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#### NOTE

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from:	General Secretariat of the Council
to:	Delegations
Subject:	Summary of the meeting of the European Parliament Committee on Civil Liberties, Justice and Home Affairs, held in Brussels on 16 October 2014

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*The meeting was chaired by Mr MORAES (S&D, UK). The first exchange of views with the Commission on the study on technical options for a smart borders pilot project was met with considerable scepticism from all groups. The EP would like to have more clarity on a number of outstanding issues, ranging from the very rationale for smart borders, to interoperability questions and data protection aspects. A brief introductory and unsubstantial exchange of views was held on the procedural rights package.*

#### 3-5. Joint debate on the smart borders package

##### **Amendment of Regulation (EC) No 562/2006 as regards the use of the Entry/Exit System (EES) and the Registered Traveller Programme (RTP)**

\*\*\*I 2013/0060(COD) COM(2013)0096 – C7-0062/2013

Co-rapporteurs: Agustín Díaz de Mera García Consuegra (EPP) and Tanja Fajon (S&D)  
Responsible: LIBE –  
Opinions: AFET –  
DEVE – Decision: no opinion

## **Registered Traveller Programme**

\*\*\*I 2013/0059(COD)

Rapporteur: Tanja Fajon (S&D)

Responsible: LIBE –

Opinions: AFET –

DEVE – Decision: no opinion

BUDG – Decision: no opinion

## **Entry/Exit System to register entry and exit data of third country nationals crossing the EU Member States' external borders**

\*\*\*I 2013/0057(COD)

Rapporteur: Agustín Díaz de Mera García Consuegra (EPP)

Responsible: LIBE –

Opinions: AFET –

DEVE –

BUDG – Decision: no opinion

CONT – Decision: no opinion

The Commission representative presented the background to the three legislative proposals, namely the Entry/Exit System (EES), Registered Traveller Programme (RTP) and changes to the Schengen Borders Code. She stressed it was of the utmost importance to build consensus among the various stakeholders on technical, operational and cost-related issues before embarking on the project. The Commission had already made the technical study available; it was to be followed by a pilot project, to be carried out by eu-LISA, in order to verify the feasibility of the proposed options. The part of the study analysing the costs would be made available in a separate document on 27 October. Regarding the data retention period, various periods would be examined, including a uniform five-year period as well as shorter periods. Various complex scenarios, involving a number of potential options and relevant environments, would be tested. The Council, the EP and the Commission would have to agree before the end of 2014 on the options to be tested so that the Commission could prepare the terms of reference for the pilot project in 2015. The Commission representative also explained that as the new Commission would soon be appointed the EP would be informed within a three-month period whether or not the proposal would be retained.

The Rapporteur for RTP, Ms FAJON (S&D, SI) said that the study raised even more questions and failed to address many concerns. Regarding the pilot project, she asked if the Commission would consider withdrawing/modifying the proposal should the pilot project demonstrate that the objectives of the proposal had not actually been met, and whether the Commission would consider other possible scenarios than those presented in the study. She also pointed out that data protection issues were of the utmost importance for LIBE.

The Rapporteur for EES, Mr DIAZ DE MERA (EPP, ES) said that the EP would need more time to study the materials, which had only recently been made available, and was also eagerly expecting the final part detailing the costs of this package. In his view the timetable presented by the Commission was not realistic and the EP would take the time it needed to study the proposal in detail. He also wished to organise a hearing with national parliaments on the subject. He expressed doubts about the proposed options and considered that the objectives were not well defined. The possible access to the database for law-enforcement purposes was a further outstanding issue that lacked a concrete proposal. The interoperability of the system was also of key importance. He wished to consult with Chair Moraes on how to handle this file.

During the discussion MEPs raised the following issues: the question of the legal basis that allows for the EP's involvement in pilot schemes; the usefulness of the new system for detecting foreign fighters who pose security concerns, and limiting their return; objections to smart borders for the poor and a golden visa system for the rich; doubts over whether this would contribute to curbing illegal migrations; the increased administrative burden on Member States created by the proposals. The ALDE coordinator openly questioned the necessity and proportionality of the proposal, alongside the excessive costs. In her view the Data Protection Package was a prerequisite. The Greens and GUE opposed the generalised surveillance system, citing its poorly defined objectives and exorbitant costs, and also pointed to data protection concerns and opposed access for law-enforcement purposes.

