



Council of the
European Union

Brussels, 5 July 2017
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10501/17
ADD 1

PV/CONS 39

DRAFT MINUTES

Subject: **3552nd** meeting of the Council of the European Union (**General Affairs**),
held in Luxembourg on 20 June 2017

PUBLIC DELIBERATION ITEMS¹

Page

LEGISLATIVE DELIBERATIONS

"A" ITEMS (10318/17 PTS A 51)

1. Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1683/1995 laying down a uniform format for visas [First reading] 3
2. Proposal for a Regulation of the European Parliament and of the Council adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union [First reading] 3
3. New Psychoactive Substances 4
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]
4. Multiannual Financial Framework (MFF) 2014 - 2020 Review/Revision 5
Council Regulation amending Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020

NON-LEGISLATIVE ACTIVITIES

"A" ITEMS (10323/17 PTS A 52)

14. Draft Council Regulation amending Regulation (EU) No 1388/2013 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products 9
15. Draft Council Regulation amending Regulation (EU) No 1387/2013 suspending the autonomous Common Customs Tariff duties on certain agricultural and industrial products 9

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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

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

"A" ITEMS

1. Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1683/1995 laying down a uniform format for visas [First reading]

= Adoption of the legislative act

PE-CONS 20/17 VISA 154 COMIX 316 CODEC 719

+ REV 1 (lv)

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. In accordance with the relevant Protocols annexed to the Treaties, the Irish and United Kingdom delegations did not participate in the vote. (Legal basis: Article 77(2)(a) TFEU).

Statement by the United Kingdom

"The United Kingdom notes the adoption of the Draft Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1683/1995 laying down a uniform format for visas. The United Kingdom considers that this Regulation does not constitute a measure that builds on the Schengen acquis for the UK, as it amends a measure that was adopted prior to the incorporation of the Schengen acquis into Union law and that was not listed as part of the Schengen acquis. The United Kingdom considers that as the Regulation falls within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union, Protocol (No. 21) to the Treaties on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice should have applied to this Regulation."

2. Proposal for a Regulation of the European Parliament and of the Council adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union [First reading]

= Progress Report

10170/17 CODEC 1019 CHIMIE 58 INST 250 AGRILEG 110

JUR 291 IND 160 CLIMA 179 COMPET 488 TELECOM 161

MAP 13 DEVGEN 130 POLARM 6 EMPL 363 COARM 153

SOC 472 CSDP/PSDC 311 ENER 281CFSP/PESC 508

ENV 599 CONSOM 254 STATIS 32 SAN 248

ECOFIN 525 JUSTCIV 145 DRS 40 AVIATION 88

EF 123 TRANS 262 MI 489 MAR 125 ENT 150 UD 150

+ COR 1

approved by Coreper, Part 2, on 15.06.2017

The Council took note of the Presidency progress report set out in 10170/17.

3 New Psychoactive Substances

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]

= Political Agreement

9955/17 CORDROGUE 75 DROIPEN 80 CODEC 976 JAI 575 SAN 231

+ ADD 1

+ ADD 1 COR 1

9957/17 CORDROGUE 76 DROIPEN 81 CODEC 977 JAI 576 SAN 232

approved by Coreper, Part 2, on 15.06.2017

The Council reached a political agreement on the text of the New Psychoactive Substances Directive set out in 9957/17.

Statement by Austria

"We support the main goal, that is 'to extend the application of the Union criminal law provisions that apply to illicit drug trafficking to new psychoactive substances posing severe public health and, where applicable, social risks' (recital 7).

However, we think that not all provisions of Framework Decision 2004/757/JHA should apply to new psychoactive substances.

Among the conduct described in sub-paragraphs (a), (c) and (d) of Art. 2 paragraph 1 of FD 2004/757, we think that Member States should be given the discretion if the conduct described under (c) – possession or purchase – should be criminalized or not. As the Directive contains minimum standards, any Member State is free to go further – but Member States should not be obliged, by virtue of Union Law, to criminalize such behaviour.

