



Brussels, 21 January 2019  
(OR. en, fr)

15780/18  
CRS CRP 44

**SUMMARY RECORD**  
PERMANENT REPRESENTATIVES COMMITTEE  
19 December 2018

**I. Adoption of the agenda**

15633/18 OJ CRP1 44  
15652/1/18 REV 1 OJ CRP2 43 COMIX 722

The Committee adopted the agenda.

**II. Approval of the "I" items**

The Committee approved the "I" items as set out in the Annex.

**III. Discussion items**

**COREPER (PART 1)**

**Energy**

2. Regulation on electricity (recast)  
*Presidency briefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 18 December 2018.

3. Directive on electricity (recast)  
*Presidency briefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 18 December 2018.

*Analysis of the final compromise text with a view to agreement*

The Committee endorsed the text of the final compromise and mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading in accordance with this compromise (subject to revision by the legal linguists), the Council would approve the European Parliament's position and the act shall be adopted.

Statement by Germany

"Germany welcomes the strengthening of the European internal energy market through the legislative package "Clean Energy for all Europeans". Germany supports the important role played by the European Union Agency for the cooperation of Energy regulators (ACER) in that regard and, in this sense, also supports the general direction of the final compromise text. However, Germany takes the view that the final compromise text enables a transfer of competences from Member States to national regulatory authorities and subsequently to ACER which is too far-reaching and also raises legal concerns. This concerns in particular the possibility foreseen in Article 5 para. 2, para. 2a and Article 6 para. 8 to transfer regulatory issues and methodologies for a joint decision to more than one national regulatory authority via delegated act, which are then covered by the arbitration competence of ACER in case the national regulatory authorities cannot find an agreement. Germany takes the view that competences should in principle only be transferred through an ordinary legislative procedure; at least transfer of competences should only be possible with the approval of Member States. These requirements are however not met in the case of delegated acts, which can only be vetoed by Member States with a qualified majority in the Council. Taking into account also the far-reaching empowerments for delegated acts according to Union legislation on the internal electricity market, these provisions lead to an erosion of competences of national legislators which can hardly be overseen and controlled by Member States. This very erosion of competences of the national legislator was also the subject of a subsidiarity complaint of the German Bundestag in 2017. Against this background, Germany regrets that it cannot agree to the final compromise text and hereby declares its abstention. Nevertheless, Germany will continue to work constructively with ACER and support ACER in the fulfillment of its tasks."

**Environment**

## 5. Directive on single-use plastics

*Presidency briefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 18 December 2018.

6. Regulation on Persistent Organic Pollutants (POPs) (recast)  
*Presidency briefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 18 December 2018.

7. Regulation on the alignment of the environmental reporting obligations  
*Presidency briefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 19 December 2018.

8. Regulation on CO2 standards for cars and vans (recast)  
*Presidency briefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 17 December 2018.

### **Agriculture and Fisheries**

9. Meeting of the Council (Agriculture and Fisheries) on 28 January 2019: Agenda  
(For the items in the remit of the Permanent Representatives Committee)

The Committee agreed on the provisional agenda for the forthcoming Council meeting.

### **Transport**

10. Directive on port reception facilities  
*Presidency briefing on the outcome of the trilogue*  
*Analysis of the final compromise text with a view to agreement*

15183/1/18 REV 1  
+ ADD 1

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 12 December 2018.

The Committee endorsed the text of the final compromise and mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading in accordance with this compromise (subject to revision by the legal linguists), the Council would approve the European Parliament's position and the act shall be adopted.

### Statement by the Commission

"Directive 2005/35/EC on ship-source pollution complements the Union legal framework governing the ship-source discharges of polluting substances, which also includes the Directive on port reception facilities for the delivery of waste from ships ('the PRF Directive'), by providing the Union legal mechanisms for implementing and enforcing the discharge regulations under the MARPOL Convention. To this end, Directive 2005/35/EC should take into account the scope of the PRF Directive, in particular as regards the polluting substances and waste streams.

Considering that the current Directive 2005/35/EC only covers the substances and discharge regulations falling under MARPOL Annexes I and II, and as such is not fully aligned with the PRF Directive in terms of scope (the new PRF Directive will cover waste as defined in MARPOL Annexes I, II, IV, V and VI, and also refers to the discharge norms of those MARPOL Annexes), the Commission takes note of the co-legislators' call to assess the need of reviewing Directive 2005/35/EC in order to provide for an adequate legislative framework to address ship-source pollution.

Therefore, in reference to recital 23a of the future PRF Directive, the Commission would consider undertaking, as appropriate, the process of reviewing Directive 2005/35/EC."

### **Internal Market and Industry**

11. Regulation on platforms-to-business relations  
*Presidency briefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 12 December 2018.

12. Regulation on SatCab  
*Presidency briefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 13 December 2018.

13. Directive on copyright in the Digital Single Market  
*Presidency briefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 13 December 2018.

## **Telecommunications**

14. Regulation on the Cybersecurity Act 15545/18  
*Analysis of the final compromise text with a view to agreement*

The Committee endorsed the text of the final compromise and mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading in accordance with this compromise (subject to revision by the legal linguists), the Council would approve the European Parliament's position and the act shall be adopted.

