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DRAFT MINUTES

Subject: **3473rd** meeting of the Council of the European Union (**JUSTICE AND HOME AFFAIRS**), held in Luxembourg on 9 and 10 June 2016

PUBLIC DELIBERATION ITEMS¹

Page

"B" ITEMS (doc. 9847/16 OJ CONS 32 JAI 529 COMIX 427)

LEGISLATIVE DELIBERATIONS

JUSTICE

2.	Digital agenda.....	3
3.	Matrimonial property regimes and Registered partnerships	3
4.	EPPO: Proposal for a Council Regulation on the establishment of the European Prosecutor's Office.....	4
5.	PIF: Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law [First reading]	4
6.	ECRIS: Proposal for a Directive of the European Parliament and of the Council amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third country nationals and as regards the European Criminal Records Information System (ECRIS) and replacing Council Decision 2009/316/JHA [First reading].....	5
7.	Any other business	5

HOME AFFAIRS

11.	Weapons: Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons [First reading].....	5
12.	Visa liberalisation.....	7
13.	European Border Guard: Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) 863/2007 and Council Decision 2005/267/EC [First reading].....	7
14.	Any other business	7
	a) Information from the Presidency on current legislative proposals	
	b) Reform of the Common European Asylum System	

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)

THURSDAY 9 JUNE 2016

JUSTICE

2. Digital agenda

- **Supply of digital content: Proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the supply of digital content [First reading]**

= Policy debate

9768/16 JUSTCIV 160 CONSOM 137 DIGIT 67 AUDIO 76 CODEC 809

The Council endorsed a set of basic principles and political guidelines for the future work on certain aspects of business-to-consumer contracts for the supply of digital content, as set out in the Annex of 9768/16.

3. Matrimonial property regimes and Registered partnerships

- a) **Proposal for a Council Regulation implementing enhanced cooperation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes**
- b) **Proposal for a Council Regulation implementing enhanced cooperation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships**

= General approach

9770/16 JUSTCIV 161

8115/16 JUSTCIV 70

+ COR 1 (cs)

8118/16 JUSTCIV 71

+ COR 1 (cs)

The Council

- confirmed that there was a general approach on the texts of the proposed Regulations on matrimonial property regimes as set out in 8115/16 and registered partnerships as set out in 8118/16,
- took note that the adoption of the Regulations would take place once the European Parliament had given its opinion.

4. **EPPO: Proposal for a Council Regulation on the establishment of the European Prosecutor's Office**

= Partial general approach

9799/16 EPPO 15 EUROJUST 72 CATS 44 FIN 341 COPEN 188
GAF 32 CSC 169

The Council agreed on a broad conceptual support on a substantial number of Articles covering the rules on the case management and data protection, simplified prosecution procedures, general provisions and financial and staff provisions, as outlined in 9799/16. Note was taken of a number of comments and reservations made by Ministers. Finland and Sweden made a statement as set out below.

Statement by Finland and Sweden

"Sweden and Finland firmly believe that Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents should be fully applicable to EPPO.

According to Article 15(3) of the Treaty on the Functioning of the EU (TFEU), any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union institutions, bodies, offices and agencies. Regulation 1049/2001 lays down the general principles and limitations governing this right. According to Article 15(3) TFEU, the only ones exempt from this rule are the Court of Justice of the European Union, the European Central Bank and the European Investment Bank, who are only subject to the provisions when exercising their administrative tasks. Accordingly, Regulation 1049/2001 will be fully applicable e.g. to Europol.

Limiting the application of Regulation 1049/2001 to EPPO's administrative tasks would send a highly worrying signal about the attitudes to openness, especially in light of the legal requirements of Article 15(3) TFEU as well as Article 42 of the Charter of Fundamental Rights of the European Union.

Regulation 1049/2001 contains provisions that would give EPPO ground to refuse access to documents in duly justified cases. Sweden and Finland believe these provisions to be an effective and sufficient tool for the protection of operative data."

5. **PIF: Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law**

[First reading]

= Progress report/Policy debate

9804/16 DROIPEN 103 JAI 520 GAF 33 FIN 344 CADREFIN 27 CODEC 815

The Council took note of the Presidency's progress report and of the comments made by Ministers. Efforts on that file would continue under the incoming Slovak Presidency.

6. ECRIS: Proposal for a Directive of the European Parliament and of the Council amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third country nationals and as regards the European Criminal Records Information System (ECRIS) and replacing Council Decision 2009/316/JHA [First reading]

= Progress report/Policy debate

9798/16 COPEN 187 EJUSTICE 118 JURINFO 37 DAPIX 93 CODEC 812

The Council took note of the Presidency's progress report set out in 9798/16 and supported the approach proposed by the Presidency for a centralised system for both fingerprints and alphanumeric data on convicted third country nationals. This would require further expert discussions under the incoming Slovak Presidency.

