negotiations on this issue and charged the competent Council bodies to pursue their work on the outstanding legislative files.

10. Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Kingdom of Spain, the Republic of Estonia, the French Republic, the Republic of Hungary, the Italian Republic, the Republic of Poland, the Republic of Portugal, Romania, the Republic of Finland and the Kingdom of Sweden for a Directive of the European Parliament and of the Council on the European Protection Order

- Information on the trilogue and political orientation
13909/11 COPEN 207 CODEC 1400 JUSTCIV 224
14471/11 COPEN 231 JUSTCIV 239 CODEC 1484

The Council took note of the information by the Presidency and agreed with the text.

11. Proposal for a directive of the European Parliament and of the Council on the right of access to a lawyer in criminal proceedings and on the right to communicate upon arrest

- Presentation by the Commission

11497/11 DROIPEN 61 COPEN 152 CODEC 1018

The Commission presented its proposal for a Directive. Various Ministers expressed critical observations, referring inter alia to doc. 14495/11. The Presidency invited the preparatory bodies to continue their work on the text.

12. Proposal for a Regulation of the European Parliament and of the Council, creating a European Account Preservation Order to facilitate cross-border debt recovery in civil and commercial matters

- Presentation by the Commission

13260/11 JUSTCIV 205 CODEC 1280

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

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