



Brussels, 16 April 2015
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FREMP 75
JAI 233

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 9 April 2015
To: Delegations
Subject: Summary of discussions

1. Approval of the agenda

The agenda as set out in CM 2054/1/15 was adopted.

2. Presentation of priorities/mid-term achievements of the Latvian Presidency in the field of fundamental rights

The Chair outlined the horizontal priorities of the Latvian Presidency (competitive, digital and engaged Europe) and gave an overview of its mid-term achievements and further plans in the field of fundamental rights. In that field the priorities include promoting freedom of expression (online and offline), advancing gender equality as well as furthering civil society participation.

3. Accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms

The Presidency reminded delegations of Coreper discussions on 25 January and 25 March 2015 and explained the approach of the Presidency as regards discussions in FREMP.

Firstly, the Presidency invited delegations to share their interpretations of the CJEU opinion 2/13 in order to have a common understanding.

Secondly, delegations were invited to share their first reflections on the ways to accommodate CJEU concerns.

The Presidency wished to divide the issues into two clusters for the purposes of facilitating discussions.

Co-respondent mechanism and prior involvement

Most delegations supported the initiative of the Presidency to proceed with discussions after an initial period of reflection and emphasised that even if the negative opinion came as a surprise, it was necessary to proceed since the Treaty obliged the Union to accede to the ECHR.

Whilst supporting the Presidency's approach in broad terms, several delegations pointed out that discussions should soon also start on the two most difficult issues, CFSP and mutual trust. In the view of these delegations the Union should approach the negotiating partners with a legally sound package addressing all CJEU concerns. Nevertheless, the majority were not ready to take a detailed stance on individual issues and expected the Union negotiator to provide its analysis first. The request to the Commission to provide its input was repeated throughout the meeting.

The question of a subsequent submission of the new draft to CJEU for a second opinion was also mentioned by a few delegations.

As regards substance, without dwelling on any concrete point, delegations raised amending the accession agreement and its explanatory report, EU internal rules, declarative statements, interpretative declarations as possible instruments for complying with CJEU opinion. Most delegations agreed that a few of the possible solutions were self-evident, whereas other issues required deeper analysis. Most agreed that amending the draft accession agreement was inevitable. For some delegations this was an element of last resort, whereas for others the accession agreement seemed the primary tool to meet the requirements set by CJEU. Many delegations referred to the internal rules and highlighted the need to work on these in parallel with the amended accession agreement.

Some delegations reminded others of the red lines that other Council of Europe negotiating partners had already expressed during the previous phase of negotiations and expressed doubts whether more leeway could be achieved next time around.

One delegation suggested that CJEU should be involved in the negotiations in some form and asked for guidance from the Council Legal Service on this.

Another delegation raised the possibility of amending negotiating directives.

The Commission representative took careful note of positions of delegations and said that it was willing to provide input as discussions advanced.

Special characteristics of EU law and Article 344.

As regards Article 53 of the Charter and Article 53 of ECHR, some delegations considered that this could be solved by a declaration by which MSs agree to comply with the corresponding requirements set by the CJEU. For most MSs this was an internal issue to be solved internally.

In the opinion of several delegations Protocol 16 was an issue regardless of the Union accession. Two delegations pointed out that the Union should solve this internally.

Delegations were more divided on the question of Article 344 TFEU. Some considered this to be an internal question, others were more hesitant. Some suggested to be inspired by the opinion of the Advocate General in CJEU opinion [2/13](#).

One delegation pointed out that from opinion [2/13](#) it was clear that CJEU expected the accession agreement to be changed on all three of these issues.

Another delegation considered that the Union should send a signal to the Council of Europe very soon about its commitment to EU accession to ECHR.

The Presidency informed delegations that it would reflect on follow-up and inform delegations in due course about next steps.

4. Any other business

a) Information about the conference on "Severe Labour Exploitation of Migrant Workers in the EU", 2 June 2015, Brussels.

The Presidency informed delegations that more information about this conference was circulated by e-mail.

b) Outcome of the second meeting of the FRA working party on combating hate crime, 30 March 2015, and focus paper "Equal protection for all victims of hate crime: the case of people with disabilities."

The Presidency gave an overview of the outcome of the Working Party on combating hate crime. More details about the working party were circulated along with a FRA focus paper on persons with disabilities.