



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 29 January 2014

5833/14

**PE 37
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NOTE

from: General Secretariat of the Council
to: Delegations

Subject: Summary of the meeting of the European Parliament Committee on Civil Liberties, Justice and Home Affairs, held in Brussels on 21, 22 and 23 January 2014

Presentation of Hellenic Presidency priorities mainly focused on Greek domestic issues. Support for EU-Turkey readmission agreement. Discussion on next steps in Smart Border Package and Procedural rights package.

The meeting was chaired by Ms Gal (EPP, HU) and Ms in t' Veld (ALDE, NL).

Item 1 on the agenda

In camera

Coordinators' meeting

Items 2 on the agenda

Adoption of agenda and Chair's announcements

The agenda was adopted with the following changes : item 21 (Prevention of the use of the financial system for the purpose of money laundering and terrorist financing) and item 22 (Information accompanying transfers of funds) were postponed.

Items 3 on the agenda

Hellenic Presidency presentation

The Presidency priorities were presented by Mr Charalampos Athanasiou, Minister for Justice, Transparency & Human Rights, Mr Giannis Michelakis, Minister for the Interior, and Patroklos Georgiadis, General Secretary at the Greek Ministry of Public Order and Protection of the Citizen.

The Hellenic presidency would focus on :

- DATA PROTECTION PACKAGE (DPP) : the aim of the Presidency was to work on both the regulation and directive in parallel; all chapters would be addressed, including the issues surrounding the "one-stop-shop mechanism" as well as transfers of personal data to third countries;
- proposed establishment of the EUROPEAN PUBLIC PROSECUTOR'S OFFICE (EPPO) and reform of EUROJUST as well as the directive on the fight against fraud to the Union's financial interests by means of criminal law;
- preparation of strategic guidelines for the post Stockholm period to be adopted by the European Council in June;
- making progress on files facilitating legal migration, with a particular focus on domestic labour market situations;
- further examining the fair burden sharing in relation to migratory pressures in practice and progress on the SMART BORDERS LEGISLATIVE PACKAGE, CEPOL seat transfer and Europol regulation changes.

During the question time, LIBE members raised the following issues: possible enhanced cooperation for the EPPO proposal, timing for DPP, follow-up to the NSA surveillance revelations, EU PNR, and the threat posed by foreign fighters.

The biggest part of the discussion was focused on the situation in Greece. LIBE members raised the following issues in particular, some of which had been referred to them by NGOs: the detention and treatment of asylum seekers and migrants, the Golden Dawn movement and the threats this presents for democracy, violence against LGBT, criminal prosecution of journalists, the fight against corruption and tax evasion, discriminatory practices of the police when dealing with immigrants, and outdated legislation on hate crime and xenophobia.

The ministers and state secretary defended Greece's record in dealing with immigrants as well as addressing the issue of far right movements. They presented the economic situation of the past six years and the numerous sacrifices the Greek people had had to endure. Economic hardship had unfortunately helped the rise of Golden Dawn movement, but the issue had now been dealt with by the judiciary. Greece was a fully democratic country and coping with the influx of immigrants to the best of its abilities. Ministers also announced various changes to domestic legislation on the fight against racism and xenophobia to be voted in the very near future in the Greek parliament.

Items 6, 7, 8 and 9 on the agenda

Joint debate

Arrangement with the Swiss Confederation on the modalities of its participation in the European Asylum Support Office

*** 2013/0422(NLE)

Responsible: LIBE –

Opinions: AFET –

DEVE –

BUDG –

Arrangement with the Principality of Liechtenstein on the modalities of its participation in the European Asylum Support Office

*** 2013/0423(NLE)

Responsible: LIBE –

Opinions: AFET –

DEVE –

BUDG –

Arrangement with the Republic of Iceland on the modalities of its participation in the European Asylum Support Office

*** 2013/0425(NLE)

Responsible: LIBE –

Opinions: AFET –

DEVE –

BUDG –

Arrangement with the Kingdom of Norway on the modalities of its participation in the European Asylum Support Office

*** 2013/0427(NLE)

Responsible: LIBE –

Opinions: AFET –

DEVE –

BUDG –

The Commission representative presented the arrangements for participation in European Asylum Support Office (EASO), to be concluded with the Swiss Confederation, Lichtenstein, Iceland and Norway, pointing out the various institutional and budgetary features in the arrangement.

