



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 29 April 2014  
(OR. en, fr)**

**8807/14**

**CRS/CRP 15**

**SUMMARY RECORD**

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Subject: 2493rd meeting of the PERMANENT REPRESENTATIVES COMMITTEE  
(Part 2) held in Brussels on 9 April 2014 and in Luxembourg on 14 April 2014

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70. Council Decision on the conclusion of the Cooperation Agreement on a civil Global Navigation Satellite System (GNSS) between the European Community and its Member States and Ukraine



71. Cooperation Agreement on a civil Global Navigation Satellite System (GNSS) between the European Community and its Member States and Ukraine
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**1. Adoption of the provisional agenda and "I" items**

doc. 8630/1/14 REV 1 OJ/CRP2 14 + CM 2438/14

The above-mentioned agenda is approved with the following changes :

The following items are **added** :

(Coreper Part 2, under I)

**91. Restrictive measures against Côte d'Ivoire:**

- **Letter of reply to be sent to lawyer of a listed person**  
8680/14 PESC 388 RELEX 316 COAFR 129 COARM 59 FIN 294

**92. Withdrawal of the Recommendation for a European Council Decision on the examination by a conference of representatives of the governments of the Member States of the amendment to the Treaties proposed by the Czech Government in the form of a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic, to be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and not to convene a Convention**

- **Follow-up to the Resolution of the Czech Republic**  
8385/14 CO EUR-PREP 16 POLGEN 43 INST 186  
8383/14 CO EUR-PREP 15 POLGEN 42 INST 185

**93. Exercise Policy of the European Union under the Common Foreign and Security Policy (CFSP)**

8909/14 COPS 83 CSDP/PSDC 235 POLMIL 41 CIVCOM 66

The Committee approved the "I" items as set out in the summary. Details are contained in the document quoted under item 1.

A joint statement is made on the following item :

**10. Proposal for transfer of appropriations No DEC 06/2014 within Section III - Commission - of the general budget for 2014**

8623/14 FIN 291 INST 210 PE-L 24

Statement by AT, DE, DK, FR, FI, NL, SE and UK on DEC 06/2014

"AT, DE, DK, FR, FI, NL, SE and UK believe that it is important to meet the increased needs in the area of humanitarian aid. In light of the devastating humanitarian crises currently ongoing AT, DE, DK, FR, FI, NL, SE and UK do in principle support the reinforcement of the humanitarian aid chapter of the EU-budget. However the before mentioned countries cannot support the Commission's proposal for transfer No DEC 06/2014. As the required funds by far exceeds the requests/forecast made by the Commission in the draft budget for 2014, it is the prerogative and obligation of the Commission to manage the budget within the overall appropriations voted by the budget authority and to ensure effective implementation by reallocating. This requires the Commission to uphold the fundamental principle of identifying scope for reallocations from budget lines where under-implemented of appropriations can be foreseen to budget lines that require reinforcement. The Commission's attempt to create a new budget management tool of so-called "short term loans" is not in line with sound budget management and cannot form the basis for a transfer within the EU-budget since their ultimate effect is not envisioned to be budget neutral. Furthermore, the aforementioned countries do not accept to pre-empt the prerogatives of the budget authority in the context of a possible Draft Amending Budget 3/2014. Likewise, the Commission's proposal to deviate from the MFF-Regulation by activating the Emergency Aid Reserve for payments only is not acceptable. The Emergency Aid Reserve can be used exclusively for unforeseen circumstances and hence, not be activated for payments only. Therefore, potential new payment appropriations can only be related to new commitments. Furthermore, it is also necessary to highlight that payment appropriations related to special instruments have to be financed below the PA ceiling, in conformity with the MFF Regulation."

SE, supported by AT, DE, DK, FI, FR, MT and UK, made a statement on the following item :

**22. Commission Delegated Regulation (EU) No .../. of 3.3.2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund**

– **Intention not to raise objections to a delegated act**

8163/14 FSTR 16 FC 10 REGIO 43 SOC 221 AGRISTR 18 PECHE 157

CADREFIN 57 DELACT 96

7331/14 FSTR 10 FC 9 REGIO 30 SOC 180 AGRISTR 11 PECHE 113

CADREFIN 41 DELACT 46

+ ADD 1

"Sweden welcomes the Council Legal Service opinion (doc. 8574/14) on the so called "bundles" of delegated acts, delegated acts which are based on a series of articles of a basic act which contain empowerments for the Commission to adopt delegated acts.

