



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 23 March 2012**

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**PE 125  
JAI 197  
JUST 6  
ASIM 35  
SCHENGEN 22**

**NOTE**

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from: General Secretariat of the Council  
to: Delegations

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Subject: Summary record of the meeting of the European Parliament **Committee on Civil Liberties, Justice and Home Affairs (LIBE)**, held in Brussels on 20 and 21 March 2012

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The meeting was chaired by Mr López Aguilar (S&D, ES) and Mr Iacolino (EPP, IT). The committee adopted the agenda.

**3. Chair's announcements** (including coordinators' recommendations)

- The committee endorsed the coordinators' recommendation to nominate the following rapporteurs:
  - Opinion on Budget 2013 procedure: rapporteur for opinion: Mr Iacolino (EPP, IT);
  - Opinion on Europe for citizens' programme: rapporteur for opinion: Mr Sógor (EPP, RO);
  - Initiative report as requested by the Plenary in its resolution of 16 February 2012 on the recent political developments in Hungary: Mr Tavares (Greens/EFA, PT);
  - Opinion on criminal sanctions for insider dealing and market manipulation: Ms Bozkurt (S&D, NL).

- The Chair also informed the committee of the Council conclusions of 8 March 2012 on a Common Framework for genuine and practical solidarity towards Member States facing particular pressures on their asylum systems, including through mixed migration flows.
- Further to the EPP contestation of the coordinators' meeting decision of 7 March 2012 on the attribution of the proposal for a Regulation on Data Protection<sup>1</sup> to the Greens/EFA and of the proposal for a Directive on Data Protection to the S&D<sup>2</sup>, the LIBE committee voted on and confirmed the decision of 7 March 2012.
- Ms Wikström (ALDE, SE) deplored the recent death of five migrants in the Mediterranean and suggested drafting an oral question to the Commission and to the Council on the protection of asylum seekers.

#### 4. **General provisions - Asylum and Migration Fund and the instrument for financial support**

Rapporteur: Lorenzo Fontana (EFD)

Responsible: LIBE –

Opinions: BUDG – Monika Hohlmeier (PPE)

- Presentation by the Commission and first exchange of views

The European Commission representative presented the proposal. The Council Presidency representative explained that an Ad Hoc Council Working Group on JHA financial instruments had been set up to discuss Home Affairs financial instruments without prejudice to the overall Multiannual Financial Framework discussions.

Mr Fontana (EFD, IT) was concerned about the monitoring and control of these funds, in particular funds relating to third countries. Mr Mulder (ALDE, NL) asked about the funds reserved for the Schengen evaluation mechanism.

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<sup>1</sup> proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).

<sup>2</sup> proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data.

Ms Keller (Greens/ALE, DE) stressed the need for a clear allocation of funds by priority area. She thought that the fact that Member States would define their own objectives would create a grey zone and also wondered about the role of the European Parliament and national parliaments in the policy dialogue between the Commission and Member States.

Mr Pirker (EPP, AT) welcomed the simplification and flexibility objectives of the proposal, its multiannual approach and the funding increase in this area. Ms Fajon (S&D, SI) asked how to prevent abuse and to ensure that funds were effectively delivered to the beneficiaries.

The Commission representative replied that the specific regulation establishing the instrument for financial support for external borders and visas provided support for the implementation of the Schengen evaluation mechanism. She considered that Commission direct management of actions in relation to third countries would ensure more control and complementarity of funding. She indicated that, unlike the Commission, some Member States felt that policy dialogue and partnership would increase administrative burdens. She added that monitoring and control mechanisms under shared management would be in line with the revision of the Financial Regulation and that divisions of responsibilities would be clearer.

Next steps: on the four proposals on the MFF in the area of Home Affairs, the rapporteurs have agreed on the following timetable:

- possible workshop at the end of April
- presentation of the draft reports in May or June
- deadline for amendments in July
- consideration of amendments in September and October
- orientation votes in November.