A representative for the Hellenic presidency explained that the Council would be discussing the outcome of the negotiations at the end of January and if the proposed arrangements were endorsed the next stage would be to submit it to the Council for adoption.

The Rapporteur, Ms Metzola (EPP, MT) said she fully supported the conclusion of these arrangements and was hoping for swift adoption.

Items 10 on the agenda

Agreement between the EU and the Republic of Turkey on the readmission of persons residing without authorisation

LIBE/7/09962

*** 2012/0122(NLE) COM(2012)0239

Rapporteur: Renate Sommer (PPE) PR – PE504.240v01-00

Responsible: LIBE –

Opinions: AFET – Ria Oomen-Ruijten (PPE) AD – PE506.372v02-00

The Commission representative explained that the readmission agreement with Turkey had been signed in December, in parallel with the opening of the Visa Liberalisation Dialogue. This agreement would apply to Turkish nationals as well as third country nationals and stateless persons and included rules on international protection and human rights safeguards. The Commission stressed that this agreement would have a positive impact on curbing illegal migration.

Rapporteur Sommer stressed that Turkey had only agreed to sign the readmission agreement in exchange for the start of Visa Liberalisation Dialogue and expressed her reservations at the prospect. She emphasised that Turkey still had not recognised Cyprus and also did not meet the Copenhagen political criteria and was actually moving away from them. The Rapporteur stressed that the readmission agreement would have to be fully implemented and a range of other criteria met before visa liberalisation could be envisaged.

During the discussion MEPs raised the following issues: the question of how Turkish nationals residing in the EU legally would be affected by the readmission agreement; the need to monitor the application of the readmission agreement; the need to monitor the situation of persons readmitted under the agreement; the attention to be given to the situation of Syrian refugees in need of international protection and to the prevention of "push-backs". On behalf of the Greens, Ms Sargentini expressed her opposition in principle to readmission agreements, which outsourced migration issues to third countries.

The Commission representative reassured LIBE that the visa liberalisation dialogue would provide the opportunity to engage in a political dialogue on about 80 benchmarks, ranging from the judiciary to the rule of law, covering the concerns raised by MEPs. The readmission agreement would also not prejudice in any way the situation of Turkish nationals residing legally in the EU. He also confirmed that the Commission would evaluate the consequences of the readmission agreement.

Items 11 on the agenda

In camera

Joint LIBE/AFCO meeting on EU accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) LIBE/7/11437

Presentation by the EP Legal Service of the observations submitted to the Court of Justice.

Items 12 and 13 on the agenda

***** Electronic vote *****

Agreement between the EU and the Republic of Turkey on the readmission of persons residing without authorisation

LIBE/7/09962

***** 2012/0122(NLE) COM(2012)0239**

Rapporteur: Renate Sommer (PPE) PR – PE504.240v01-00

Responsible: LIBE –

Opinions: AFET – Ria Oomen-Ruijten (PPE) AD – PE506.372v02-00

The draft report was adopted with 34 votes in favour (7 votes against and 1 abstention).

Control of persons at the external borders based on the unilateral recognition by Croatia and Cyprus of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period

LIBE/7/13108

*****I 2013/0210(COD) COM(2013)0441 – C7-0186/2013**

Rapporteur: Tanja Fajon (S&D) PR – PE521.825v01-00

AM – PE526.198v01-00

Responsible: LIBE –

Opinions: AFET – Decision: no opinion

The draft report and decision to enter negotiations with the Council were adopted with 44 votes in favour (no votes against or abstentions).