7. Any other business

= Information from the Presidency on current legislative proposals

The Presidency informed delegations of the state of play of the different on-going legislative files.

FRIDAY 10 JUNE 2016

HOME AFFAIRS

11. Weapons: Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons [First reading]

= General approach

9841/16 GENVAL 66 JAI 527 MI 421 COMPET 355 COMIX 425 CODEC 816

The Council reached a general approach on the amended draft Directive as set out in 9841/16.

The Czech Republic made a statement as set out below.

Statement by the Czech Republic

"The Czech Republic has welcomed that a revision of the Council Directive 91/477/EEC on control of the acquisition and possession of weapons has been initiated to enable the European Union and the Member States to better respond to current security threats, in particular the terrorism. The Czech Republic participated in the negotiations in active and constructive manner and appreciates that some concerns have been solved, such as the definition of essential components or the relationship between the Directive and the C.I.P. Convention.

Nevertheless, the Czech Republic considers certain key elements of the proposal to be inappropriate in substance and legally unclear and sometimes disproportionate.

The Czech Republic especially regrets the unclear, unnecessary, overbroad and injudicious prohibitions of some semi-automatic firearms and loading devices. Acquisition and possession of such items should be strictly regulated. Clearly disproportionate outright ban, however, may in fact increase the security risks. When legally obtained, these items were not involved in recent terrorist attacks and their owners were under strict supervision. However, such a far-reaching ban may cause transfer of significant portion of items that are held legally now into illegal ownership or even black market and thus increase their availability to terrorists and criminals. The grandfathering clause which prohibits transfers of ownership of these items does not really solve the problem. Also the risk of massacres would be barely mitigated because many different types of firearms can be and are used in such situations.

The Czech Republic considers that making the category of firearm dependent on type of magazine used is too uncertain and impractical. The inclusion of loading devices themselves among the category A firearms seems technically unfounded and hardly enforceable.

While the Directive should set strict but practicable rules for the acquisition and possession of firearms, the proposal mostly introduces inefficient prohibitions instead.

Technical or practical aspects of these measures were not assessed at all during the previous discussions. An in-depth analysis on convertibility of semi-automatic firearms into automatic firearms, called for in the 2014 Evaluation of the Firearms Directive, was not carried out.

The Czech Republic is also of the opinion that the amended Article 6 which should define exceptions from the general prohibition to acquire and possess category A will create more legal loopholes and will impair the proper application of the Directive. The proposed wording of the Article 6 is too casuistic in some cases and too vague in others. Anyway, closed list of exceptions is unreasonable and impractical.

The Czech Republic also regrets that the draft does not specify in more detail the framework and scope of information exchange, quite important for enforcement within Schengen area.

Finally, the Czech Republic considers the implementation period to be unreasonably short, since several laws must be amended significantly. Moreover, the Member State legislator will have to accommodate national rules pursuant to implementing and delegated acts during even shorter time.

While the Czech Republic proposed constructive solutions to these and other issues, it must be concluded that they remain unresolved. Therefore, the Czech Republic cannot endorse the position of the Council."

12. Visa liberalisation

- a) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (**Georgia**) [**First reading**]
 - b) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (**Ukraine**) [**First reading**]
 - c) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (**Turkey**) [**First reading**]
 - d) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (**Kosovo***) [**First reading**]
- = Progress report

The Council took note of the outcome of the debate at the meeting of the Mixed Committee at Ministerial level (10506/16).

13. European Border Guard: Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) 863/2007 and Council Decision 2005/267/EC [**First reading**]

= Progress report

9716/1/16 REV 1 FRONT 235 SIRIS 94 CODEC 801 COMIX 421

The Council took note of the outcome of the debate at the meeting of the Mixed Committee at Ministerial level (10506/16).

14. Any other business

a) Information from the Presidency on current legislative proposals

The Council took note of the information communicated by the Presidency on current legislative proposals.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

b) Reform of the Common European Asylum System

- i) **Dublin:** Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) [First reading]
8715/16 ASILE 11 CODEC 613
- ii) **EASO:** Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 [First reading]
8742/16 ASILE 12 CODEC 619
+ ADD 1
- iii) **Eurodac:** Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast) [First reading]
8765/16 ASILE 13 EURODAC 3 ENFOPOL 132 CODEC 630
- = Information from the Commission

The Council took note of the presentation of the above-mentioned proposals by the Commission.