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COMIX 667

DRAFT MINUTES

Subject: **3433rd** meeting of the Council of the European Union (**JUSTICE AND HOME AFFAIRS**), held in Brussels on 3 and 4 December 2015

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LEGISLATIVE DELIBERATIONS

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

JUSTICE

"A" ITEMS

- 1. Regulation of the European Parliament and of the Council amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure [First reading] (LA)**
PE-CONS 40/15 JUSTCIV 160 EJUSTICE 87 CODEC 969

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the German delegation voting against, 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 Danish delegation did not participate in this vote. (Legal basis: Article 81 of the TFEU)

- 2. Regulation of the European Parliament and of the Council amending Protocol No 3 on the Statute of the Court of Justice of the European Union [Second reading] (LA + S)**
PE-CONS 62/15 JUR 692 COUR 47 INST 378 CODEC 1434

The Council approved the European Parliament's amendments to the Council's position at first reading and the proposed act has been adopted, with the Belgian and The Netherlands delegations abstaining and the United Kingdom delegation voting against, pursuant to Article 294(8)(a) of the Treaty on the Functioning of the European Union. (Legal basis: Article 254(1), Article 281(2) of the TFEU and Article 106a(1) of the Euratom Treaty)

Statement by the European Parliament and the Council

"At the end of the reform process, the General Court will consist of two Judges per Member State. Therefore, in order to achieve equality between women and men, which is an objective of the European Union according to Article 3 TEU, the governments of the Member States should, to the greatest possible extent, in the process of appointing candidates as Judges at the General Court pursuant to Article 254 TFEU, ensure an equal presence of women and men."

Statement by Germany

"Germany welcomes the fact that by doubling the number of judges at the General Court, a structural and sustainable reform is being implemented that will enable the General Court's excessive workload to be reduced and will ensure that legal redress in the European Union is guaranteed within a reasonable time.

At the same time, Germany is aware that increasing the number of judges at the General Court will have a significant financial impact on the Union's budget. Germany is concerned to ensure cost effectiveness of the reform and to minimize its budgetary impact and therefore welcomes the Court's efforts to evaluate the General Court's situation in each phase of its expansion and, where appropriate, to make the necessary adjustments to the General Court's administrative expenditure, but without changing the number of additional judges. Germany likewise supports the Court's commitment to appoint no further legal secretaries or support staff during the third phase in September 2019 when the number of judges is increased by a further nine judges.

In order to support the long-term financing of a thus enlarged General Court, Germany invites the Court of Justice to take all appropriate measures and to give consideration, inter alia, to the possibility of introducing court fees for proceedings before the Courts of the European Union."

Statement by the United Kingdom

"The United Kingdom attaches great importance to the proper functioning of the Courts of the European Union. However, we consider it essential that any changes to the operation of an EU Institution are carried out in the most cost effective way. At a time when Member States are exerting tight control over public expenditure, we do not consider it appropriate for reforms at the CJEU to result in greater demands being made on Member States' contributions to the EU budget. We therefore request that the Court continues to work to maximise its efficiency and make savings where possible. Furthermore, any additional costs to the Member States as a result of the increase in judges should be kept to a minimum and be offset by savings within the Court where possible."

"B" ITEMS

3. Proposal for a Regulation of the European Parliament and of the Council on promoting the free movement of citizens by simplifying the conditions for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012

[First reading]

= Political agreement

14189/15 JUSTCIV 267 FREMP 262 CODEC 1530

+ ADD 1

The Council noted that

- a political agreement on the consolidated text of the draft Regulation has been reached, as set out in doc. 14189/15 ADD 1;
- the text will be revised by the legal linguists;
- once the text has been finalised by the legal linguists, the draft Regulation, accompanied by the explanatory memorandum, will be submitted to the Council as an "A" at a forthcoming session.

4. Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law [First reading]

= State of play

14281/15 DROIPEN 149 JAI 877 GAF 51 FIN 784 CADREFIN 76 CODEC 1546

+ COR 1

The Council took note of the latest state of play of the file, as presented by the Presidency.

5. Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office

= Partial general approach

14718/15 EPPO 47 EUROJUST 199 CATS 129 FIN 858 COPEN 334 GAF 53

The Council expressed a very large support for Articles 17-20, 22, 22a, 23 and 28a of the EPPO Regulation, as set out in the Annexes to the Presidency document. The text was retained, together with the remarks made by some delegations which were not in a position to agree with all aspects of the text. The said Articles will be re-visited once the full text will have been examined in order to ensure coherence. The Council finally also took note of progress made on Article 36 of the draft text concerning judicial review.