15. Regulation on .eu Top Level Domain (TLD) name 15412/18  
*Analysis of the final compromise text with a view to agreement*

The Committee endorsed the text of the final compromise and mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading in accordance with this compromise (subject to revision by the legal linguists), the Council would approve the European Parliament's position and the act shall be adopted.

## **Internal Market and Industry**

16. Goods package: Regulation on market surveillance and compliance  
*Presidency debriefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 18 December 2018.

## **Space**

17. Regulation establishing the space programme of the Union 15490/18  
*Partial mandate for negotiations with the European Parliament*

The Committee agreed on a partial mandate for the first trilogue.

## **Employment and Social Policy**

18. Directive on the accessibility requirements for products and services 15174/18 + ADD 1  
*Analysis of the final compromise text with a view to agreement*

The Committee endorsed the text of the final compromise and mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading in accordance with this compromise (subject to revision by the legal linguists), the Council would approve the European Parliament's position and the act shall be adopted.

### Statement by Germany

"The Federal Republic of Germany gives its approval to the draft Directive in the understanding that the mandatory accessibility requirements according to Annex I pursuant to Article 21 (1) of the draft Directive must only be addressed by contracting authorities for those products and services which are listed in Article 1 of the draft directive. For all other products and services which contracting authorities must procure barrier-free in accordance with Directive 2014/24/EU and Directive 2014/25/EU, Article 21 (2) of the draft Directive merely provides the legal presumption that the obligation in accordance with Directive 2014/24/EU and Directive 2014/25/EU is fulfilled if the accessibility requirements are addressed pursuant to Annex I of the draft Directive. However, this does not exclude the possibility that the accessibility requirements under Directives 2014/24/EU and 2014/25/EU may also be fulfilled by requirements other than those set out in Annex I of the draft Directive."

19. Directive on Work-Life Balance  
*Presidency debriefing on the outcome of the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 14 December 2018.

## **COREPER (PART 2)**

### **Foreign Affairs**

49. Meeting of the Council (Foreign Affairs) on 10 December 2018:  
Follow-up

The Committee took note of the main outcomes of the Council meeting.

50. Meeting of the Council (Foreign Affairs) on 21 January 2019:  
Agenda

The EEAS presented the main items on the agenda.

### **General Affairs**

51. Meeting of the Council (General Affairs) on 30 November 2018:  
Follow-up

The Committee took note of the main outcomes of the Council meeting.

52. Meeting of the Council (General Affairs) on 11 December 2018:  
Follow-up

The Committee took note of the main outcomes of the Council meeting.

53. European Council follow-up

The Committee took note of the main outcomes of the European Council.

#### Statement by Bulgaria, Cyprus, Italy, Greece, Malta and Hungary

"In relation to para 6 of the European Council conclusions from 14h December (Bulgaria, Cyprus, Italy, Greece, Malta, Hungary) reiterate once again their position that the seven dossiers under the CEAS reform should be treated as a package and should be concluded in parallel."

54. Meeting of the Council (General Affairs) on 8 January 2019:  
Agenda

The incoming Presidency presented the main items on the agenda.

55. Relations with the EP (December 2018)  
*Debriefing*

The Committee took note of the information provided by the Presidency.

56. Cohesion Policy Legislative Package 2021-2027 15429/18 + ADD 1  
*Partial mandate for negotiations with the European Parliament*

The Committee agreed on a partial mandate for negotiations with the European Parliament.

#### Statement by Belgium

"Le Royaume de Belgique souhaite que soit actée dans les minutes du Coreper sa difficulté quant aux dispositions proposées dans le document 15429/18 + ADD 1 en matière d'assistance technique. En effet, en imposant un système unique de remboursement au niveau national, ces dispositions sont incompatibles avec le contexte institutionnel belge, lequel prévoit une autonomie de gestion des programmes opérationnels pour chaque entité fédérée ou fédérale. Partant, les dispositions proposées pourraient ralentir le démarrage effectif de la programmation et entraîner des difficultés dans la mise en œuvre des programmes. Le Royaume de Belgique réaffirme dès lors sa préférence pour un choix d'option de remboursement au niveau des programmes opérationnels."

### **Economic and Financial Affairs**

57. Meeting of the Council (Economic and Financial Affairs) on  
4 December 2018: Follow-up

The Committee took note of the main outcomes of the Council meeting.

58. Meeting of the Council (Economic and Financial Affairs) on  
22 January 2019: Agenda

The incoming Presidency presented the main items on the agenda.

### **Justice and Home Affairs**

59. Interoperability Regulation (borders and visa) 15273/18  
*State of play*

The Committee took note of the progress on this file.



60. Directive on Insolvency, Restructuring & Second Chance  
*Confirmation of the final compromise text with a view to agreement*

15556/18

The Committee endorsed the text of the final compromise and mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading in accordance with this compromise (subject to revision by the legal linguists), the Council would approve the European Parliament's position and the act shall be adopted.

#### Statement by Estonia

"Estonia remains strongly concerned about the compromise text put forward in document 15556/18 on 17 December, especially regarding the **newly added provision regarding workers' rights** and the **regulation of the stay of individual enforcement actions**. Estonia regrets that the compromise text on these issues could not be improved to an acceptable level before the adoption of the Directive.