## **5. Asylum and Migration Fund**

Rapporteur: Sylvie Guillaume (S&D)

Responsible: LIBE –

Opinions: AFET ; DEVE – Michèle Striffler (PPE) ; BUDG – Monika Hohlmeier (PPE) ; EMPL – Decision: no opinion.

- Presentation by the Commission and first exchange of views

The Commission representative presented the proposal. The Council Presidency representative indicated that the Council Ad hoc Working Group had had a first exchange of views in January and a first reading in February. Member States had generally welcomed the merging and simplification of funds but were still examining the proposal.

The rapporteur, Ms Guillaume (S&D, FR), supported the multiannual approach in the fund, the compulsory objectives and the support for emergency measures. She regretted the lack of any mention of Article 80 TFEU as a legal basis for solidarity and believed that actions in relation to third countries risked being confused with humanitarian aid.

Ms Wikström (ALDE, SE) wondered whether the early warning mechanism currently being discussed under the Dublin II Regulation could be covered under this fund. Ms Hirsch (ALDE, DE) asked about the consistency of this fund with the asylum package. Ms Hohlmeier (EPP, DE) wanted to look at the allocation of money per Member State and added that the definitions should be consistent with definitions in other Directives.

Mr Tavares (Greens/ALE, PT) considered that NGOs should be able to apply for funding and that intra-European solidarity should be further developed. He added that, as regards resettlement, the European Parliament should be more involved in setting regional priorities. Mr Marinescu (EPP, RO) took the view that funding should be conditional on the improvement of border security.

The Commission representative replied that the proposal referred to solidarity but that it was not considered necessary to add Article 80 TFEU as a legal basis. He indicated that this financial instrument was a flexible framework to accompany policy developments in this area. He added that there was no conditionality included in this financial instrument, unlike the one on external borders and visas.

*Next steps:* idem item four

## **6. Instrument for financial support - Police cooperation, preventing and combating crime and crisis management**

Rapporteur: Salvatore Iacolino (PPE)

Responsible: LIBE –

Opinions: BUDG – Dominique Riquet (PPE)

- Presentation by the Commission and first exchange of views

The Commission representative presented the proposal. The Council Presidency representative explained that a first reading was planned in April once more progress had been made on other proposed Regulations.

The rapporteur, Mr Iacolino (EPP, IT), considered that this was a very important subject, even if this fund was smaller than other funds. He stressed that there was a need to clearly define the resources allocated to the list of strategic Union priorities and to establish more flexible instruments for dealing with emergencies. Mr Tavares (Greens/EFD, PT) considered that scrutiny by the European Parliament and national parliaments as well as control and monitoring were essential since these funds related to police activities.

The Commission representative replied that new actions would be included in the national multiannual programmes in line with the horizontal Regulation, EU objectives and priorities.

*Next steps:* idem item 4

#### **7. Internal Security Fund - External borders and visas**

Rapporteur: Marian-Jean Marinescu (PPE)

Responsible: LIBE –

Opinions: AFET ; DEVE – Decision: no opinion ; BUDG – Monika Hohlmeier (PPE) ;

EMPL – Decision: no opinion.

- Presentation by the Commission and first exchange of views

The Commission representative presented the proposal. The Council Presidency representative said that, at the first exchange of views in January, Member States had welcomed the simplification and flexibility objectives of this proposal. She added that the first reading would start on 21 March 2012.

The rapporteur, Mr Marinescu (EPP, RO), wanted to know how the “Smart borders” package, the Eurosur<sup>3</sup> and the Schengen evaluation mechanism would be integrated into national plans. He also asked about the distribution criteria.

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<sup>3</sup> European Border Surveillance System.

Mr Enciu (S&D, RO) supported the conditionality of the funding, i.e. support only if Member States complied with the Schengen acquis. He asked whether actions relating to the temporary reintroduction of internal border control would be eligible for funding.