On behalf of the Council, the Italian presidency thanked the rapporteurs and called for synergies in cooperation between the EP and the Council in order to find a common approach.

The Commission representative explained they were ready to provide further briefings and presentations to the EP on various aspects of the proposals, including data protection and human rights issues. She also explained that law-enforcement access had been included in the study at the request of the EP, and was not included in the Commission's proposal. In principle foreign fighters would not be concerned by this proposal because they were EU nationals and the smart borders package would only apply to third-country nationals.

The Chair concluded the debate announcing that LIBE would debate these proposals again in November.

## **6-8. Joint debate on the procedural rights package**

### **Procedural safeguards for children suspected or accused in criminal proceedings**

\*\*\*I 2013/0408(COD) COM(2013)0822 – C7-0428/2013

Rapporteur: Caterina Chinnici (S&D)

Responsible: LIBE –

Opinions: JURI – Decision: no opinion

### **Strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings**

\*\*\*I 2013/0407(COD) COM(2013)0821 – C7-0427/2013

Rapporteur: Nathalie Griesbeck (ALDE)

Responsible: LIBE –

Opinions: JURI – Pascal Durand (Greens/EFA)

### **Legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings**

\*\*\*I 2013/0409(COD) COM(2013)0824 – C7-0429/2013

Rapporteur: Dennis de Jong (GUE/NGL)

Responsible: LIBE –

Opinions: JURI – Decision: no opinion

On behalf of the Council the Italian Presidency stressed the three proposals were a priority. Work on the examination of the proposals regarding the presumption of innocence and provisional legal aid was progressing well in the Council, of course taking into account the meticulous legal and technical fine-tuning required. The Council had already adopted a general approach on procedural safeguards for children and hoped to start trilogues as soon as the EP was ready.

The Commission representative briefly presented the three proposals, and stressed that in relation to the presumption of innocence there were differences in national practices despite similar provisions in national laws. The aim was to codify the case law of the ECtHR.

The rapporteur for the proposed directive on procedural safeguards for children, Ms CHINICCI (S&D, IT), said the proposal was a good working basis and stressed that children's rights in criminal proceedings needed strengthening. This would in turn be beneficial for mutual recognition and judicial cooperation in the EU. The rapporteur for the proposed presumption of innocence directive, Ms GRIESBECK (ALDE, FR), said that she wished this codification of case law to set standards that were higher than minimum required, and anticipated a difficult discussion on reverse burden of proof and inadmissibility rules for evidence. The rapporteur for the provisional legal aid directive, Mr De JONG (GUE, NL) explained he had already issued a working document in November 2013 and felt the Italian Presidency was quite optimistic about the progress to be achieved in the coming months.

During the discussion Ms SIPPEL (S&D, DE, coordinator) expressed doubts about whether quick progress could be made on these files since some quite critical points had been identified, such as reverse burden of proof and implications for the EAW and EPPO. Ms DATI (EPP, FR) expressed support for strengthening procedural rights by introducing minimum standards.

The Chair announced a hearing on the procedural rights package in November.

## **9. Reporting of the Commission on the Preparation of the National Programmes for the Home Affairs Funds**

The Commission representative explained that for the time being the Commission was still conducting policy dialogues to discuss policy objectives with Member States, and that these would then be reflected in the framework of national programmes. The Home Affairs fund consisted of two funds: one for asylum and migration and a second one for internal security (police and border component). So far the Commission had received 58 submissions and only a few were considered mature at this stage. A further six to eight months were necessary to finalise this phase.

Ms SIPPEL asked if the agreed funds were dedicated to integration issues and if voluntary and forced returns were also financed from the funds.

The Chair informed LIBE that discussion would continue on this subject in December.

### **Next LIBE meeting :**

- 5 November 2014, 9.00 – 12.30 and 15.00 – 18.30 (Brussels)
  - 6 November 2014, 9.00 – 12.30 and 15.00 – 18.30 (Brussels)
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