6. Matrimonial property regimes and registered partnerships

(a) Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes

= Political agreement
14655/15 JUSTCIV 278
14651/15 JUSTCIV 276
+ COR 1 REV 1
14842/15 JUSTCIV 285

(b) Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships

= Political agreement
14655/15 JUSTCIV 278
14652/15 JUSTCIV 277
14842/15 JUSTCIV 285

The Council noted that :

- there was no political agreement on the compromise texts of the proposals for a Regulation on matrimonial property regimes and for a Regulation on registered partnerships, as set out in documents 14651/15 and 14652/15;
- the negotiations have reached a point where it can be established that there is a lack of unanimity to go ahead with the two proposals and that insurmountable difficulties make it impossible to attain such a unanimity at present and within a reasonable time;
- that a significant number of Member States had indicated their readiness to follow the enhanced cooperation procedure provided for in the treaties in the areas that are the subject of the two proposals.

The United Kingdom made a statement which is set out hereafter.

Statement by the United Kingdom

"The United Kingdom has not opted in to these proposals, but takes a consistent position across all legislative files that references to the Charter of Fundamental Rights in operative articles, such as those in the proposed compromise texts, are unnecessary, because all EU legislation must in any event respect the rights and observe the principles reflected in the Charter.

In the context of the Commission's agenda for better law making, the United Kingdom emphasises the importance of the European Union adopting best practice in legal drafting and clarity, and considers that it is out of step with such practice to duplicate existing law in this way."

7. Any other business

= **Information from the Presidency on current legislative proposals**

The Presidency informed delegations of the state of play of the different on-going legislative files, explaining in more detail the progress achieved on the data protection package.

HOME AFFAIRS

14. Proposal for a Directive of the European Parliament and of the Council on the use of Passenger Name Record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime [First reading]

= State of play

14670/15 GENVAL 63 AVIATION 145 DATAPROTECT 218 ENFOPOL 372
CODEC 1608

The Presidency recalled to delegations the compromise proposal achieved with EP on 2 December. Following an exchange of views, the Council agreed to the compromise text set out in 14670/1/15 REV 1 + COR 1. The Ministers also agreed the text of a declaration on the inclusion of internal flights and the extension to other non air carrier economic operators, set out in doc. 15271/15.

15. Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA [First reading]

= Political agreement

14713/15 ENFOPOL 375 CODEC 1619 CSC 299

The Council approved the text of the Europol Regulation agreed with the European Parliament, as set out in doc. 14713/15.

16. Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing (Recast) [First reading]

= Political agreement

14423/15 MIGR 64 RECH 283 EDUC 304 CODEC 1558 SOC 685
+ COR 1

The Council reached a political agreement on the above mentioned proposal, which is still to be revised by the lawyer linguists in view of its formal adoption by the European Parliament and by the Council. The European Parliament and the Commission made a joint statement, which is set out hereafter.

Joint statement by the Commission and the European Parliament

"The European Parliament and the Commission understand point (f) of Article 18(2) of this Directive as allowing Member States to reject an application only on a case-by-case basis and taking into account the specific circumstances of the third-country national and the principle of proportionality and on the basis of evidence or serious and objective reasons. The Commission will ensure that Member States implement this provision in line with this interpretation when transposing the Directive, and will inform the Parliament and the Council thereof, in the framework of its obligations under Article 34.

The European Parliament and the Commission consider that the inclusion of this provision in this Directive should not constitute a precedent for future legal migration instruments."

17. Proposal for a Regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person [First reading] ²

= State of play

14513/15 ASIM 157 CODEC 1578

The Presidency presented the state of play of the examination of the proposal to establish an EU list of safe countries of origin. The Presidency stressed the need to go forward swiftly with the discussions on this proposal.

² Exceptionally, in the presence of the Associated States

18. Proposal for a Regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU

[First reading]

= State of play

The Council held a short discussion on the above proposal.

Following that discussion the Chair invited

- the Council's preparatory bodies to continue the examination of the proposal
- the Commission to speed up work on the amended Dublin Regulation
- Member States to fully engage in the implementation of the temporary relocation schemes.

19. Any other business

= Information from the Presidency on current legislative proposals

The Presidency informed the Council on the state of play of several legislative proposals.