Ms Keller (Greens, DE) questioned how money could be allocated to the “Smart borders” package at a time when the legislative process had not yet started. Ms Hohlmeier (EPP, DE) said that she would be happy to see the current system working correctly before moving ahead with the “Smart borders” package. She added that Frontex had to be able to intervene quickly in response to unforeseen circumstances.

The Commission representative replied that the Commission would present a proposal on the “Smart borders” package this year as a response to the call from the European Council. She added that actions relating to the temporary and exceptional reintroduction of border control at internal borders were not eligible.

*Next steps:* idem item 4

## **8. EP Priorities for 2013 budget**

- First exchange of views with the General rapporteur for budget 2013, Mr. Giovanni La Via

Mr La Via (EPP, IT) wanted to meet with each committee before the presentation of the draft budget by the Commission, scheduled for 25 April 2012, in order to discuss their priorities.

The rapporteur, Mr Iacolino (EPP, IT), announced that LIBE was ready to cooperate and respect the timetable. Mr Busuttil (EPP, MT) considered that the JHA budget was clearly insufficient, with around 1% of the EU budget for one of the most important EU policy areas. Ms Hohlmeier (EPP, DE) also wanted to ensure sufficient funds for JHA tasks, in particular for the fight against cybercrime. Ms Keller (Greens/EFD, DE) mentioned the increasing tasks of agencies and bodies such as the EASO<sup>4</sup> and the EDPS<sup>5</sup>. She insisted on the need for good evaluation to prepare good policies.

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<sup>4</sup> European Asylum Support Office.

<sup>5</sup> European Data Protection Supervisor.

Mr La Via suggested making better use of the budget of the current multiannual financial framework. He was ready to listen to LIBE priorities and agreed about the need to do more against cybercrime.

*Next steps*: the rapporteur will present his draft opinion on the priorities for the June trilogue in the LIBE meeting on 8 May 2012.

### *Joint debate*

#### **9. Decisions in matters of matrimonial property regimes**

Rapporteur for the opinion: Evelyne Gebhardt (S&D)

Responsible: JURI – Alexandra Thein (ALDE)

- see item 10

#### **10. Decisions regarding the property consequences of registered partnerships**

Rapporteur for the opinion: Michael Cashman (S&D)

Responsible: JURI – Alexandra Thein (ALDE)

- Consideration of draft opinions

The Chair informed the committee that, on 7 March 2012, JURI had submitted to the President of the European Parliament a request to the EU Fundamental Rights Agency for an opinion on the potential infringement by the Commission proposal on registered partnerships of the principle of equality before the law and of non-discrimination.

The rapporteur, Ms Gebhardt (S&D, DE), regretted that two separate proposals had been issued on matrimonial property regimes and on the property consequences of registered partnerships and considered that this separation constituted discrimination on grounds of sexual orientation. In her amendments, she wished to provide spouses with more options for choosing the applicable law for their property regime and to ensure that the choice by the parties was an informed one.

The other rapporteur, Mr Cashman (S&D, UK), shared the same approach and said that his amendments would ensure that the choices available to spouses or registered partners would be the same, but in the latter case always on condition that the laws were those of a State which recognises the institution of registered partnerships.

The Commission representative explained that the objective of the proposals was to make the life of citizens easier by introducing clear rules for international couples. She considered that it was more efficient to have two Regulations since registered partnerships were a new institution that existed only in 14 Member States and that different rules applied to the two institutions.

Mr de Jong (GUE/NGL, NL), Ms In't Veld (ALDE, NL) and Ms Weber (ALDE, RO) supported the rapporteurs, arguing that the rules governing marriages were also very different from one Member State to the other. Mr Iacolino (EPP, IT) took the view that the two proposals were interlinked and had to progress hand in hand. However, he said that the fact that registered partnerships existed only in 14 Member State had to be taken into account and that this was an area within Member States' competence.

Next steps:

- deadline for tabling amendments: 11 April at 12.00.
- vote in LIBE: 31 May.