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

Items 14 on the agenda

LIBE Committee Inquiry on Electronic Mass Surveillance of EU Citizens: Exchange of views on the Russian communications interception practices (SORM)

LIBE/7/15007

Mr Soldatov, an investigative journalist, briefly presented (via videoconference) the Russian system of communications interception (SORM) pointing out that the security services (FSB as well as the Interior Ministry, Prisons service and Anti-Drug Agency) actually had direct remote access to communications and servers through SORM equipment and did not have to go through an operator or internet service provider. Government interception activities were on the rise and the SORM equipment would also be installed in the Sochi region, the venue of the Winter Olympic Games. There were concerns that such interception methods would be used against political opposition.

During the discussion the MEPs raised the following issues: territorial scope of SORM, possible use of SORM for economic espionage, public opinion in reaction to SORM and democratic scrutiny of the Russian security services, whether Mr Soldatov had had any contacts with Mr Snowden and allegations about threats to his safety, comparison to NSA activities, surveillance during the Sochi Olympic games.

In his reply Mr Soldatov explained that there was no meaningful democratic scrutiny of the security services' activities in Russia and that public opinion was shaped by fear of terrorist attacks. SORM in his view did not really have the potential to be used outside Russia, where it had been custom built. Compared to the NSA, the Russian system allowed more flexible control of communications, but the NSA had a natural advantage as everybody was using American programs. He explained he did not have any contacts with Mr Snowden, who was kept in a protected location and communicated through his lawyer Mr Kucherena, who had known links with FSB circles. He explained that the Russian authorities had made it clear that during the Olympics, all communications could be checked by authorities.

Items 15, 16 and 17 on the agenda

Joint debate

Legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings

***I 2013/0409(COD)

Rapporteur: Cornelis de Jong (GUE/NGL)

Responsible: LIBE –

Opinions: JURI –

Strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings

***I 2013/0407(COD)

Rapporteur: Renate Weber (ADLE)

Responsible: LIBE –

Opinions: JURI –

Procedural safeguards for children suspected or accused in criminal proceedings

***I 2013/0408(COD)

Rapporteur: Carmen Romero López (S&D)

Responsible: LIBE –

Opinions: JURI –

The Commission representative presented the proposals on strengthening procedural rights in order to guarantee fair trial, reinforce mutual recognition and strengthen the level of existing safeguards. Rapporteur De Jong expressed disappointment at the fact that this important proposal had only been tabled at the end of the term. He was also critical that the Commission proposal remained too vague on a number of important issues and that these would have to be clarified in the process of adoption. He was sceptical as to whether there was any chance of getting this proposal through in the present legislature. Rapporteur Weber pointed out some major inconsistencies in the Commission's proposal and requested a FRA opinion on the compatibility of the proposal with the ECHR. She said that the most that could be done was a working document before the end of the term. Rapporteur Romero Lopez was also disappointed at the timetable proposed and stressed that more should have been done on procedural rights earlier in the term.

Items 18 on the agenda

Joint debate (art. 51) with CONT committee

Fight against fraud to the Union's financial interests by means of criminal law

***I 2012/0193(COD)

Rapporteurs Ingeborg Gräßle (PPE)

Juan Fernando López Aguilar (S&D)

PR – PE524.832v01-00

Responsible: CONT, LIBE* –

Opinions: ECON – **Decision:** no opinion

JURI* – **Tadeusz Zwiefka (PPE)**

AD – PE514.816v02-00

AM – PE519.502v01-00

CM – PE498.056v01-00

JURI (AL) – Eva Lichtenberger (Greens/ALE)

AL – PE500.747v02-00

Co-Rapporteur Aguilar presented the joint report, stressing that LIBE's emphasis was on clarifying the scope of definitions to include EU assets and liabilities, taking out minor offences, increasing the threshold for mandatory sentencing, and more generally ensuring strong procedural rights. Co-rapporteur Gräßle said cooperation between rapporteurs had been very good, the definitions had been improved, and that she did not see the point of opening again the discussions on many issues that has been agreed between the two committees.

