



Council of the  
European Union

Brussels, 11 May 2017  
(OR. en)

8449/17  
ADD 1

PV/CONS 19

## DRAFT MINUTES

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Subject: **3531st** meeting of the Council of the European Union (**General Affairs**),  
held in Luxembourg on 25 April 2017

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# PUBLIC DELIBERATION ITEMS<sup>1</sup>

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<sup>1</sup> 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).

## "A" ITEMS

### **1. 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]**

= Adoption of the legislative act

PE-CONS 62/16 GENVAL 145 JAI 1108 MI 806 COMPET 667 COMIX 848  
CODEC 1926

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Czech, Luxembourg and Polish delegations voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union.

(Legal basis: Article 114 TFEU).

#### **Statement by the Commission on most dangerous semi-automatic firearms and on collectors**

"The European Commission is satisfied that the co-legislators have reached an agreement on the revised firearm directive. These new rules will substantially reduce the likelihood of dangerous but legally held weapons falling into the hands of criminals and terrorists.

At the same time, the Commission regrets that some parts of the original proposal were not supported by the Parliament and the Council— in particular concerning semi-automatic firearms where the Commission had proposed a greater level of ambition with a complete ban of the most dangerous semi-automatic firearms, including all semi-automatic firearms of the AK47 or AR15 families. The Commission also regrets that the magazine size was not limited to 10 rounds for all semi-automatic firearms.

The Commission also stresses the importance of the proper implementation of the strict security rules relating to collectors."

#### **Statement by the Commission on deactivation**

"The Commission recognises the importance of a well-functioning standard for deactivation, which contributes to improved levels of safety and gives authorities reassurance that deactivated weapons are properly and effectively deactivated.

The Commission will, therefore, accelerate the work on the revision of the deactivation criteria conducted by national experts in the Committee established under Directive 477/91/EEC in order to allow the Commission to adopt, by the end of May 2017, in accordance with the committee procedure established by directive 91/477/EEC, subject to a positive opinion by national experts, a Commission implementing Regulation amending Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable. The Commission calls on Member States to fully support the acceleration of this work."

### **Statement by Luxembourg**

"Effective and proportionate action at EU level is essential to respond to complex threats to security and to protect our citizens. The terrorist attacks, including those in France and in Belgium, have revealed considerable gaps in the European regulatory framework on firearms.

To address those gaps, the reform of Directive 91/477/EEC focuses on a number of areas: improved control of firearms trafficking, greater traceability and better deactivation of firearms, stricter rules for the acquisition and possession of firearms, a ban on civilian use of the most dangerous firearms and improved information exchange between Member States.

Throughout the negotiations, Luxembourg actively supported all those aspects of the original proposal for a directive and reiterated its commitment to maintaining the ambition of the reform at a level capable of responding to the security threats that Europe currently faces.

In that context, the ban on the most dangerous semi-automatic firearms based on objective specification criteria is a key part of the reform: a strict and harmonised ban on those firearms would have a direct impact on the security of all European citizens.

However, the compromise text resulting from the interinstitutional negotiations waters down any such strict and harmonised ban by making provision for excessively broad exemptions for certain categories of people (target shooters), that is to say exemptions for a significant percentage of those who possess firearms and apply for authorisations for them.

Given that the restrictions on the acquisition and possession of such firearms are insufficient, Luxembourg cannot support the compromise text to be formally adopted by the Council and the European Parliament and will vote against the text."

### **Statement by the Czech Republic**

"The Czech Republic welcomes the fact that work has started on an amendment of Council Directive 91/477/EEC on control of the acquisition and possession of weapons with a view to enabling the European Union and the individual Member States to better respond to current security threats, and in particular to terrorism. We have participated in the negotiations on the proposal in an active and constructive manner and are pleased that some problems have been resolved.

Nevertheless, we consider certain key elements of the proposal to be inappropriate in substance, legally unclear and, sometimes, markedly disproportionate. In some cases, the Directive advocates discriminatory treatment. In particular, we would express our disappointment with regard to the unclear and unnecessary prohibition of certain semi-automatic firearms. Together with the ill-thought-out grandfathering clause, these measures may even worsen the security situation in the medium and long term. They cannot and will not achieve the declared goals of the Directive.

We consider the proposed implementation period to be unreasonably short, since a large number of national laws will need to be amended significantly. Moreover, it should be noted that the national legislator will have to accommodate Commission implementing and delegated acts in national legislation in an even shorter period of time.

For these and other reasons, the Czech Republic cannot endorse the draft Directive."

2. **Draft 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]**

= Adoption of the Council's position at first reading and of the statement of the Council's reasons

7929/2/17 REV 2 CODEC 538 DROIPEN 38 JAI 297 GAF 11 FIN 234  
CADREFIN 39 FISC 70

7929/17 ADD 1 CODEC 538 DROIPEN 38 JAI 297 GAF 11 FIN 234  
CADREFIN 39 FISC 70

6182/17 DROIPEN 16 JAI 105 GAF 7 FIN 103 CADREFIN 18 FISC 43  
CODEC 196

+ ADD 1

approved by Coreper, Part 2, on 12.04.2017

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union, and the statement of the Council's reasons, with the Cyprus, German, Hungarian, Irish, Maltese and Polish delegations voting against. In accordance with the relevant Protocols annexed to the Treaties, the Danish and the United Kingdom delegations did not participate in the vote. (Legal basis: Article 83(2) TFEU).