#### **Legal basis for the rights of workers**

Article 114 paragraph 1 TFEU enables the European Parliament and the Council to adopt measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States, which have as their object the establishment and functioning of the internal market. However, in this regard it must be pointed out that Article 114 paragraph 2 excludes the possibility to apply this Article to provisions relating to the rights and interests of employed persons. Therefore, the Insolvency Directive cannot and should not create any new rules or legal consequences as regards the rights of the workers. The clear letter of the Treaties should be respected.

#### **Stay of individual enforcement actions**

Estonia does not consider the restriction in subparagraph 2 of Article 6 paragraph 7 to be justified neither from the aspect of substance nor forum. The aim of this Directive is to harmonise certain aspects of substantive insolvency law. This specific provision, however, belongs to a scope of a legal instrument regulating private international law. Furthermore, such a rule leads to discrimination and unfair treatment. We fail to see the relevance of the fact whether a Member State chooses to implement this Directive by a procedure fulfilling the conditions for notification under Annex A of the Insolvency Regulation or not. Moreover, such a restriction contradicts recital 10a of the Insolvency Directive.

Furthermore, we regret that the flexibility provided in paragraph 7a of Article 6 in the Council's General Approach has been removed. It was part of a very fragile compromise reached in the Council and should have been maintained in the text. Removing the possibility to grant a stay until the confirmation of a plan can have severe consequences with respect to the success of more complex restructuring procedures."

61. Meeting of the Council (Justice and Home Affairs) on 6 - 7  
December 2018: Follow-up

The Committee took note of the main outcomes of the Council meeting.

#### **IV. Any other business**

##### **COREPER (PART 1)**

None.

##### **COREPER (PART 2)**

Trilogues

The Committee took note of the information provided by the Presidency.

Security information

The Committee took note of information provided by the GSC security office and tasked the Antici group to follow up on the issues raised

Eurosummit on 14 December 2018

The Committee took note of the statements made by President Anastasiades during the Euro Summit on 14 December 2018:

##### **"Paragraph 1**

We support the introduction of the common backstop, including its early introduction. However, we reiterate our position that we are not in favour of the provision for carrying out an assessment against the progress towards the aim of 5% gross NPLs and 2.5% net NPLs. Therefore the reference to specific targets on NPLs should be avoided.

##### **Paragraph 3**

We believe that the establishment of the European Deposit Insurance Scheme is essential for completing the Banking Union. To this end, we would like to have a reference to the establishment of a High level working group for continuing the technical work on the conditions and arrangements for EDIS with a view to beginning political negotiations, as included in the Eurogroup Report to Leaders."

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**"I" items approved**

**COREPER (PART 1)**

**Institutional Affairs**

20. **Minutes of the Council meetings**

*Approval*

AGRIFISH 15.10.2018

13136/18 + ADD 1

**Other**

21. List of Working Parties which will be officially organised in Romania under the Romanian Presidency (first half of 2019)  
*Information note for the Permanent Representatives Committee (Part 1)*

15533/18  
POLGEN

**Judicial Affairs**

22. Joined cases C-626/15 and C-659/16  
(European Commission v. Council of the European Union) (so called "Weddell Sea" or "Antarctica" cases)  
*Information note for the Permanent Representatives Committee (Part 1)*

15621/18  
JUR

**EU positions for international negotiations**

23. Council Decision on the EU position in the Energy Community on the extension of the term of office of the Director of the Secretariat  
*Approval*
24. Council Decision on the EU position at the COP to the Rotterdam Convention on compliance  
*Adoption*
25. Proposals to be submitted by the EU with a view to the 18th Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES COP 18) (Colombo, Sri Lanka, 23 May - 3 June 2019)  
*Establishment of the EU position*

15235/18  
ENER

15234/18  
15143/18 + ADD 1  
ENV

15520/18  
ENV

### Statement by Spain

"Spain is a country that performs a responsible fishery for sharks, as evidenced by the prohibition to retain on board shark fox (family Alopiidae) and hammerhead sharks (family Sphyrnidae), adopted internally in 2009, which is why Spain supported the inclusion in its day in Annex II of these species.

However, in the case of shortfin mako Spain is opposed to inclusion in Appendix II of CITES taking into account that it is a species with a high range of distribution, abundance and productivity, and that it has a regulatory framework and a system of research within the Regional Fisheries Organizations sufficiently robust to ensure their conservation.

In addition, shortfin mako is already included in Appendix II of the CMS Convention and in Annex I of the MoU, of sharks, and their international trade does not constitute a threat to the survival of these species, something of particular relevance to not support their inclusion in CITES if it is taken into account that this is precisely the purpose pursued by the Convention.

For all the above, this species does not meet the requirements that could lead to its inclusion in Appendix II of CITES because it already benefits from international cooperation for its conservation and management given, among others, by the Regional Fisheries Organizations."

### Transport

26. IMO – Union submission to the 6th session of the Sub-Committee on Ship Systems and Equipment (SSE 6) of the IMO (London, 4 – 8 March 2019) concerning the main topics and structure of the FIRESAFE II study  
*Endorsement*

15485/18  
MAR

### Statement by the Commission

"The Commission considers that the above mentioned "Union submission" to be submitted to the IMO is covered by EU exclusive competence. Submission of proposals to the IMO on issues of EU competence is an act of external representation and should be made by the Commission on behalf of the EU to IMO and should therefore be sent to the IMO by the Commission.

In the view of the Commission, the procedural arguments against presenting submissions to the IMO by the Commission on behalf of the EU are not convincing as there is no evidence to suggest that the IMO, as a specialized agency of the United Nations, would be in a position to reject such a submission.