During the discussion MEPs raised the following issues: general opposition to the idea of having minimum sanctions, pointing out that in the area of trafficking of human beings there were no minimum sanctions foreseen; criticism of the apparent lack of consistency and the lack of a horizontal approach (De Jong, GUE, NL); new rules on prescription periods and the need to prevent fraud involving taxpayers' money, as well as forum shopping (Ms Sippel, S&D, DE); arguments for Article 83 TFEU as an appropriate legal basis; setting clear limitations on EU competence in criminal law; stressing the need for Member States to take the responsibility of implementing EU funds most seriously (Mr Kirkhope, ECR, UK).

The Commission representative explained that they felt it was necessary to have a broad interpretation of financial interest but were in principle in favour of extending the scope to include EU officials. It was important to build on the existing acquis. This was a proposal made jointly between DG JUST and OLAF. The statutory limitations were an important new element strongly supported by the Commission.

The rapporteurs concluded the debate by stressing the need to be pragmatic and somehow limit ambitions if the proposal was to be adopted within a reasonable time frame.

Item 19 on the agenda

Hate crime in the European Union

In his presentation Mr Dimitrakopoulos, Head of Equality and Citizen's Rights Department at the EU Fundamental Rights Agency, explained that the FRA was conducting its own large scale surveys with the aim of providing input for evidence based policy making. Setting out concrete results of the survey, he explained that these clearly showed that hate crimes predominantly affected vulnerable groups, violating their fundamental rights of liberty and security. He recommended that EU Member States develop more effective policy measures, as the majority of those affected were actually not aware of the existing legal framework in relation to hate crime. There was clearly a lack of confidence in law enforcement. He also referred to the December JHA Council conclusions and warned about the rise of extreme political parties, hostile to plurality and diversity, noting the FRA reports on Hungary and Greece.

During the discussion the following issues were raised: criticism of the lack of progress on the horizontal antidiscrimination directive in the Council, absence of the LBGT road map, rise of parties opposing fundamental rights, gaps in hate crime reporting in Member States, and the need to analyse who were the perpetrators in order to see how many came from immigrant populations.

In his replies Mr Dimitrakopoulos stressed that sufficient data should be collected nationally and that it was particularly important to understand specific contexts and trends between various communities. He said it was clear from research that these trends were different in Portugal and Spain compared to Greece and Hungary. Hate crime was particularly dangerous for society because it reduced social cohesiveness.

Item 20 on the agenda

Council Decision on the conclusion on behalf of the European Union of the Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part, as regards Article 49(3) thereof

*** 2012/0219B(NLE)

Rapporteur: Renate Weber (ADLE)
Responsible: LIBE –

PR – PE526.178v01-00

Rapporteur Weber proposed that LIBE give its consent to the Political Dialogue and Cooperation Agreement, noting the only issue discussed in this repeated consultation was Article 49(3), setting out the obligations for the readmission of illegal migrants. As the ratification procedure have been on-going for many years, she urged that no amendments be tabled and that the vote in LIBE should take place as soon as possible so that the committee could give its consent before the end of the term.

The Commission confirmed it was urgent to upgrade the existing relations with Central American countries, as presently the relations were still based on an agreement from 1993.

Deadline for amendments : 30 January 2014

Vote in LIBE : 12/13 February

Plenary vote : February II

Item 23 and 24 on the agenda

Joint debate

New psychoactive substances

LIBE/7/13824

*****I 2013/0305(COD) COM(2013)0619 – C7-0272/2013**

Rapporteur: Jacek Protasiewicz (PPE)

PR – PE519.611v01-00

Responsible: LIBE –

Opinions: ENVI – Elena Oana Antonescu (PPE)

PA – PE524.592v01-00

AM – PE526.242v01-00

Minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, as regards the definition of the term 'drug'