**Statement by the Commission**

"Although it has no objection regarding the substantive provisions of the Directive, the Commission considers that it should have been based on Article 325 TFEU and reserves its right to initiate legal proceedings about the legal basis before the Court of Justice."

**Statement by Hungary**

"Hungary does not support the compromise presented for adoption at the Council meeting on 25 April 2017. We are committed in protecting the financial interests of the Union and therefore we actively participated in the negotiations, and also supported the text of the general approach adopted by the Council on 6 June 2013. However, as the scope of the Directive has been since extended to include also VAT fraud, Hungary cannot give its consent to the compromise, for we strongly believe that tax issues shall be dealt with in tax dossiers, with the proper legal base and thus, also the rule of unanimity should apply."

**3. Regulation of the European Parliament and of the Council on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy and repealing Council Regulation (EC) No 199/2008 (recast) [First reading]**

= Adoption of the legislative act

PE-CONS 6/17 PECHE 24 CODEC 79

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 43(2) TFEU).

**4. Regulation of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008 [First reading]**

= Adoption of the legislative act

PE-CONS 4/17 ENV 30 COMER 5 MI 48 ONU 7 SAN 30 IND 8 CODEC 55

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Bulgarian, Hungarian and Polish delegations abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union.

(Legal basis: Articles 192(1) and 207 TFEU).

**Statement by the European Commission on comitology**

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 § 4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

### **Statement by the European Commission on international cooperation on mercury**

"The Minamata convention and the new Mercury Regulation are major contributions to protecting citizens from mercury pollution globally and in the EU.

International cooperation should be sustained to ensure successful implementation of the Convention by all Parties and further strengthen its provisions.

The European Commission is therefore committed to supporting continued cooperation, in accordance with the Convention and subject to applicable EU policies, rules and procedures, inter alia undertaking work in the following areas:

- Narrowing the gap between EU law and the provisions of the Convention through the review clause of the list of prohibited mercury-added products;
- In the context of the provisions of the Convention on financing, capacity building and technology transfer, activities such as improving traceability of mercury trade and use, promoting certification of mercury-free artisanal and small-scale gold mining and mercury-free labels for gold, and increasing the capacity of developing countries including in the area of mercury waste management."

### **Statement by Belgium**

"Belgium expresses its concerns regarding the Regulation provisions on the permanent storage of mercury waste.

The new regulation states (article 13) that (liquid) mercury waste should be:

- Converted and solidified prior to permanent storage in above-ground facilities;
- Converted prior to permanent storage in under-ground facilities;

Belgium is convinced that conversion and solidification of mercury waste is of utmost importance prior to permanent storage in above- and underground facilities. This is indeed the only way for ensuring an adequate level of protection against environment contamination and preventing health damages.

Belgium considers that the Basel Mercury guidelines (UNEP/CHW.12/5/Add.8/Rev.1) should be used as technical basis for ensuring a level playing field at European and global level.

Belgium asks the European Commission to launch a thorough assessment of these provisions by an independent consortia of experts - qualified in engineering, waste landfill technologies, chemicals and geological sciences. The terms of references for this assessment, which should take into account the Basel guidelines and other relevant international standards, should be submitted without delay to the 'waste technical committee' (Committee for the Adaptation to Scientific and Technical Progress and Implementation of the Directives on Waste)."

**5. Decision of the European Parliament and of the Council on the use of the 470-790 MHz frequency band in the Union [First reading]**

= Adoption of the legislative act

PE-CONS 5/17 TELECOM 15 AUDIO 4 MI 59 CODEC 78

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 TFEU).

**6. Regulation of the European Parliament and of the Council amending Regulation (EU) No 531/2012 as regards rules for wholesale roaming markets [First reading]**

= Adoption of the legislative act

PE-CONS 7/17 TELECOM 34 COMPET 85 MI 112 CONSOM 39 CODEC 191

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Croatian, Cyprus, Greek and Spanish delegations voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 TFEU).

**Statement by Croatia, Cyprus, Greece and Spain**

"Following the outcome of the third trilogue of January 31<sup>st</sup>, as reported by the Maltese Presidency during the COREPER I meeting of February 1<sup>st</sup> and the finalisation of the compromise text in the COREPER I meeting of February 8, we feel compelled to comment on a number of issues that undermine the overall fairness of the agreement.

First and foremost, we would like to voice our deep disappointment, as the final text is too distant from the General Approach and the European Commission's initial assessment and proposal for the sustainable implementation of Roam-Like-At-Home (RLAH).