Sweden does not raise objections against the specific I-/A-point (nr 22) on the agenda of the Coreper April 9 (and later on the Council), however, we would like to underline the statement of the Council Legal Service: "*whenever a delegated act groups several empowerments of a basic act without any objective justification, the Council may regard that delegated act as a "bundle" of separate delegated acts and exercise accordingly its right to object in respect of each of them.*"

\* \* \* \* \*

A joint statement is made by AT and SE on the following item :

**29. Proposal for a Regulation of the European Parliament and of the Council on Insider Dealing and Market Manipulation (Market Abuse) (First reading)**

– **Adoption of the legislative act**

8260/14 CODEC 929 EF 106 ECOFIN 314 DROIPEN 48

+ ADD 1 REV 1

PE-CONS 78/13 EF 155 ECOFIN 726 DROIPEN 95 CODEC 1841

"The agreement means that administrative authorities will be able to access data traffic records held by providers of public electronic communications networks. This amounts to a serious interference with the right to respect of private and family life and the right to protection of personal data. Issues of privacy and surveillance are highly sensitive topics that need to be dealt with in a consistent manner across all EU policy areas. We welcome that the recitals clarify that Member States should have adequate and effective safeguards, i.e. prior judicial authorization, for the exercise of those powers.

We would have preferred that the requirement of adequate and effective judicial safeguards was reflected in the Article as well. In this context the opinion of the EDPS should be duly considered. Further, we assume, and strongly suggested that it was explicitly mentioned, that the access does not cover data retained for the purposes of Directive 2006/24/EC (the Data Retention Directive), as this would circumvent the requirement in the Data Retention Directive of retention only for the purposes of investigating, detecting and prosecuting serious crimes. Any expansion in the access to traffic data outside judicial procedures would set a dangerous precedent for other EU dossiers."

DE joined the statement made by AT and SE.

\* \* \* \* \*

PT made also a statement on the above mentioned item **29** :

"Portugal welcome the agreement on the Market Abuse Regulation, in particular the ambitious sanctions regime foreseen therein.

Portugal note that the sanctions regime is highly sensitive. Member States operate under very different legal and institutional frameworks and these national frameworks need to remain coherent as harmonisation of the sanctions regime is pursued at European level. The difficulties of these discussions are well known and most Member States specificities have been addressed, in particular when they are grounded on constitutional concerns.

Portugal will strive to implement the permanent ban on the exercise of management functions in investment firms in conformity with national law."

ES joined the statement made by PT.

Statements are made on the following item :

**30. Proposal for a Directive of the European Parliament and of the Council on Criminal Sanctions for insider dealing and market manipulation (First reading)**

– **Adoption of the legislative act**

8261/14 CODEC 930 DROIPEN 49 EF 107 ECOFIN 315

+ ADD 1

PE-CONS 8/14 DROIPEN 1 EF 6 ECOFIN 21 CODEC 47

Statement by Austria, Bulgaria, Hungary and Poland

"The delegations of Austria, Bulgaria, Hungary and Poland welcome the efforts taken to combat insider dealing and market manipulation. We believe that appropriate measures, including criminalization of market abuse acts would contribute to enhancement of market integrity and public confidence in financial instruments which are imperative conditions for economic growth. Therefore, we endorse the adoption of a Directive of the European Parliament and of the Council on criminal sanctions for insider dealing and market manipulation.

However, the harmonization of penalties introduced in this Directive raises serious doubts as it ought to be preceded with analysis of its necessity for the effective implementation of a Union policy. Such analysis has not been conducted since the harmonization of penalties was proposed only at the stage of informal negotiations with the European Parliament. Moreover, the impact assessment initially carried out by the European Commission has not confirmed that such harmonization is deemed essential to ensure an effective implementation of Union's policy in this area.

The levels of penalties adopted in the Directive may also raises concerns, since they diverge from the thresholds well established in practice, originating from the *Council conclusions of 2002 on the approach to apply regarding approximation of penalties* and confirmed by the *Council conclusions of 2009 on model provisions, guiding the Council's criminal law deliberations*. It is questionable, whether differences in legal systems and traditions of the Member States, which are protected by virtue of Article 67 of the Treaty on the Functioning of European Union, were sufficiently taken into account.

Furthermore, we are concerned that a threshold of 4 years of imprisonment, even for serious cases of insider dealing and market manipulation, is rather high compared to other serious offences harmonized at European level. For instance certain offences of sexual abuse of children are punishable by up to 3 or 5 years of imprisonment. Moreover, those Member States which do not foresee this threshold in their legal system will be obliged to increase the penalty to the closest threshold applied therein (to 5 years or more). It will have an adverse effect on harmonization and consequently unintended harshness in the treatment of offences concerned.

We express our belief that the levels of penalties previously agreed by the Council and the European Parliament in other Directives will be respected in future legal instruments. This Directive should not constitute a precedence in that regard."