LIBE/7/13821

*****I 2013/0304(COD) COM(2013)0618 – C7-0271/2013**

Rapporteur: Teresa Jiménez-Becerril Barrio (PPE) PR – PE519.605v01-00

Responsible: LIBE –

Opinions: ENVI – Bogusław Sonik (PPE) PA – PE524.584v01-00

AM – PE526.243v01-00

In the absence of Rapporteur Protasiewicz, Mr Lisek presented the Rapporteurs position, generally welcoming the Commission proposal on new psychoactive substances (NPS) recognising the need for more effective and better coordinated action between Member States and EU agencies. He presented various amendments proposed by the rapporteur, namely in relation to covering the gap between temporary market restrictions and implementation of permanent measures and the possibility that Member States introduce any measures deemed appropriate according to the specific risks the substance posed in their country. He would be working towards swift adoption of the proposal.

Rapporteur Becerril explained the context of the proposal and welcomed action, in particular with respect to on-line sales. She noted in particular new ways of distribution and the need for Member States to exchange information in a timely manner, as well as the fact that the proposal did not criminalise the possession of NPS for personal use.

The Commission welcomed the reports and hoped that it would be possible to move forward according to the timetable.

The Presidency explained that this file was indeed very important and that the Council had started its examination in October 2013. The Working Party would continue to work intensively in February.

During the discussion the following issues were raised: the Legal Service's opinion was needed regarding the provision on implementing acts to be adopted on the basis of the regulation making substances illegal; the possible applicability of REACH in this context; non-criminalisation of possession for personal use; and the level of flexibility to be left to Member States.

Ms Becerril explained that the opinion of the Legal Service on the issue of implementing acts was pending.

The Commission representative explained that the approach was indeed flexible as Member States were in charge on most substances, and only about 10 of them required action at EU level. She confirmed that REACH legislation did not apply to such cases.

Deadline for tabling amendments: 28 January 2014, 12.00

Items 25, 26, 27, 28, 29, 30,31,32 and 34 on the agenda

Joint debate

Discharge 2012: EU general budget - European Commission
2013/2195(DEC)

Rapporteur for the opinion: Zuzana Roithová (PPE) PA – PE524.746v02-00
Responsible: CONT – Markus Pieper (PPE) PR – PE521.558v01-00

Discharge 2012: European Union Agency for Fundamental Rights
2013/2209(DEC)

Rapporteur for the opinion: Zuzana Roithová (PPE) PA – PE524.742v01-00
Responsible: CONT – Petri Sarvamaa (PPE)

Discharge 2012: European Monitoring Centre for Drugs and Drug Addiction
2013/2211(DEC)

Rapporteur for the opinion: Zuzana Roithová (PPE) PA – PE524.739v01-00
Responsible: CONT – Petri Sarvamaa (PPE)

Report on discharge in respect of the implementation of the budget of the European Union agencies for the financial year 2012 : performance, financial management and control
2013/2256(DEC)

Rapporteur for the opinion: Mathieu Houillon (PPE)PA – PE524.747v02-00
Responsible: CONT – Petri Sarvamaa (PPE)

Discharge 2012: EUROJUST

2013/2216(DEC) COM(2013)0570[19] – C7-0294/2013

Rapporteur for the opinion: Mathieu Houillon (PPE)PA – PE524.740v01-00
Responsible: CONT – Petri Sarvamaa (PPE)

Discharge 2012: EU general budget - European Data Protection Supervisor
2013/2204(DEC)

Rapporteur for the opinion: Mathieu Houillon (PPE) PA – PE524.745v01-00
Responsible: CONT – Boguslaw Sonik (PPE)

Discharge 2012 : European Asylum Support Office
2013/2245(DEC)

Rapporteur for the opinion: Mathieu Houillon (PPE) PA – PE524.744v01-00
Responsible: CONT – Petri Sarvamaa (PPE)

Discharge 2012 : European Police College
2013/2229(DEC)