**11. EU Charter: Standard settings for Media Freedom across the EU**

Rapporteur: Renate Weber (ALDE)

Responsible: LIBE –

Opinions: CULT – Marek Henryk Migalski (ECR)

- First exchange of views

The Chair indicated that, at the request of the LIBE Committee, the Institute of European Media Law team was currently conducting research in order to update the 2004 Study on "The information of the citizen in the EU: obligations for the media and the institutions concerning the citizen's right to be fully and objectively informed".

The rapporteur, Ms Weber (ALDE, RO), recalled the context of this own-initiative report, i.e. the situation of the media in different Member States and the fact that the Charter of Fundamental Rights had become legally binding in the EU.

Mr Scheuer, representative of the Institute of European Media Law research team, presented the interim results of the ongoing study. He said that the study looked at how free the media were to provide information and at how free citizens were to access such information.



The study would include a country-by-country review, a comparative analysis and suggestions for remedies. The final draft should be ready by the end of May and LIBE would have the opportunity to submit comments before the study was finalised.

Mr Gerard De Graaf (Director, DG Information Society - Audiovisual, Media and Internet) gave an overview of the first meetings of the High-level group on Media Freedom and Pluralism set up by the European Commission. This group would issue a report with recommendations on media pluralism and media freedom by the end of the year. He also referred to another Group called “Media future” that had been set up by the European Commission to study the impact of technological changes on the media; it would issue a report by the summer. He stated that the Commission was strongly committed to media freedom but could only act within the powers conferred by the Treaty and that Member States were bound by the Charter of Fundamental Rights only when implementing EU law.

During the discussion, Mr Tavares (Greens/EFA, PT) called for more EU law in this area, given its cross-border nature. Mr Ilchev (ALDE, BG) also spoke in favour of enhancing EU law in the area of media freedom and pluralism; mentioning the deterioration of the media landscape in several Member States. Ms Göncz (S&D, HU) thought that the EU was too weak on these issues.

Ms Fajon (S&D, SI) was concerned about the impact of the social media on traditional press and investigative journalism and the challenges they represented for them. He regretted that there was no strong EU mechanism to monitor Member States’ situations. Ms McIntyre (ECR, UK) advocated focusing equally on all EU countries and not only on Hungary.

\*\*\* *Electronic vote* \*\*\*

## **12. Critical Information Infrastructure Protection. Achievements and next steps: towards global cyber-security**

Rapporteur for the opinion: Ágnes Hankiss (PPE)

Responsible: ITRE – Ivailo Kalfin (S&D)

- The draft opinion was adopted as amended.

**13. European Refugee Fund for the period 2008 to 2013 (amendment of Decision No 573/2007/EC).**

Responsible: LIBE –

Opinions: JURI (AL) –Kurt Lechner (PPE)

Rapporteur: Rui Tavares (Verts/Ale)

- The resolution for second reading was adopted.

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

**14. Enhanced intra-EU solidarity in the field of asylum**

Rapporteur: Kyriacos Triantaphyllides (GUE/NGL)

Responsible: LIBE –

Opinions: AFET, DEVE, EMPL

- Presentation by the Commission and first exchange of views

The Commission representative presented the Commission Communication of 2 December 2011 on enhanced intra-EU solidarity in the field of asylum and stated that the Commission supported the Council conclusions of 8 March 2012.

The rapporteur, Mr Triantaphyllides (GUE/NGL, CY), generally welcomed the Commission Communication. However, he regretted that relocation excluded asylum applicants and asked what would be the follow-up to the Malta relocation scheme.

Ms Guillaume (S&D, FR) welcomed the Commission communication, considering it to be a constructive reaction to the failure of Member States to react to the Arab Spring. She stressed the need for a common flexible toolbox and respect for the principles of solidarity, responsibility and mutual confidence. She thought that the Council had a significant responsibility to translate the 8 March 2012 conclusions into reality.

