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COMIX 203

## DRAFT MINUTES

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Subject: **3455th** meeting of the Council of the European Union (**JUSTICE AND HOME AFFAIRS**), held in Brussels on 10 and 11 March 2016

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# PUBLIC DELIBERATION ITEMS<sup>1</sup>

Page

## LEGISLATIVE DELIBERATIONS

### "A" ITEMS (doc. 6758/16 PTS A 18)

1. Draft Regulation of the European Parliament and of the Council on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012 [First reading] (LA) ..... 4
2. Draft 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, training, voluntary service, pupil exchange schemes or educational projects and au pairing (recast) [First reading] (LA + S) ..... 4
3. Draft Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA [First reading] (LA + S) ..... 5

### "B" ITEMS (doc. 6757/16 OJ CONS 14 JAI 182 COMIX 180)

## HOME AFFAIRS

3. European Border and Coast Guard: Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC [First reading] ..... 7
4. Weapons: Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons [First reading] ..... 7
5. Any other business ..... 7

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<sup>1</sup> Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

## JUSTICE

10.	Counter Terrorism Directive: Proposal for a Directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism [First reading] .....	8
11.	Digital agenda.....	9
	a) Supply of digital content: Proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the supply of digital content [First reading]	
	b) Distance sales of goods: Proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the online and other distance sales of goods [First reading]	
12.	EPPO: Proposal for a Council Regulation on the establishment of the European Prosecutor's Office.....	9
13.	Any other business .....	9

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## **LEGISLATIVE DELIBERATIONS**

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

### **"A" ITEMS**

**1. Draft Regulation of the European Parliament and of the Council on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012 [First reading] (LA)**

= Adoption

a) of the Council's position at first reading

b) of the statement of the Council's reasons

6457/16 CODEC 197 JUSTCIV 23 FREMP 42

14956/1/15 REV 1 JUSTCIV 286 FREMP 291 CODEC 1654

+ REV 1 COR 1 (pt)

14956/15 ADD 1 JUSTCIV 286 FREMP 291 CODEC 1654

approved by Coreper, Part 2, on 02.03.2016

The Council approved its position at first reading, with the Austrian delegation abstaining, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union.

(Legal basis: Articles 21(2) and 114(1) TFEU)

**2. Draft 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, training, voluntary service, pupil exchange schemes or educational projects and au pairing (recast) [First reading] (LA + S)**

= Adoption

a) of the Council's position at first reading

b) of the statement of the Council's reasons

6414/16 CODEC 192 MIGR 29 RECH 30 EDUC 38 SOC 93

+ ADD 1

14958/15 MIGR 70 RECH 303 EDUC 318 SOC 708 CODEC 1656

+ ADD 1 REV 1

+ REV 1 (et)

approved by Coreper, Part 2, on 02.03.2016

The Council approved its position at first reading, with the the Austrian delegation abstaining, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish, Irish and the United Kingdom delegations did not participate in the vote. (Legal basis: Article 79(2)(a)(b) TFEU)

## **Joint statement by the Commission and the European Parliament**

"The European Parliament and the Commission understand point (f) of Article 20(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 39.

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."

### **3. Draft Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA [First reading] (LA + S)**

= Adoption

a) of the Council's position at first reading

b) of the statement of the Council's reasons

6415/16 CODEC 193 ENFOPOL 43 CSC 49

+ ADD 1

14957/15 ENFOPOL 403 CSC 305 CODEC 1655

+ COR 1 (pl)

+ COR 2 (cs)

+ COR 3 (da)

+ COR 4 (es)

+ REV 1 (sl)

+ ADD 1

approved by Coreper, Part 2, on 02.03.2016

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish and the United Kingdom delegations did not participate in the vote (Legal basis: Articles 88 and 87(2)(b) TFEU)

## **Joint Statement by the Council and the European Parliament on Article 44**

"Creating a harmonised, high level of data protection covering police and judicial activities in the Union is crucial as a means of respecting and safeguarding the fundamental rights of Union citizens. Given the shared responsibilities of the Union and Member States in the area of freedom, security and justice, it is essential that there be close and effective cooperation among supervisory authorities at national and Union level.

The European Parliament and the Council consider that, following the adoption of the proposed General Data Protection Regulation and Data Protection Directive for data processing in the police and justice sector, including the new, soon to be created European Data Protection Board, and in light of the announced review of Regulation (EC) No 45/2001, the different mechanisms for cooperation between the European Data Protection Supervisor and the national supervisory authorities in this field, including the Cooperation Board set up in this Regulation, should in the future be reorganised in such a way as to ensure effectiveness and consistency and avoid unnecessary duplication, without prejudice to the Commission's right of initiative."