The Commission thus maintains its position that the Treaty provisions on external representation of the Union should be applied and, consequently, that the only legally correct way forward is to present the submission in question to the IMO by the European Commission on behalf of the European Union. The Commission reserves all its rights in this regard."

## Internal Market and Industry

27. Regulation on import of cultural goods  
*Confirmation of the final compromise text with a view to agreement*

15494/18

UD

### Statement by the Commission

"The Commission's proposal allowed for the possibility to set up an electronic system for the storage and the exchange of information between the authorities of the Member States and for the accomplishment of formalities by operators, in particular regarding importer statements and import licences. Given the necessary time to develop such an IT system, the Commission was of the view that a paper-based system would be a valid approach at least in the short term.

The Commission takes note of the position from the co-legislators to have such an IT system in place before the entry into application of the Regulation and would like to underline that this would defer the date from which the Regulation can become applicable by 6 years. Therefore the Commission welcome the early application of the general prohibition, as provisionally agreed by the co-legislators. That would allow the customs authorities to intervene when they receive intelligence about suspect shipments given the high political priority which the Union has given to the fight against terrorist financing.

The Commission also notes that, without a re-prioritisation of actions that might delay other essential IT developments, there is no sufficient available funding for this IT system in the current Customs 2020 programme.

Subject to the final agreement on the next Multiannual Financial Framework (MFF) and the financial provisions of the future Customs programme, sufficient funding could be made available under the aforementioned programme over the period 2021-2027, provided that the budget authorities give the necessary support. It is to be noted however, that the Commission cannot commit funds of the future MFF until such a final agreement is reached."

### Déclaration de la France

"La France se réjouit du texte de compromis trouvé en trilogue, proche de celui adopté en Groupe Union douanière, et qui apporte une réponse adaptée à l'objectif de lutte contre le trafic de biens culturels susceptibles de financer le terrorisme.

Elle rappelle qu'il s'agit d'une réglementation nouvelle dont tous les effets ne sont pas encore connus ; un suivi attentif sera donc important.

Elle sera très attachée dans ce cadre à promouvoir dans les mois qui viennent, en groupe de travail avec ses partenaires européens, les modalités de mise en oeuvre pratiques les plus opérationnelles et les plus efficaces possibles pour les opérateurs et les administrations, notamment en matière de pratiques et procédures coordonnées à l'échelle européenne, d'informatisation des procédures, et d'utilisation des techniques d'analyse de risque."

### Statement by the Netherlands

"For the Netherlands, the fight against the illicit trade in cultural goods and the fight against terrorism financing are of the utmost importance. The Netherlands are active and committed to these subjects.

We support the outcome of the negotiations. The Regulation has become more targeted towards the fight against terrorism financing and more aligned with the UNESCO 1970 Convention, which is the worldwide supported instrument in the fight against the illicit traffic in cultural goods.

The Netherlands would however have preferred an instrument even more targeted towards the fight against terrorism financing, limiting the scope to high risk goods from high risk countries that are connected to it. This would have resulted in less administrative burden for both the government authorities and the art trade.

The Netherlands is of the opinion that we should use the time before the entering into force of the Regulation as efficiently as possible and invites the Commission to work with the Member States on four key issues:

1. Cooperating with national authorities for a smooth application, including training modules and preparing background material;
2. Intensifying the dialogue with the art trade to work on best practices in order to prepare the legal art trade in and outside Europe for the new requirements;
3. Liaising with non-EU countries/authorities e.g. through WCO and UNESCO, to also prepare them for the new requirements;
4. Reporting on the progress of the electronic system that will support the Regulation.

We thank the Presidency and admire their result driven way of working."

28.	Regulation on customs programmes	15501/18
	<i>Partial mandate for negotiations with the European Parliament</i>	15514/18
		UD

29. Regulation on customs equipment  
*Partial mandate for negotiations with the European Parliament*

15512/18  
15513/18  
UD

Statement by Denmark

"Denmark cannot support this proposal at it is presently formulated, and therefore votes “no” to it today.

Denmark regrets the hasty process chosen for this proposal. If there has been a little more time for discussion in the Council Working Group, it would probably have been possible to reach agreement on a text among all MS.

From the Danish side, we are extremely concerned about the lack of respect for the division of competences and responsibilities, which is currently contained in both the Commission's original proposal and the Council's compromise proposal. It is our clear conviction that the organization of customs controls, including the equipment that the national customs authorities must have, is a matter for the Member States alone. We do not think our serious concerns have been duly dealt with in the Council compromise proposal, despite our attempts to have it addressed.

We therefore consider it much more appropriate with a customs instrument which is more in line with already known instruments in other areas. What is needed, is an instrument that clearly reflects that it is up to Member States to assess the needs they have and, in view of these needs, apply for (co)funding from the EU-fund and receive funds based on criteria, which is clear and pre-defined in the regulation itself.

In addition, we have repeatedly asked for an overview of funds already available and used for Customs purposes through the last few years from existing programs - we have not yet received this. It is crucial to assess the funds that should be in a Customs fund. Again, we must encourage COM to present such an overview."

Statement by the Netherlands

"The Netherlands takes note of the partial mandate to start negotiations with the European Parliament on the Regulation of the European Parliament and of the Council establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment, as included in the agenda of CRP I on 19 December 2018 (point I-29).