Mr Pirker (EPP, AT) thought that the Dublin Regulation principles had to be maintained, adding that flanking measures were necessary but that emergency help should only take place on a voluntary basis. Ms Hohlmeier (EPP, DE) advocated an EU coordinated return policy and asked how to increase the diplomatic pressure on Greece to solve the problems.

Ms Wikström (ALDE, SE) argued in favour of helping Member States under specific pressure. She supported the Commission Communication and the Council Conclusions of 8 March 2012, adding that the paragraph of the conclusions on relocation was very important. Ms Hirsch (ALDE, DE) thought that there was a need to have a closer look at the Dublin Regulation and supported a distribution breakdown between Member States on the basis of criteria for a fairer distribution of refugees.

Mr Tavares (Greens/EFA, PT) deplored the Council's resistance to using Article 80 TFEU as a legal basis. He considered that the whole system was in crisis and that the different geographical and financial situations had to be taken into account.

The Commission representative replied that solidarity and responsibility had to go hand in hand. He added that under-burdened Member States had a role to play to help build capacity and to provide practical assistance in the framework of the EASO. He said that the Commission would present a permanent voluntary relocation scheme and that it had significantly assisted Greece with expertise and financial support.

Next steps:

- Presentation of own-initiative report: July
- Vote in Plenary: September

**15. Marketing and use of explosives precursors**

Rapporteur: Jan Mulder (ALDE)

Responsible: LIBE –

Opinions: ENVI, ITRE, IMCO

- Presentation of the state of play after trilogue negotiations

The rapporteur, Mr Mulder (ALDE, NL), explained that three main political questions were at stake: licensing versus registration, delegation of powers to the Commission to amend annexes and the exemption of ammonium nitrate from the scope of this regulation. He said that discussions were currently in deadlock, on the first issue in particular.

The European Commission representative said that the Commission was willing to be flexible but had a preference for licensing. He suggested two options for discussion.

The Commission's preferred option would be to introduce licensing with a transitional period. The second-best option would be to introduce a dual approach from the start, followed by an evaluation after a few years and Commission follow-up proposals. He added that the Commission was maintaining its position on delegated acts but could be flexible on the exemption of ammonium nitrate.

The Council Presidency representative stated that no informal trilogue had taken place yet under the Danish Presidency but was open to a solution.

Ms Wikström (ALDE, SE) deplored the fact that one Member State was blocking this file because of the issue of swimming pool cleaning substances. Mr Mulder concluded by hoping that concessions would be made on both sides.

**16. Joint committee meeting (Rule 51) of LIBE and FEMM committees: Minimum standards on the rights, support and protection of victims of crime**

Co-Rapporteurs: Teresa Jiménez-Becerril Barrio (PPE) and Antonia Parvanova (ALDE)

- Consideration of amendments

The rapporteur, Ms Parvanova (ALDE, BG), indicated that the amendments were generally in line with the rapporteurs' approach. She said that there were 436 amendments, which mainly related to definitions, victims with specific needs, support services and training, and the right to receive information. The other rapporteur, Ms Jiménez-Becerril Barrio (EPP, ES), added that 40 compromise amendments had been prepared.

The Commission representative generally welcomed the draft and the amendments. The Council Presidency representative stated that this file was a top priority for the Presidency and considered that there was a significant basis for reaching agreement. He highlighted the need to establish realistic minimum standards to allow swift implementation in practice and stressed that victims with specific needs had to be identified on the basis of an individual assessment.

Mr Crocetta (S&D, IT) defended the protection of innocent victims. Ms Sargentini (Greens/EFA, NL) also requested considering victims of environmental crime and added that migrants and refugees should be considered vulnerable. She advised not entering into a debate about whether the victims were innocent.

Ms McIntyre (ECR, UK) was concerned that the report might go beyond the scope of the proposal and feared that the dossier would then be stuck in the Council. She found it problematic to differentiate between innocent victims and victims who were not innocent since everybody benefited from the presumption of innocence.