Such a more limited approach of the Union legislator would be in line with the principle of subsidiarity in general and also with the conditions foreseen by the Treaties for legislating in criminal law:

'The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of 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.' (Art. 83 paragraph 1 TFEU)

We think that the possession or purchase of new psychoactive substances in itself do not fulfil the cited (highlighted) criteria of the Treaty."

**4. Multiannual Financial Framework (MFF) 2014 - 2020 Review/Revision
Council Regulation amending Council Regulation (EU, Euratom) No 1311/2013 of 2
December 2013 laying down the multiannual financial framework for the years 2014-
2020**

= Adoption of the act

7996/1/17 REV 1 CADREFIN 42 POLGEN 40 FIN 240

7031/17 CADREFIN 28 POLGEN 24 FIN 177

+ COR 1

+ ADD 1 + ADD 1 COR 1

+ ADD 2 + ADD 2 COR 1

14942/16 POLGEN 151 CADREFIN 117

+ COR 1 (hr)

+ COR 2

approved by Coreper, Part 2, on 12.04.2017

The Council adopted the Council Regulation amending Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 as set out in document 14942/16 and approved the joint statements set out in document 7031/17.

Statement of the European Parliament and the Council on reinforcements (top-ups) for the remaining period of the MFF

"In the context of the MFF mid-term review/revision, the European Parliament and the Council have agreed on the top-ups as proposed by the Commission for the amounts indicated in the table below, to be implemented in the years 2017 to 2020² in the framework of the annual budgetary procedure, without prejudice to the prerogatives of the budgetary authority:

	Commitment appropriations, mil. EUR
Heading 1a	
Horizon 2020	200
CEF Transport	300
Erasmus+	100
COSME	100
Wifi4EU*	25
EFSI*	150
Total Heading 1a	875
Heading 1b (YEI)	1200**
Heading 3	2549
Heading 4*	1385
Total H1a, 1b, 3, 4	6009

* *This does not prejudice the outcome of ongoing discussions on draft legislative proposals within H1a and 4H4H4.*

** *Spread over four years (2017-2020).*

Redeployments of an overall amount of EUR 945 million will be identified in the annual budget procedure, out of which EUR 875 million in H1a and EUR 70 million in H4."

² A part of the overall top-ups have already been agreed in the context of the 2017 budgetary procedure. The 2017 budget thus includes EUR 200 million in Heading 1a and EUR 725 million in Heading 4. Moreover, the European Parliament and the Council agreed to provide EUR 500 million in Heading 1b for the Youth Employment Initiative in 2017 to be financed by the Global margin for commitments and which will be implemented via an amending budget in 2017. Finally, the European Parliament and the Council also invited the Commission to request the necessary appropriations in an amending budget in 2017 in order to provide the financing of the EFSD from the EU budget as soon as the legal base is adopted.

Statement of the European Parliament and the Council on avoiding accumulation of an excessive amount of unpaid bills

"The European Parliament and the Council call on the Commission to continue closely scrutinising the implementation of the 2014-2020 programmes in order to ensure an orderly progression of payment appropriations consistent with the authorised commitment appropriations. To that end, they invite the Commission to present in a timely manner, throughout the remaining period of the current MFF, updated figures concerning the state of affairs and estimates regarding payment appropriations. The European Parliament and the Council will take any necessary decisions in due time for duly justified needs to prevent the accumulation of an excessive amount of unpaid bills and to ensure that payment claims are duly reimbursed."

Statement of the European Parliament and the Council on payments for Special Instruments

The European Parliament and the Council agreed to adapt the proposal for amending Decision (EU) 2015/435 so as not to prejudice in any way the nature of payments for other special instruments in a general way.

Statement of the European Parliament and the Council concerning an independent evaluation of the results of the target of progressive reduction of staff by 5% between 2013 and 2017

"The European Parliament and the Council propose that an independent evaluation of the results of the target of progressive reduction of staff by 5% between 2013 and 2017 is undertaken, covering all institutions, bodies and agencies as agreed in the IIA of 2013 on budgetary discipline, on cooperation in budgetary matters and on sound financial management. Based on the conclusion of the evaluation, the European Parliament and the Council invite the Commission to present an appropriate follow-up proposal."