### **Statements by the Commission**

#### **"1. On the Common Approach to the EU Decentralised Agencies**

The Commission recalls that the agreed text is not fully aligned with the principles of the Common Approach on the EU decentralised agencies. Therefore the agreement reached between the EP and the Council on the governance of the agency is without prejudice to any future legislative texts. The Commission remains convinced of the benefits of establishing an Executive Board as part of the governance structure of Europol and other agencies. The Commission will review the situation concerning Europol governance within the next two years, in particular with a view to determining whether further proposals on this point will be warranted.

#### **2. On the Cooperation Board**

The European Commission consider that, following the adoption of the proposed General Data Protection Regulation and Data Protection Directive for data processing in the police and justice sector and in light of the announced review of Regulation (EC) No 45/2001, to ensure effectiveness and consistency and avoid unnecessary duplication, the functions exercised by Cooperation Board set up in this Regulation shall be exercised by the newly created European Data Protection Board."

## "B" ITEMS

3. **European Border and Coast Guard: Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC (First reading)**

= Progress report

6744/1/16 REV 1 FRONT 108 SIRIS 34 MIGR 44 CODEC 239 COMIX 176

The Council took note of the state-of-play report on the proposal for a European Border Guard, as set out in doc. 6744/1/16 REV 1, and of the discussions held in the meeting of the Mixed Committee at Ministerial level (doc. 7297 /16 JAI 227 COMIX 234).

4. **Weapons: Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons (First reading)**

= Policy debate/Progress report

6755/16 GENVAL 30 JAI 181 MI 124 COMPET 111 COMIX 179 CODEC 241

The President referred to the conclusions he drew following the discussion on this item at the meeting of the Mixed Committee at Ministerial level (doc. 7297 /16 JAI 227 COMIX 234).

5. **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.

**10. Counter Terrorism Directive: Proposal for a Directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism (First reading)**

= General approach

6655/16 JAI 172 DROIPEN 46 COPEN 57 CODEC 226

+ COR 1 (et)

The Council reached a general approach on the proposed Directive. The Presidency will proceed on this basis to negotiations with the European Parliament in the context of the ordinary legislative procedure.

Ireland, supported orally by the UK, made a statement which is set out hereafter.

**Statement by Ireland supported orally by UK**

"The Irish delegation notes that the Council is reaching a general approach on the Proposal for a Directive of the European Parliament and the Council on combating terrorism and replacing Framework Decision 2002/475/JHA on combating terrorism less than 3 months after presentation of the proposal to the Council.

In the exceptional circumstances, where Ireland has taken an active part in the discussions on the Proposal for a Directive and has participated in Framework Decision 2002/475/JHA and Framework Decision 2008/919/JHA and mindful of the very great importance of the instrument, in particular the need to ensure its speedy implementation in order to combat terrorism, Ireland will not insist upon its right to exercise an option to notify the President of the Council of its wish to participate in the adoption and application of the Proposal for a Directive in accordance with the provisions of Article 3 of the Protocol 21 on the Position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.

Rather, Ireland declares its intention, subject to Parliamentary approval as required by the Constitution of Ireland, to exercise the option provided in Article 4 of the said Protocol 21 and to indicate its acceptance of the measure after its adoption."



## 11. **Digital agenda**

- a) **Supply of digital content: Proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the supply of digital content (First reading)**
- b) **Distance sales of goods: Proposal for a Directive of the European Parliament and of the Council on certain aspects concerning contracts for the online and other distance sales of goods (First reading)**
- = Progress report  
6150/16 JUSTCIV 17 CONSOM 30 DIGIT 10 AUDIO 12 CODEC 165

### The Council

- took note of the progress report set out in doc. 6150/16;
- endorsed the approach proposed by the Presidency that the work should focus first on the examination of the proposal for a Directive on digital content.

## 12. **EPPO: Proposal for a Council Regulation on the establishment of the European Prosecutor's Office**

- = Policy debate  
6667/16 EPPO 4 EUROJUST 24 CATS 9 FIN 135 COPEN 62 GAF 6 CSC 58

The Council took note of the state of play of the file and welcomed progress made in the articles on financial provisions (48 to 53), staff provisions (54 to 58a) and general provisions (62 to 69 and 72 to 75) as well as the new articles regarding the administrative Director, as set out in Annex 1 and 2 to the Presidency document. It also had a debate on the question in the Presidency document regarding the scope of operational expenditure of the European Public Prosecutor's Office under Article 49.

## 13. **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