Rapporteur for the opinion: Mathieu Houillon (PPE) PA – PE524.738v02-00
Responsible: CONT – Petri Sarvamaa (PPE)

Discharge 2012 : FRONTEX
2013/2230(DEC)

Rapporteur for the opinion: Mathieu Houillon (PPE) PA – PE524.743v03-00
Responsible: CONT – Petri Sarvamaa (PPE)

Discharge 2012 : European Police Office Europol
2013/2235(DEC)

Rapporteur for the opinion: Mathieu Houillon (PPE) PA – PE524.741v02-00
Responsible: CONT – Petri Sarvamaa (PPE)

All discharge items were merged into a single debate, with Rapporteur Matthieu proposing that a favourable opinion be granted for all agencies and the EDPS. She raised the issue of CEPOL seat and asked the Commission to comment on its latest proposal for the HQ, which was different from that proposed by the Council. The Commission representative promised to reply in writing, but stressed that the Commission's aim was to create synergies and have cost effective solutions. Ms Mathieu, supported by the shadow Gönz (S&D, HU), proposed to take this opportunity and add an amendment in the opinion regarding the proposed changes to CEPOL.

Item 35 on the agenda

**Framework Agreement on Comprehensive Partnership and Cooperation between the European Community and the Indonesia as regards matters related to readmission
LIBE/7/14442**

*** 2013/0120B(NLE) 11313/2013 – C7-0356/2013

Rapporteur: Ana Gomes (S&D)

Responsible: LIBE –

**Opinions: AFET – Emilio Menéndez del Valle
(S&D)**

Rapporteur Gomes welcomed the conclusion of the Framework agreement with Indonesia and explained that LIBE's involvement was limited to the readmission clause.

The Commission representative explained that for the time being there was no intention to negotiate a full readmission agreement with Indonesia.

Deadline for tabling amendments: 12/13 February 2014

Item 36, 37, 38 on the agenda

Joint debate on the smart borders package

Registered Traveller Programme

***I 2013/0059(COD)

Rapporteur: Ioan Enciu (S&D)

DT – PE514.630v01-00

Responsible: LIBE –

Opinions: AFET, DEVE, 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)

Rapporteur: Renate Sommer (PPE)

DT – PE514.706v01-00

Responsible: LIBE –

Opinions: AFET, DEVE, BUDG, CONT

Amendment of Regulation (EC) No 562/2006 as regards the use of the Entry/Exit System (EES) and the Registered Traveller Programme (RTP)

***I 2013/0060(COD)

Co-rapporteur(s): Renate Sommer (PPE)

Ioan Enciu (S&D)

Responsible: LIBE –

Opinions: AFET, DEVE

The rapporteur Enciu welcomed Commission's proposal to carry out an objective feasibility study on the proposals for which a clear scope and terms of reference were necessary. The MEPs could not be considered observers in such a process, as proposed by the Commission, but needed to be fully involved. The rapporteurs concerned were finalising the joint approach to the study and pilot project and their views had to be taken fully into account. Ms Sommer stressed that many questions remained open at this stage, particularly regarding implementation and whether there were more efficient ways of achieving the same results. It was necessary to have solid foundations before embarking on establishing such a comprehensive and large system, also taking into account existing national registration systems. More clarity was needed on technical features and costs involved.

The Commission representative reassured LIBE that EP's views would be taken into account to the widest possible extent and stressed the need to move forward on this very important project. The feasibility study would certainly look at Member States' existing capabilities and interoperability issues.

The Greek Presidency representative explained that work in the Council had been on-going in various working groups and that the focus was on the approach to be taken to prepare a COREPER discussion.

During the discussion MEPs raised the following issues: the need to guarantee respect for fundamental rights; concerns about technological solutions and costs involved in setting up such a large IT system; the need to examine alternative options to the existing proposals; the need to keep the EP better informed; the need to have adequate data protection safeguards.

Next meeting(s)

- **30 January 2014, 9.00 – 12.30 and 14.00 – 17.30 (Brussels)**

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