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NOTE

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 3 and 4 December 2014

A lengthy and quite substantial two day LIBE meeting. A first exchange of views with Commissioner for Migration, Home Affairs and Citizenship, Mr AVRAMOPOULOS in a marathon session - in his words "harder than the hearing" - with 46 questions asked. He announced his support for EU PNR as well as Commission's decision to present a new proposal for the Smart Borders Package. A warm welcome from EPP and ECR. Rather critical reception from GUE, ALDE and Greens as well as S&D. Commissioner promised to come back regularly for more focused exchange of view on specific topics. Ms Mikl-Leitner, Austria's Federal Minister for the Interior presented the 'Save lives initiative'. Also first exchange of views with the new Frontex director, Mr Fabrice Leggeri.

5. Committee of inquiry into mafia-related and other criminal organisations of the Italian Parliament

LIBE held an exchange of views with Ms Rosy Bindi, Chair of the Parliamentary Antimafia Inquiry Committee, and other Members of that committee. During the debate Ms Bindi and invited guests presented the work of their committee and called on the EP to continue to work on the fight against organised crime at EU level. They in particular praised the work of CRIM committee in the previous legislature. During the discussion several MEPs supported the idea of building on the work of the CRIM committee.

6-7. Joint debate

Study on fundamental rights at airports: border checks at five international airports in the European Union

Study on fundamental rights at land borders: findings from selected European Union border crossing points

Mr Roscam Abbing, Fundamental Rights Agency, presented the two studies.

8. Sixth bi-annual report on the functioning of the Schengen area (1 May - 30 October 2014)

A representative of the European Commission presented the Sixth bi-annual report on the functioning of the Schengen area.

During the discussion the issue of Bulgaria and Romania's accession to Schengen was raised. The Commission representative explained that Commission's position on Bulgaria and Romania remained the same but that for the time being this has not been discussed in the Council.

**11. Exchange of views with Dimitris Avramopoulos, Commissioner for Migration,
Home Affairs and Citizenship**
LIBE/8/02074

In his opening statement the Commissioner touched upon a number of major JHA files, namely migration, EU PNR, the data retention judgment, measures in relation to foreign fighters and smart borders. On migration he in particular referred to the Plenary debate the previous week and reaffirmed the Commission's determination to combat traffickers bringing people in to the EU. He referred to, in his view, the rather promising EU-Horn of Africa Migration Route Initiative, also known as the Khartoum initiative. In relation to the EU PNR he expressed his full support for the project which would substantially improve security in the EU. He acknowledged that a number of changes in the proposal were necessary in the area of data protection, privacy and retention periods. He explained that in his view the recent referral of the EU-Canada PNR Agreement to the ECJ for an Opinion should not impact on the work on the EU PNR Directive. He pledged to work with the EP on the basis of the amendments introduced, but gave no further details on procedure. Regarding the Smart Borders Package, he announced that the Commission would be presenting an entirely new proposal at the end of the pilot phase, either at the end of 2015 or the beginning of 2016.

During the discussion several MEPs reacted to the Commissioner's comments on EU PNR with varying degrees of criticism, ranging from pointing out they remained unconvinced (ALDE and S&D) of the necessity of the proposal, to outright rejection (Greens/EFA, GUE). As summarised by Ms in t' VELD (NL, ALDE) : "You continue on your line. We do as well. Get us the Data Protection Package." ECR and EPP on the other hand thanked the Commissioner for his efforts and their comments generally supported the proposal.

On migration issues, a number of MEPs focused on the need to develop legal migration into the EU, particularly for less skilled economic migrants (Greens, ALDE, EFDD). There were also questions about a possible revision of the Dublin regulation, problems with reception conditions in Europe, the need to strengthen resettlement programmes in Member States (GUE) and operation TRITON, as well as about the Commission's plans for non-accompanied minors in asylum procedures.

MEPs from S&D, Greens and GUE were very critical of the Commissioner for engaging in dialogue with countries such as Sudan, Eritrea or Ethiopia. These were dictatorships which disregarded their citizens' basic human rights; moreover the ICC had issued an arrest warrant for the President of Sudan.

The issues raised during the discussion also included free movement of EU citizens, the Citizen's Initiative, Romania's and Bulgaria's accession to Schengen, and situation of Roma people and law enforcement authorities' access to smart borders databases.

In his replies, Commissioner AVRAMOPOULOS invited the MEPs to have a more realistic approach to PNR. In his view, PNR and data retention were two separate issues. Operation TRITON was yielding very positive results. The aim was not to replace MARE NOSTRUM but to support Member States' actions. He insisted that the cooperation with Horn of Africa countries operated on clear terms, and praised the work of the Italian Presidency. Regarding a possible revision of Dublin, he repeated that this could only be discussed once experience had been gathered on the application of the current rules. He stressed that his portfolio included security issues as well as the protection of fundamental rights; these had to be combined in a holistic policy, which would include developing a legal migration framework as well as confronting those trafficking migrants into the EU. He did not want to comment on PM Cameron's statements about EU migrants as this was within the remit of Commissioner Jourova.

12. Procedural safeguards for children suspected or accused in criminal proceedings

LIBE/8/00269

*****I 2013/0408(COD)**

Rapporteur: Caterina Chinnici (S&D)

PR – PE541.593v01-00

Responsible: LIBE –

The Rapporteur presented her draft report. She stressed that her aim was to improve the conditions for minors throughout criminal proceedings, which in her view would benefit from EU-wide harmonisation. The EFDD, EPP and S&D shadows, as well as the Commission representative, all welcomed the level of ambition displayed in the report. A representative for the Italian Presidency explained that the Council had already adopted its general approach in June and hoped that trilogues would start shortly.