For the Netherlands it is important that the competences as conferred in article 2 of the Treaty on the Functioning of the EU are respected and that therefore implementation and enforcement of European customs legislation remain a competence of the Member States.

In addition, the Netherlands stresses the importance of a thorough and transparent method of allocating the available resources, with a particular focus on the volume of trade flows and the associated risks. This requires clear and well defined criteria on the granting of financial support for equipment to be included in the body of the text of the regulation. The Netherlands is concerned that these criteria are still not sufficiently clearly defined in the proposed regulation.

Therefore the Netherlands will abstain."

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| 30. | Conclusions on second progress report on risk management<br><i>Adoption</i>                  | 15498/18<br>15497/18<br>UD       |
| 31. | Regulation on suspensions on certain agricultural and industrial products<br><i>Adoption</i> | 15554/18<br>15345/18<br>UD       |
| 32. | Regulation on Brexit type-approval<br><i>Adoption of the legislative act</i>                 | 15478/18<br>PE-CONS 67/18<br>ENT |

### **Employment and Social Policy**

- |     |  |                                  |
|-----|--|----------------------------------|
| 33. | Revision of Directive on carcinogens and mutagens at work (second batch)<br><i>Adoption of the legislative act</i> | 15477/18<br>PE-CONS 60/18<br>SOC |
|-----|--|----------------------------------|

#### Statement by the United Kingdom

"The United Kingdom strongly supports Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work and the Commission limit setting process, which involves a thorough assessment process to consider scientific, technical and socio-economic factors and the views of stakeholders, including the social partners.

The United Kingdom recognises the legitimate concerns that exist regarding exposure to diesel engine exhaust emissions and exposure to these emissions has been subject to controls in the UK for over 20 years. Binding occupational exposure limits should only be included in the Carcinogens and Mutagens Directive, however, once they have successfully completed the limit setting process. The UK regrets that this process was not followed in setting a binding occupational exposure limit for elemental carbon as a marker for diesel engine exhaust emissions. Whilst the UK continues to support action to tackle exposure to diesel engine exhaust emissions, we cannot support the way in which this limit has been set and therefore cannot support this change to the Directive."



Statement by the Commission

"The Commission regrets that the co-legislators have decided to deviate on several points from the Common Approach of the Parliament, the Council and the Commission on decentralised agencies of 19 July 2012, without providing the necessary justification.

The deletion of the sunset/review clause is not in line with the Common Approach. However, the absence of the sunset clause in the Founding Regulations will not affect in any way the Commission's right of initiative.

The Commission also regrets the deviation from the Common Approach with regard to the process for conducting an overall evaluation of the Agency referring to the need to consult stakeholders, including Members of Parliament and of the Management Board, during the evaluation of the work of agencies. The Commission recalls that such evaluations have to be conducted in full independence. In carrying out evaluations, the Commission will apply its usual practices for stakeholder consultation activities.

The Commission will assess the impact of the deviations from the Common Approach on the functioning of the tripartite agencies at the appropriate opportunity. They should not be considered as a precedent for other agencies.

Finally, the Commission regrets the re-introduction of the function of Deputy Director in the Founding Regulation of Eurofound. The Commission would like to recall that, given the size of this Agency, this provision is disproportionate.

The Commission would also like to stress that it is now the Executive Director's responsibility to decide on the internal structures of each Agency and for CEDEFOP to define the necessary deputising arrangements to ensure continuity of service."

Statement by Italy

"Italy has been among the most active delegations during the negotiations in the Council on the three files and contributed to the achievement of the General Approach in December 2016.

Italy also contributed positively during the course of the trilogues, by showing flexibility towards the requests of the European Parliament, while keeping the spirit of the General Approach in Council.

With the Common Approach of 2012 and the tripartite nature of the three agencies in mind, we have tried to keep the maximum degree of homogeneity among them, in terms of governance and rules.

The appointment of a Deputy Director by the Executive Director for Eurofound and Cedefop - for the first one on a mandatory basis, for the second on a voluntary basis - is not consistent with the strategic role of the Managing Board, which is the Appointing Authority in the three Agencies.

For this reason, without opposing the agreement, we express our deep regret."

Statement by the Commission

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The deletion of the sunset/review clause is not in line with the Common Approach. However, the absence of the sunset clause in the Founding Regulations will not affect in any way the Commission's right of initiative.

The Commission also regrets the deviation from the Common Approach with regard to the process for conducting an overall evaluation of the Agency referring to the need to consult stakeholders, including Members of Parliament and of the Management Board, during the evaluation of the work of agencies. The Commission recalls that such evaluations have to be conducted in full independence. In carrying out evaluations, the Commission will apply its usual practices for stakeholder consultation activities.

The Commission will assess the impact of the deviations from the Common Approach on the functioning of the tripartite agencies at the appropriate opportunity. They should not be considered as a precedent for other agencies.

Finally, the Commission regrets the re-introduction of the function of Deputy Director in the Founding Regulation of Eurofound. The Commission would like to recall that, given the size of this Agency, this provision is disproportionate.

The Commission would also like to stress that it is now the Executive Director's responsibility to decide on the internal structures of each Agency and for CEDEFOP to define the necessary deputising arrangements to ensure continuity of service."

Statement by Italy

"Italy has been among the most active delegations during the negotiations in the Council on the three files and contributed to the achievement of the General Approach in December 2016.

