



Council of the
European Union

Brussels, 22 December 2016
(OR. en)

15378/16
ADD 1

PV/CONS 67
JAI 1072
COMIX 814

DRAFT MINUTES

Subject: **3508th** meeting of the Council of the European Union
(Justice and Home Affairs), held in Brussels on 8 and 9 December 2016

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LEGISLATIVE DELIBERATIONS

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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

THURSDAY 8 DECEMBER 2016

JUSTICE

"A" ITEMS

- 1. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1920/2006 as regards information exchange, early warning system and risk assessment procedure on new psychoactive substances and Proposal for a Directive of the European Parliament and of the Council amending Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, as regards the definition of drug [First reading]**

= General approach

14812/16 CORDROGUE 76 DROIPEN 196 CODEC 1729

+ ADD 1

14809/16 CORDROGUE 73 DROIPEN 193 CODEC 1726 JAI 999 SAN 405

+ COR 1

14810/16 CORDROGUE 74 DROIPEN 194 CODEC 1727 JAI 1000 SAN 406

+ COR 1

approved by Coreper, Part 2, on 30.11.2016

The Council adopted a general approach on the draft Regulation amending the EMCDDA Regulation as set out in the Annex to 14809/16 and the draft NPS Directive as set out in the Annex to 14810/16 with a view of starting trilogues with the European Parliament.

Statement by Austria

"Austria cannot support that the offences provided for in Framework Decision 2004/757/JHA apply to New Psychoactive Substances without any limits. We refer to our proposal to allow Member States to punish the relevant conduct, committed in respect of New Psychoactive Substances, only if the conduct is aimed at making an unlawful gain. We think that the Presidency text goes beyond the limits foreseen in Art. 83 para. 1 TFEU ('particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis')."

"B" ITEMS

3. **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

15130/16 DROIPEN 205 JAI 1033 GAF 76 FIN 849 CADREFIN 121 FISC 220
CODEC 1806

The Council took note of the preliminary agreement reached with the European Parliament on the text of the draft Directive. This agreement should be confirmed in early 2017.

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

= Policy debate

15057/16 EPPO 32 EUROJUST 161 CATS 95 FIN 845 COPEN 366 GAF 75
CSC 356

15200/16 EPPO 33 EUROJUST 162 CATS 97 FIN 853 COPEN 373 GAF 77
CSC 361

The Council:

- concluded that there is broad support for the text of the Regulation as set out in 15200/16 as a good basis for the establishment of the Office but that there is a need for further discussions on a few details of the text,
- noted that a strong majority of Member States support the establishment of the EPPO and also that one Member State announced it would not be participating,
- took note of a statement as set out in the Annex.

5. **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

14827/16 JUSTCIV 309 CONSOM 289 DIGIT 139 AUDIO 130 DAPIX 213
DATAPROTECT 102 CODEC 1734

The Council held a policy debate on the basis of 14827/16 on questions relating to embedded digital content, 'other data' as possible counter-performance and the balance between subjective and objective conformity criteria.

The debate demonstrated that further in-depth work is requested at technical level. The Council affirmed the approach for a balance between subjective and objective conformity criteria as suggested in point 33 of the annex of 14827/16.

6. Any other business

= Information from the Presidency on current legislative proposals

The Presidency informed delegations on the state of play of the different on-going legislative files, explaining in more detail the political agreement reached on the draft Counter-Terrorism Directive.

FRIDAY 9 DECEMBER 2016

HOME AFFAIRS

10. Reform of the Common European Asylum System and Resettlement

- a) **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)**
- b) **Reception conditions: Proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) [First reading]**
- c) **Qualification: Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents [First reading]**
- d) **Procedure: Proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU [First reading]**
- e) **Resettlement Framework: Proposal for a Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council [First reading]**
= Progress report
14708/16 ASILE 80 ASIM 157 RELEX 972 CODEC 1704
- f) **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]**
= Partial general approach
15119/16 ASILE 86 EURODAC 23 ENFOPOL 448 CODEC 1801

- g) **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]**
= Progress report
14106/1/16 REV 1 ASILE 72 CODEC 1592 CSC 347

The Council took note of the state of play of the current examination of the proposals on the reform of the CEAS and adopted a partial general approach on the Eurodac proposal. The Council will resume the examination of the CEAS reform package at its next meetings.

11. Entry/Exit System (EES)

- a) **Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes and amending Regulation (EC) No 767/2008 and Regulation (EU) No 1077/2011 [First reading]**
- b) **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/399 as regards the use of the Entry/Exit System [First reading]**
= Progress report
15350/16 FRONT 481 VISA 391 CODEC 1845 COMIX 812

The Council confirmed the conclusion of the Mixed Committee and ask the Permanent Representatives Committee to continue work with a view to agreeing on a mandate for negotiations with the European Parliament on the whole text as soon as possible.

12. 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.