



Council of the
European Union

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Eingelangt am 29/11/18

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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Foreign Affairs/Trade)
9 November 2018

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1. Adoption of the agenda

13726/18

The Council adopted the agenda set out in 13726/18.

2. Approval of "A" items

a) Non-legislative list

13727/18

The Council adopted the "A" items listed in 13727/18 including COR and REV documents presented for adoption.

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

13729/18

General Affairs

1. EBA relocation



13594/3/18 REV 3
13594/18 ADD 1
PE-CONS 39/18
EF

Adoption of the legislative act

approved by Coreper, Part 2, on 07.11.2018

The Council approved the European Parliament's position at first reading and the proposed act was adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114) TFEU).

Statements related to these items are set out in the Annex.

2. EMA relocation



13598/18 + ADD 1
PE-CONS 40/18
ECO

Adoption of the legislative act

approved by Coreper, Part 2, on 07.11.2018

The Council approved the European Parliament's position at first reading and the proposed act was adopted, with the United Kingdom delegation abstaining and the Italian delegation voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union.

(Legal basis: Article 114 TFEU). Statements related to these items are set out in the Annex.

3. **Regulation amending Common Provisions Regulation:
Technical adjustment 2018 (YEI)**
Adoption of the legislative act
approved by Coreper, Part 2, on 07.11.2018



13545/18
PE-CONS 57/18
FSTR

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 177 TFEU).

Justice and Home Affairs

4. **Eu-LISA Regulation**
Adoption of the legislative act
approved by Coreper, Part 2, on 24.10.2018



13157/1/18 REV 1
13157/18 ADD 1
PE-CONS 29/18
DAPIX

The Council approved the European Parliament's position at first reading and the proposed act was adopted, with the United Kingdom delegation abstaining, 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 and Irish delegations did not participate in the vote. (Legal basis: Article Article 74, Article 77(2)(a) and (b), Article 78(2)(e), Article 79(2)(c), Article 82(1)(d), Article 85(1), Article 87(2)(a) and Article 88(2) TFEU). Statements related to these items are set out in the Annex.

Telecommunications

5. **Regulation on free flow of data**
Adoption of the legislative act
approved by Coreper, Part 1, on 24.10.2018



13060/18
PE-CONS 53/18
TELECOM

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 TFEU).

Legislative deliberations

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

3. Any other business

- a) **Foreign Direct Investment Screening Regulation**
Information from the Presidency

① C

The Presidency informed about the state of play on the file.

- b) **Horizontal Bilateral Safeguard Regulation**
Information from the Presidency

① C

The Presidency informed about the state of play on the file.

Non-legislative activities

The Council addressed the following non-legislative discussion items (4-7)

4. World Trade Organization modernisation
State of play

5. Ongoing trade negotiations
State of play

6. Commission report on the implementation of free trade agreements
Presentation by the Commission

13801/18 + ADD 1

7. Any other business

13997/18

① First reading

② Item based on a Commission proposal

Statements to the legislative "A" items set out in 13729/18

- Ad "A" item 1:** **EBA relocation**
Adoption of the legislative act
- Ad "A" item 2:** **EMA relocation**
Adoption of the legislative act

STATEMENT BY THE COUNCIL

"Recalling the commitment of the European Parliament, the Council and the Commission to sincere and transparent cooperation, and in the light of the process followed for the relocation of the EMA and EBA, which was specific to the situation and did not constitute a precedent for location of agencies in the future,

While recalling the Treaties, the Council acknowledges the value of enhanced exchange of information from the initial stages of future processes for the location of agencies. Such early exchange of information would make it easier for the three Institutions to exercise their rights according to the Treaties through the related procedures.

The Council takes note of the request by the European Parliament to revise, as soon as possible, the 2012 Joint Statement and Common Approach on decentralised Agencies. As a first step, it invites the Commission to provide, by April 2019, an in-depth analysis of the implementation of the Joint Statement and Common Approach as regards the location of decentralised Agencies. This analysis would serve as a basis to assess the way forward in engaging with the process of such a revision."

- Ad "A" item 2:** **EMA relocation**
Adoption of the legislative act

STATEMENT BY ITALY

"Italy is unable to support the proposal amending Regulation (EC) No 726/2004 on the seat of the European Medicines Agency (EMA). As stated in the action it brought before the Court of Justice of the European Union on 30 January 2018 (Case C-59/18), the Italian Government considers that the decision, adopted in the margins of the meeting of 20 November 2017 of the Council of the European Union in its 'General Affairs' configuration, selecting Amsterdam as the new seat of the EMA amounts to misuse of powers through failure to investigate adequately and distortion of facts, owing to inaccurate or misleading information on the features of the new seat in Amsterdam and the time frame for making the new building operational. This is confirmed by the fact that the relocation to the premises of the new seat (the Vivaldi Building) is to take place with effect from 16 November 2019 rather than from 1 April 2019 as initially provided for in the Dutch bid and stated in the Commission report. Furthermore, the new conference centre, which is essential for the Agency's core activities, will not be ready on 1 April 2019 as initially planned but instead will only be operational at the same time as the new building, i.e. with effect from 16 November 2019."

Ad "A" item 4: **Eu-LISA Regulation**
Adoption of the legislative act

STATEMENT BY THE COMMISSION

"The Commission regrets that on several points, the co-legislators have decided to deviate from the Joint Statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies, without providing the necessary justification. This relates in particular to deviations from the procedure for appointing and dismissing the Executive Director of EU-LISA, for which no justification was given and which risk affecting the autonomy of the Agency, and for automatically extending the Executive Director's mandate. The Commission also regrets the deviation from the Joint Statement with regard to the process for conducting an overall evaluation of the Agency, which could be a way to interfere with the independence of the Commission in conducting this evaluation. The Commission will consult the Management Board as part of its general stakeholder consultation activities. The Commission will assess the impact of those deviations on the functioning of the Agency at the appropriate opportunity. They should not be considered as a precedent for other agencies."