Italy also contributed positively during the course of the trilogues, by showing flexibility towards the requests of the European Parliament, while keeping the spirit of the General Approach in Council.

With the Common Approach of 2012 and the tripartite nature of the three agencies in mind, we have tried to keep the maximum degree of homogeneity among them, in terms of governance and rules.

The appointment of a Deputy Director by the Executive Director for Eurofound and Cedefop - for the first one on a mandatory basis, for the second on a voluntary basis - is not consistent with the strategic role of the Managing Board, which is the Appointing Authority in the three Agencies.

For this reason, without opposing the agreement, we express our deep regret."

## Delegated or Implementing Acts

### Environment

37. Commission Regulation (EU) .../... of XXX amending Regulation (EU) 2017/2400 and Directive 2007/46/EC of the European Parliament and of the Council as regards the determination of the CO<sub>2</sub> emissions and fuel consumption of heavy-duty vehicles  
*Decision not to oppose adoption* 15369/18  
14120/18 + ADD 1  
CLIMA
38. Commission Delegated Directive (EU) .../... of 16.11.2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for cadmium and its compounds in electrical contacts  
*Delegated act - Intention not to raise objections* 15277/18  
14558/18 + ADD 1  
ENV
39. Commission Delegated Directive (EU) .../... of 16.11.2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead and cadmium in printing inks for the application of enamels on glasses  
*Delegated act - Intention not to raise objections* 15287/18  
14563/18 + ADD 1  
ENV
40. Commission Delegated Directive (EU) .../... of 16.11.2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead as activator in the fluorescent powder of discharge lamps containing phosphors  
*Delegated act - Intention not to raise objections* 15279/18  
14561/18 + ADD 1  
ENV
41. Commission Delegated Directive (EU) .../... of 16.11.2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead bound in crystal glass as defined in Directive 69/493/EEC  
*Delegated act - Intention not to raise objections* 15288/18  
14564/18 + ADD 1  
ENV

42. Commission Delegated Directive (EU) .../... of 16.11.2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead in bearings and bushes applied in certain non-road professional use equipment  
*Delegated act - Intention not to raise objections* 15286/18  
14562/18 + ADD 1  
ENV
43. Commission Delegated Directive (EU) .../... of 16.11.2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead in dielectric ceramic materials in certain capacitors  
*Delegated act - Intention not to raise objections* 15290/18  
14566/18 + ADD 1  
ENV
44. Commission Delegated Directive (EU) .../... of 16.11.2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead in the plating layer of certain diodes  
*Delegated act - Intention not to raise objections* 15291/18  
14567/18 + ADD 1  
ENV
45. Commission Delegated Directive (EU) .../... of 16.11.2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead in PZT based dielectric ceramic materials for certain capacitors  
*Delegated act - Intention not to raise objections* 15289/18  
14565/18 + ADD 1  
ENV
46. Commission Delegated Directive (EU) .../... of 16.11.2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead in solders to complete a viable electrical connection between semiconductor die and carrier within integrated circuit flip chip packages  
*Delegated act - Intention not to raise objections* 15278/18  
14559/18 + ADD 1  
ENV
47. Commission Delegated Directive (EU) .../... of 16.11.2018 amending, for the purposes of adapting to scientific and technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for lead oxide in seal frit used for making window assemblies for certain laser tubes  
*Delegated act - Intention not to raise objections* 15276/18  
14468/18 + ADD 1  
ENV

## **COREPER (PART 2)**

### **Judicial Affairs**

62. Case T-585/18, Mr Dalokay Şanlı, v. Council  
*Information note for the Permanent Representatives Committee  
(Part 2)* 15558/18  
JUR

### **Economic and Financial Affairs**

63. New French Commemorative Coin 15104/18  
UEM
64. Council Implementing Decision authorising Belgium to exempt  
from VAT certain taxable persons 15080/18  
*Adoption* 14616/18  
FISC
65. Council Implementing Decision authorising Germany to extend  
a derogation in relation to VAT borne on certain goods and  
services 15081/18  
*Adoption* 14617/18  
FISC
66. ECA SR No 25/2018 on Floods Directive 15399/18  
*Designation of a Working Party* FIN
67. Cross Border Payments Regulation 15511/18  
*Confirmation of the final compromise text with a view to  
agreement* EF
68. Sustainable Finance - low-carbon benchmarks Regulation 15550/18 + ADD 1  
*Mandate for negotiations with the European Parliament* EF
69. Sustainable Finance - disclosures Regulation 15584/18 + ADD 1  
*Mandate for negotiations with the European Parliament* EF
70. Anti Money Laundering component of the ESAs review  
proposal 15569/18 + ADD 1  
*Partial mandate for negotiations with the European Parliament* EF
71. Directive on credit servicers, credit purchasers and the recovery  
of collateral 15562/18  
*Progress report* 15474/18 + ADD1  
EF

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|-----|---|-----------------------------------|
| 72. | ESRB Recommendations and warnings<br><i>Endorsement</i>   | 15594/1/18 REV 1<br>+ ADD 1<br>EF |
| 73. | Pericles IV Programme<br><i>Partial mandate for negotiations with the European Parliament</i>   | 14985/18 + ADD 1<br>GAF           |
| 74. | EU Anti-Fraud Programme<br><i>Partial mandate for negotiations with the European Parliament</i>   | 15467/18 + ADD 1<br>GAF           |
| 75. | Council's Decision contrary to the Commission's project to co-sign with the European Parliament a lease agreement for the premises for the House of the EU in Paris (Art. 203(5)) FR<br><i>Approval</i> | 15547/18<br>FIN                   |