13. EU-US agreement on the protection of personal data when transferred and processed for law enforcement purposes (EU-US "umbrella agreement") - US Safe Harbour

The debriefing following the negotiations in Washington on 12 and 13 November 2014 (EU-US umbrella agreement) and 20 November 2014 (Safe Harbour) by Ms Paraskevi Michou, Acting Director-General, DG JUSTICE, European Commission, was held *in camera*.

17. EP Study for the LIBE committee "New approaches, alternative avenues and means of access to asylum procedures for persons seeking international protection" by the Policy Department C

There was a presentation by Ms Moreno-Lax, Lecturer in Law at Queen Mary, University of London and EU Asylum Law Coordinator at the Refugee Law Initiative of the University of London; this was followed by a presentation by Cathryn Costello, Andrew W. Mellon Associate Professor in International Human Rights and Refugee Law at the Refugee Studies Centre, Oxford University, with a fellowship at St. Antony's College.

18. National Programmes for the Home Affairs' Funds LIBE/8/02118

A representative of the European Commission, DG HOME, first outlined the procedure for the adoption of the national programmes and listed various projects proposed by Member States. In his view, the adoption of the national programmes could be expected for the first group in April 2015 and for the second group in July 2016. As these were still early days, more substantial discussions with LIBE would be possible in the spring.

During the debate the following issues were raised: whether a detailed breakdown of fund utilisation per Member State could be made available; the use of minimum thresholds; lack of measurable results; and the danger of EU funds being used to compensate for lower national spending due to budgetary cuts.

It was concluded that LIBE would continue to follow this issue very closely and invite the Commission to provide further information on national programmes.

14-16. 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)**

Co-rapporteurs:

Agustín Díaz de Mera García Consuegra (PPE) and Tanja Fajon (S&D)

Registered Traveller Programme

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

Rapporteur: Tanja Fajon (S&D)

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 (PPE)

Responsible: LIBE –

A representative of European Commission, DG HOME, presented the cost analysis of the Technical Study on Smart Borders. A pilot project was currently under preparation and should start in March 2015. As announced by Commissioner Avramopoulos the Commission would then submit a revised legislative proposal on smart borders towards the end of 2015 or the beginning of 2016.

The estimated cost of the proposed measures was EUR 622 million, and the analysis had examined various features of the system from a cost perspective. He stressed that costs had been substantially reduced from previous estimates and that the MFF provided sufficient funding for the project to be carried out.

In the absence of Mr Diaz de Mera, Ms Fajon flagged various issues of concern to the EP, namely doubts about the necessity of the proposal, its added value and cost effectiveness, and the problem of law enforcement authorities being given access to databases. The EP was aware that Member States supported such access but this was a very sensitive issue for the EP. ECR welcomed the proposal and called for a workable system to be put in place. Greens/EFA welcomed the proposed withdrawal and in particular opposed any access for law enforcement authorities.

A representative for the Italian Presidency explained that the Council had been working on the terms of reference for the launch of the test phase and expressed the Council's conviction that 'smart borders' provided clear added value. It was important that both co-legislators examined the range of options available. He stressed the Presidency's commitment to cooperate closely with the EP.

19. Austrian EU Resettlement initiative – "Save lives"

LIBE heard a presentation by Ms Mikl-Leitner, Austria's Federal Minister for the Interior, on the 'Save lives initiative'. The Minister stressed that EU needed fast and professional solutions to deal with surging number of refugees in cooperation with partners such as UNHCR. There were concerns in the EU that some Member states' asylum systems overburdened and that those in need of protection should be able to have a legal route of access to the EU. EU solidarity and common solutions were essential, however a burden sharing system had yet to be developed with an appropriate key for distribution. Support was required at all levels in Member states as well as in the EP.

During the discussion several MEPs the following issues were raised : the need to combat human trafficking, burden sharing key versus a quota system, the future of the Dublin system; support for the creation of new routes of legal admission, integration into the host society; family links, mandatory or voluntary system of resettlement.

The Minister replied that it would be of utmost importance to cooperate with the UNHCR in third countries and subsequently the asylum request would be dealt with where the refugee had been resettled. She stressed the resettlement would be on a voluntary basis. Quotas would have to be binding for this system to work. Many people were fleeing wars and more solidarity was necessary. In her view such arrangements would not jeopardise the Dublin system.

20. FRONTEX - The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU

This was a first exchange of views with Mr Leggeri, the candidate chosen to become Executive Director of Frontex. He explained his motivation for EU work and stressed that the EU needed to respond efficiently to migratory challenges without ignoring trends and future realities. More effective enforcement of rules was necessary in order to strike a balance between mixed flows, security concerns, and emergency situations. He would work towards increasing the ratio of operational to administrative expenditure in order to support EU's global approach to mobility. He wanted to develop a fruitful relationship with LIBE and would of course report regularly to the EP on Frontex activities.

Mr Leggeri was generally welcomed by MEPs from all groups. During the discussion the MEPs raised the following issues: respect for fundamental rights in Frontex's operations; 2015 budget for Frontex; and operation Triton.

In replying, Mr Leggeri acknowledged that from a budgetary perspective it was necessary to justify choices in terms of their effectiveness and to maximise the cost effectiveness ratio without compromising the response to humanitarian and migratory challenges. He expressed his firm commitment to a border management system that fully respected the Charter of Fundamental Rights as well as relevant case law of the ECtHR.

21. Next LIBE meetings

- 11 December 2014, 9.00 – 12.30 (Brussels)