Even though we fully subscribe to the notion of RLAH and strongly support the abolition of retail roaming charges for consumers, as provided for by Regulation (EU) 531/2012, we feel that the final text does not effectively prevent the occurrence of unrecoverable losses for the providers of regulated roaming services, especially when these providers exhibit significant imbalances between incoming and outgoing roaming volumes. The political goal of the abolition of roaming surcharges by June 2017 could have been achieved with a sustainable and fair approach for all Member States, including those Member States that exhibit particularities such as high seasonality, geographical dispersion of the network infrastructure and high roaming traffic imbalance.

The recovery of all costs incurred by the adoption of RLAH for mobile telephony providers and the preservation of incentives for investment in the visited markets, have been fundamental assumptions for the sustainability of the European ecosystem of mobile telephony and the avoidance of distortions. Despite these assumptions, in particular, the agreed values of the glide path for the wholesale roaming data caps cannot ensure the recovery of those costs, and will inevitably create distortions in visited markets and undermine investments in this critical business sector.



Under these conditions, the abolition of retail roaming charges will entail a major challenge to mobile telephony across the EU, the burden of which should have been distributed fairly across all Member States. On the contrary, the final compromise places most of the burden on a small number of countries exhibiting the particularities mentioned above, creating a certain risk that, at national level, domestic prices are increased, due to the so called “water-bed effect”. This distortion will cause a cross subsidy in which domestic consumers in the affected countries, will end up subsidizing international roamers.

Moreover, it is regrettable that the proposed sustainability mechanism, which would be invoked only in extreme and fully justified cases, and could provide the only way out of a potentially disastrous situation of great distortion, is not part of the agreement. The elimination of this provision, effectively removes the means for a swift and objectively fair resolution of issues related to roaming cost recovery, further displays the imbalance of the reached agreement and creates a potential discrimination between retail operators who benefit from a sustainability mechanism, and wholesale operators who are deprived from this safeguard.

In view of the above, we call upon the Commission a) to closely follow the developments related to RLAH and the repercussions across the EU from the abolition of retail roaming charges on home markets, b) to be ready to take corrective action even prior to the revision foreseen in the agreed text, if necessary, and c) to consider in detail the impact of RLAH on investments, when reporting on the effects of RLAH to the European Parliament and the Council.

Finally, despite the adverse circumstances, we declare once again our commitment to RLAH for consumers and to the continued provision of high quality mobile telephony services to all users."

**7. Proposal for a Regulation of the European Parliament and of the Council on establishing a multi-annual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks and repealing Council Regulation (EC) 676/2007 and Council Regulation (EC) 1342/2008 (First reading)**

= General approach

8004/17 PECHÉ 139 CODEC 556

+ ADD 1

7339/17 PECHÉ 106 CODEC 399

+ COR 1

approved by Coreper, Part 1, on 22.03.2017

The Council adopted the general approach, as set out in 7339/17, with the Danish delegation voting against.

### **Statement by the Danish delegation**

"Denmark takes note of the Presidency compromise proposal for a multi-annual plan for the demersal stocks in the North Sea. Denmark has very considerable interests in these fisheries. The Presidency compromise proposal has taken a big step forward in focussing on the relevant species. However, some issues of the utmost importance remain unsolved.

It is crucial to allow for the necessary flexibility in the regulation in setting TAC's:

- It should be possible to take into account an increase in a stock and the fishery of this stock for data limited stocks. This is to allow for the continued flexibility agreed by the European Parliament and the Council in the current long-term plan for cod stocks in the North Sea, Skagerrak and Kattegat among others in regulation (EU) 1342/2008, which has been used for the specific circumstances in the case of cod in Kattegat. Denmark has proposed a provision in line with the current long-term plan for cod stocks to be included in the new North Sea multi-annual plan.
- Socio-economic concerns should be clearly mentioned in the future plan. This could be done by referring to the provisions in the Basic Regulation on the Common Fisheries Policy (EU) 1380/2013, Article 2, paragraph 5, litra c and f.

Thus, on both these flexibility issues, Denmark has proposed to include already existing and agreed texts.

Since these issues have not been solved, Denmark for these reasons votes against the Presidency compromise, as set out in document 7339/17 to be adopted by the Council as a General Approach."

### **8. Proposal for a Regulation of the European Parliament and of the Council repealing Council Regulation (EEC) No 1101/89, Regulations (EC) No 2888/2000 and (EC) No 685/2001 (First reading)**

= General approach

8025/1/17 REV 1 TRANS 139 MAR 70 CODEC 561

15197/16 TRANS 484 MAR 300 CODEC 1829

approved by Coreper, Part 1, on 12.04.2017

The Council adopted the general approach as set out in 15197/16.

### **"B" ITEMS**

### **3. Modification of the Common Provisions Regulation (Regulation (EU) No 1303/2013)**

= State of play - Information from the Presidency

The Presidency informed delegations on the state of play of ongoing work concerning modifications to the Common Provisions Regulation of the European Structural and Investments Funds (Regulation (EU) 1303/2013).