The rapporteurs considered that the issue of innocent victims was more a moral issue than a legislative one and that victims of environmental crime were covered by specific legislation. They agreed that migrants and refugees were particularly vulnerable.

*Next steps*: orientation vote in LIBE: 27 March 2012

**17. Amendment of Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances**

Rapporteur: Renate Weber (ALDE)

Responsible: LIBE –

Opinions: AFET, DEVE

- Consideration of amendments

The rapporteur, Ms Weber (ALDE, RO), explained that she had tabled several amendments with Mr Enciu (S&D, RO) in order to increase the efficiency and transparency of the procedures.

The Commission representative was concerned at the amendments on Commission guidelines on threats to public policy and national security since threats should be looked at on a case-by-case basis. She favoured the use of the comitology procedure under Article 26 which related to persistent serious deficiencies relating to external border control. The Council Presidency representative considered the draft report to be a good basis for discussion.

Mr Coelho (EPP, PT) thought that the reintroduction of internal border control should be exceptional, proportional, a measure of last resort and the consequence of an evaluation process. He said that he did not support a decision under the comitology procedure, arguing that it was not transparent. He favoured a Commission initiative, the possibility for the European Parliament to be heard and then a Council decision since external borders were still a national competence.

Mr Enciu (S&D, RO) considered that, where internal border controls were reintroduced under Article 26, the Commission should report to the European Parliament and the Council and that, following any opinions from them, the Commission would have the opportunity to decide via an implementing act in accordance with the examination procedure.

Ms Keller (Greens/EFA, DE) considered that internal border control could only be reintroduced at Community level and that migratory pressure should not be a reason to reintroduce such controls. Ms Ernst (GUE/NGL, DE) also favoured strengthening the Community method.

Mr Bratkowski (EPP, PL) considered that implementing powers for Article 26 should be conferred on the Council. Ms McIntyre (ECR, UK) advocated a balance between free movement of people and the Member States' margin of manoeuvre.

Ms Weber (ALDE, RO) concluded that the crucial issue concerned Article 26, which would need further discussion.

*Next steps:* vote in LIBE: 26 April 2012.

### ***Joint debate***

**18. Exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles 2020' programme)**

Rapporteur: Anthea McIntyre (ECR)

Responsible: LIBE –

- See item 19.

**19. Extension of the application of Regulation (EU) No .../2012 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles 2020' programme) to the non-participating Member States**

Rapporteur: Agustín Díaz de Mera García Consuegra (PPE)

Responsible: LIBE –

- Presentation by the Commission and first exchange of views

The Commission representative presented the proposal. The Council Presidency representative said that its aim was to have a negotiating mandate by the end of the Danish Presidency.

Ms McIntyre (ECR, UK) was in favour of these programmes. On behalf of Mr Díaz de Mera García Consuegra (EPP, ES), Mr Coelho (EPP, PT), welcomed the Commission proposals. He stressed the success of the Pericles programme and added that it was vital that these programmes be extended. Ms Papadopoulou (S&D, CY) considered that the Pericles programme had been very useful and that preventive measures and information to citizens were also very important.

## **20. Criminal sanctions for insider dealing and market manipulation**

Responsible: ECON – Arlene McCarthy (S&D)

- Presentation by the Commission

The Commission representative presented the proposal, emphasising that this was the first time Article 83(2) of the TFEU had been used. The rapporteur, Ms Bozkurt (S&D, NL), asked why the review clause was planned only after four years and how it could be ensured that double sanctions were not imposed for the same crime.

The Commission representative replied that an interval of four years was proposed since Member States had two years for transposition, after which the Commission would have to analyse the national provisions and make a comparative study of existing sanctions across Member States. Replying to the last question, she said that the *ne bis in idem* principle had to be respected.

## **21. Any other business**

## **22. Next meeting(s)**

- 26 March 2012, 15.00 – 18.30 (Brussels)
- 27 March 2012, 9.00 – 12.30 (Brussels)