\* \* \* \* \*

#### Statement by Luxembourg

"Le Luxembourg prend note du fait que la directive ne liera pas à tous les EM de l'Union en application des protocoles 21 et 22. Cette situation risque d'être en contradiction avec la nécessité «d'assurer la mise en œuvre efficace d'une politique de l'Union dans un domaine ayant fait l'objet de mesures d'harmonisation» telle qu'exigée par la base juridique de l'article 83 paragraphe 2 TFUE. Dans ce contexte, le Luxembourg rappelle les dispositions mentionnées à la déclaration 26 au Traité de Lisbonne."



PT made a statement on the following item :

**79. Proposal for a Regulation of the European Parliament and of the Council on specific requirements regarding statutory audit of public-interest entities (First reading)**

– **Adoption of the legislative act**

8241/1/14 REV 1 CODEC 916 DRS 45

8241/14 ADD 1

PE-CONS 5/14 DRS 2 CODEC 36

+ REV 1 (hr)

"Portugal considers that the adoption of this legislative package constitutes progress on financial market reform and stresses the independence of auditors, factors with the potential to rebuild trust in and on the markets. Because of this and in a spirit of compromise, Portugal supports the final outcome of these negotiations.

However, as regards the supervision of the audit authorities, throughout the negotiations Portugal has expressed its preference for conferring audit competence on the ESMA, which would take on the roles previously fulfilled by the European Group of Auditors' Oversight Bodies (EGAOB), as in the European Commission's original proposal."

## Coreper Part 2

### II

#### 85. Debrief of the G20 Sherpa meeting

The Commission, the EU's Sherpa representative to the G20 debriefed the Committee on the Sherpa meeting held in Uluru, on 27-28 March 2014.

#### 86. Presentation of the agenda of the Council meeting (Economic and Financial Affairs) on 6 May 2014

The Committee agreed the provisional agenda for this Council meeting.

#### 87. Relations with the European Parliament (April 2014)

8405/14 PE 233 INST 188 POLGEN 44 CODEC 973

The Committee held a discussion on relations with the European Parliament on the basis of the document 8405/14.

#### 88. Future development of the JHA area: Discussion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions

**An open and secure Europe: making it happen**

7844/14 JAI 171 JAIEX 21 JUSTCIV 69 CATS 45 DROIPEN 44 COPEN 91

COSI 24 ASIM 26 MIGR 35 VISA 78 FRONT 66 ENFOPOL 87

PROCIV 24 DAPIX 48 CRIMORG 31 EUROJUST 62 GENVAL 19

EJUSTICE 29 ENFOCUSTOM 39 FREMP 46

+ ADD 1

The Commission Communication was generally welcomed by the delegations. The full round table covered a number of elements discussed in the Communication. Many delegations enquired about the way forward to the JHA Council and the European Council in June.

#### 89. Additional participatory rights of the EU in UNHCR

The Committee expressed a general political support to enhance the role of EU in UNHCR.

Outlining that the relevant modalities of the EU reinforced participation need to be examined by the relevant Council preparatory bodies, the Committee invited the Commission to refrain from formal consultations with the UNHCR until the Union has formally adopted a position on this issue.

## 90. Preparation for the Council meeting (Foreign Affairs) on 14/15 April 2014

### a) Ukraine

- **Draft Council conclusions**  
8878/14 COEST 134

The Committee took stock of the ongoing work in terms of the EU's activities vis-à-vis the crisis in Ukraine, on the basis of presentations by the EEAS and the Commission, and had an exchange of views in preparation of the Council discussion.

At its meeting on 14 April 2014, the Committee confirmed the broad agreement reached by the Political and Security Committee on the draft Council conclusions and proposed to add text in square brackets in paragraph 11 on President Putin's letter of 10 April 2014 to several EU Member States. It agreed to submit the draft conclusions to the attention of the Council, as set out in 8878/1/14 REV 1.

### b) Bosnia and Herzegovina

- **Draft Council conclusions**  
8654/14 COWEB 43 PESC 385

The Committee confirmed the agreement reached by the Political and Security Committee on the draft Council conclusions, as set out in 8654/14, and agreed to submit them to the Council for adoption.

### c) Syria

- **Draft Council conclusions**  
8618/14 SY 5 COMAG 42 COHAFA 39 PESC 378

The Committee examined the draft Council conclusions on Syria on the basis of document 8618/14 and agreed to forward them to Council for adoption, as set out in 8618/14.

**d) Communication on Maritime Security**  
– **Presentation**

The Committee was informed by the EEAS that a presentation would be made to Defence Ministers on the Joint Communication on Maritime Security on 15 April 2014.

**e) Central African Republic (EUFOR RCA)**

The Committee was informed by the EEAS that Defence Ministers would have the opportunity to discuss the current situation as regards CAR and EUFOR RCA on 15 April 2014.

**f) Other items in connection with the Council meeting**

The Committee did not discuss other items in connection with the Council meeting.

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