### **General Affairs**

- |     |  |  |
|-----|--|--|
| 76. | Update of the population figures of the Union - Decision<br><i>Adoption</i>                      | 15499/18<br>15270/18   |
| 77. | RPS Adaptation - General Omnibus<br><i>General approach</i>                                      | 14964/18 + COR 1<br>+ COR 2<br>+ ADD 1 - ADD 8<br>5623/17<br>+ ADD 1 REV1<br>INST<br>JUR |
| 78. | RPS Adaptation - Justice Omnibus<br><i>General approach</i>                                      | 14955/18 + COR 1<br>5705/17 + ADD 1<br>INST<br>JUR                                       |
| 79. | Free and fair European elections<br><i>Mandate for negotiations with the European Parliament</i> | 15420/18<br>12321/1/18 REV 1<br>+ REV 1 COR 1<br>INST                                    |

80. European Citizens' Initiative  
*Confirmation of the final compromise text with a view to  
agreement*

14524/18  
+ ADD 1 REV 1  
INST

Statement by the Commission

"The Commission welcomes the overall agreement reached by the co-legislators on the proposal for a new Regulation on the European Citizens' Initiative. The new Regulation delivers on the calls for action from citizens and stakeholders to make the European Citizens' Initiative more accessible, less burdensome and easier to use for organisers and supporters. It creates the conditions for significant progress towards achieving the full potential of the European Citizens' Initiative as an instrument to foster debate and participation at European level and bring the EU closer to its citizens.

The Commission remains convinced of the importance of lowering the age of support for the European Citizens' Initiative to 16 years. Allowing younger European citizens to contribute their ideas on what the EU should do would enrich the public debate on EU matters and help bring the Union closer to young generations. The minimum age for supporting a European Citizens' Initiative, which is a non-binding instrument, can be different from the minimum age for voting. The Commission regrets, therefore, that the agreement reached does not lower the age of support to 16 years across the EU as foreseen in its original proposal. The Commission nevertheless welcomes the fact that the proposal includes the possibility for Member States to lower the age should they so wish, and calls on them to do so as soon as possible. The Commission will monitor developments on this issue in its regular review of how the initiative is functioning.

On individual online collection systems, the Commission remains convinced of the importance for organisers of having the possibility to use their own online collection systems, to ensure flexibility and diversity of collection systems. It regrets that the agreement does not ensure the continued existence of the individual online collection systems in spite of the engagement and support for these systems by stakeholders. The Commission will ensure that stakeholders are consulted on the developments and improvements the new central online collection system for the European Citizens' Initiative to take into account their suggestions and concerns."

81. EP Resolutions and decisions (December 2018)

15614/18  
PE-RE



82.	Accession negotiations with Serbia Fulfilment of an opening benchmark on Chapter 3 <i>Adoption</i>	15523/18 ELARG
83.	Proposal for a Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (IPA III) <i>Progress report</i>	15532/18 ELARG
84.	IPCR progress report	15557/18 IPCR
85.	Non-binding delineation criteria between delegated and implementing acts (conclusion of negotiations) <i>Endorsement</i>	15453/18 INST JUR
86.	EUCI CFSP Arrangement <i>Progress report</i>	14529/18 PE CSC
87.	Cohesion Policy Legislative Package 2021-2027 <i>Report by the Presidency</i>	15428/1/18 REV 1 REGIO
 <b><u>Justice and Home Affairs</u></b>		
88.	Negotiations for a cooperation agreement Eurojust - Frontex <i>Endorsement</i>	15171/18 EUROJUST
89.	Brussels IIa Regulation (recast) <i>Decision to consult an institution or body</i>	15257/18 JUSTCIV
90.	Civil Protection Presidency report	14422/18 PROCIV
91.	Regulation establishing the Rights and Values programme <i>Partial mandate for negotiations with the European Parliament</i>	15347/18

Statement by Poland

"The further development of the European area of justice is of great importance, so Poland considers that the establishment of the Justice Programme could contribute to the achievement of this goal. However Poland expresses its opposition to the proposal for a Regulation establishing the Justice Programme.

We would like to underline that the partial general approach comes into existence before and without the MFF level guidance of Programmes. This is contrary to the principle that the agreement should concern sectoral programmes as a package. Furthermore Poland does not see the justification to delete "mainstreaming of equality of women and men" and to replace it into unclear wording "gender mainstreaming".

In detail, Poland notices that there is a need to improve the proposal in regards to the following elements:

- **Recital 15**

We would like to change the wording into the previous version: "mainstreaming of equality of women and men", as in the recital 1 of the Regulation there is already indicated:

*According to Article 2 of the Treaty on European Union, 'the Union is founded on the values of respect for human dignity, freedom democracy, equality, the rule of law and the respect for human rights, including the rights of the persons belonging to minorities. These values are common to the Member States in a society where pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.*

We would like to align the wording of this recital to the expressions already used in the Regulation. We do not see the reason to differentiate. We consider as justified to remain in the recital 15 literal indication of "equality between women and men",

- **Article 4**

Due to the lack of the provision in the current version of the Regulation, Poland expresses its support for maintaining, as reflected in recital 25 of *Regulation (EU) No 1382/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Justice Programme for the period 2014 to 2020*, the safeguard that reserved a minimum share of financial funds for the projects presented by Member States.