Statement of the Council on payments for Special Instruments

"The Council proposes to maintain the status quo and not establish, in the context of this review/revision, a general and over-arching rule as regards the treatment of payments for other special instruments. The opinion of the Council Legal Service stated that it will remain open for the Budgetary Authority to decide on a case-by-case basis, in respect of a specific mobilisation in question, whether or not some or all of the corresponding payments are to be counted above the MFF ceilings."

Statement of the Commission on reinforcing the Youth Employment Initiative and additional measures to help tackling the migration crisis and security issues

"Should the downwards trend in youth unemployment observed since 2013 reverse again, consideration should be given to increase the funding for the Youth Employment Initiative beyond the amount of EUR 1.2 billion agreed in the framework of the mid-term review/revision of the multiannual financial framework (MFF) 2014-2020 by using margins available under the Global Margin for Commitments in accordance with Article 14 of the MFF Regulation. For that purpose, the Commission will report regularly on the observed statistical trends and submit a Draft Amending Budget if appropriate."

Without prejudice to the above, additional margins available should be considered, as a matter of priority, for investing in young people across Europe and for measures helping to address the internal and external dimension of the migration crisis and security issues should new needs arise which are not covered by the existing or agreed funding. The Commission will make proposals to that end if appropriate while keeping in mind the need to maintain sufficient margins for unexpected events and the smooth implementation of already agreed programmes."

Statement by the United Kingdom

"The United Kingdom notes the agreement reached by the European Council on the Mid-Term Review of the Multiannual Financial Framework, and the recent adoption by the EU acting at 27 of Negotiating Guidelines, Directives for the UK's withdrawal, and position paper on principles on the financial settlement, which assert that the UK should be held liable for a wide-ranging set of EU obligations.

Following the UK General Election and the end of the 'purdah' period, the UK lifts its reservation on the adoption by the Council of the agreement on the Mid-Term Review. This is in order to support the good governance of the budget while the UK remains a member of the EU, recognising that the Mid-Term Review will have an effect primarily on the budget after the UK has left the EU. This is without prejudice to the UK's position on asserted financial liabilities in the forthcoming withdrawal negotiations, and conditioned on the clear understanding that the EU acting at 27 will not use the UK's constructive position on the Mid-Term Review to add to its asserted claims regarding UK liabilities.

The UK is confident that other Member States and the institutions will reciprocate the UK's act of good faith in facilitating Union business primarily applicable after its withdrawal in the approach they take to the withdrawal negotiations, and in ongoing relations to UK businesses and recipients of EU funds. We expect that they will apply a similar sense of fairness, and work cooperatively on an orderly withdrawal."

Statement by the Commission

"The Commission welcomes the adoption by the Council of the Mid-Term Review of the Multiannual Financial Framework following the lifting of the UK's reservation on the adoption of the agreement by the Council.

This is without prejudice to ongoing negotiations on the withdrawal of the United Kingdom from the Union under Article 50 of the Treaty on European Union. As stated in the Essential Principles on Financial Settlement presented on 12 June 2017, the Union and the United Kingdom should both respect in full the financial obligations resulting from the whole period of the United Kingdom membership in the Union."

NON-LEGISLATIVE ACTIVITIES

"A" ITEMS

14. Draft Council Regulation amending Regulation (EU) No 1388/2013 opening and providing for the management of autonomous tariff quotas of the Union for certain agricultural and industrial products

= Adoption

10069/17 UD 148

9766/17 UD 137

approved by Coreper, Part 1, on 14.06.2017

The Council adopted the draft Regulation as set out in 9766/17 UD 137.

15. Draft Council Regulation amending Regulation (EU) No 1387/2013 suspending the autonomous Common Customs Tariff duties on certain agricultural and industrial products

= Adoption

10070/17 UD 149

9794/17 UD 138

approved by Coreper, Part 1, on 14.06.2017

The Council adopted the draft Regulation as set out in 9794/17 UD 138.