The previous version of art. 4 presented more justified solution, than financing of information campaigns, aiming at direct support of the justice system where EU citizens can claim legal protection of their interests. The text should be therefore amended:

*No more than the 4% of the amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.*

In the art 4 par. 4 we maintain our concerns in regards to possible unexpected consequences of this provision. It seems that it creates a framework where MS could present a project regarding their own action and then the funds may be transferred to COM to manage joint action by several MS undertaken f.i. under enhanced cooperation framework where expenses have to be borne by MS and not to by the EU as Treaty says.

- **Annex 1**

In our view it is reasonable to include the specific objectives in the text of the regulation, not in annex. This will make the text more transparent and will also ensure greater stability of objectives during the implementation of the Programme. It would be reasonable to set objectives along the lines of the current Programme (Art. 3 and 4 of the EU Regulation 1382/2013)."

93.	Schengen evaluation Recommendation - Switzerland Schengen Information System <i>Adoption</i>	15203/18 15202/18 SCH-EVAL
94.	Schengen evaluation Recommendation - Finland Schengen Information System <i>Adoption</i>	15566/18 15565/18 SCH-EVAL
95.	Schengen evaluation Recommendation - Belgium visa policy <i>Adoption</i>	15564/18 15563/18 SCH-EVAL
96.	Schengen evaluation Recommendation - The Netherlands visa policy <i>Adoption</i>	15572/18 15571/18 SCH-EVAL
97.	Non cash fraud Directive <i>Confirmation of the final compromise text with a view to agreement</i>	15695/18 DROIPEN

Statement by the Czech Republic

"The Czech Republic supports the aim of the Directive of the European Parliament and of the Council on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA (hereinafter referred to as "the Directive") to strengthen the fight against criminal activities in the area of non-cash payment instruments. Nevertheless, the Czech Republic would like to highlight its concerns regarding Article 15 of the Directive.

In our view, rights, support and protection of victims of crime are sufficiently and comprehensively covered by the Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime (hereinafter referred to as "Victims Directive"). The Victims Directive defines the term "victim" as a natural person.

However, under Article 15 of the Directive Member States shall provide assistance and support not only to natural persons but also to legal persons who have suffered prejudice from offences referred to in Articles 3 to 7 of the Directive, therefore requesting the Member States to ensure that legal persons aggrieved by criminal offences pursuant to this Directive are awarded the same level of protection as natural persons.

It shall be noted that unlike natural persons who might also be regarded as particularly vulnerable (e.g. elderly people), legal persons have at least a minimum extent of proficiency, knowledge, experience and they are also supposed to be acquainted with possible risks related to their business activities. Therefore, the Czech Republic considers that there is no need to provide legal persons with specific advice and information going beyond criminal proceedings, e.g. how to protect themselves against the negative consequences of the offences, such as reputational damage as this is typically the subject of civil proceedings.

Similarly, the obligation to provide legal persons with specific information without undue delay after their first contact with a competent authority seems unjustified and disproportionate. The Czech Republic considers that it would be sufficient to inform legal persons about their procedural rights in criminal proceedings, such as the right to receive information about the case, in accordance with national law.

The Czech Republic also considers an approach introduced by this Directive as a non-systematic and partial broadening of legal persons' rights and protection as it only applies to the criminal activity in the area of non-cash means of payment. If there is a need at EU level to regulate rights of legal persons who have suffered prejudice from criminal offences, these rights should be regulated in a systematic way within a single general legal instrument.

Moreover, the approach introduced by the Directive causes a terminological problem. The Czech Republic is of a view that the term "victim" should be used consistently within all EU legal instruments."

98. Union Civil Protection Mechanism Decision 15378/18 + COR 1  
*Confirmation of the final compromise text with a view to agreement*
99. ECRIS-TCN Regulation 15701/18 + ADD 1  
*Confirmation of the final compromise text with a view to agreement* JAI

#### Statement by the Commission

"The Commission regrets that the co-legislators have decided to limit the inclusion of fingerprints of convicted third country nationals and dual EU/third country nationals in the ECRIS-TCN system. Since fingerprints are currently the most reliable form of identification of individuals, the Commission regrets these limitations on the inclusion of fingerprints, which in its view will make the ECRIS-TCN system less effective in achieving its aim of ensuring that criminal records information is reliably made available for the purposes of criminal procedures, preventing child abuse, granting licences and other legitimate purposes laid down in national law in line with the Directive."

100. ECRIS Directive 15702/18 + ADD 1  
*Confirmation of the final compromise text with a view to*  
*agreement* JAI

Statement by the Commission

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation (EU) No 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke point b) of the second subparagraph of Article 5(4) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle, which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5(4), recourse to point b) of the second subparagraph of that Article cannot be simply seen as a discretionary power of the legislator, but must be interpreted in a restrictive manner and thus must be justified."

101. Regulation amending the Visa Information System (VIS) 15505/18  
Regulation  
*Mandate for negotiations with the European Parliament*

**Foreign Affairs**

102. Council Decision on opening Article XXVIII negotiations with 14470/18  
Switzerland on seasoned meat 14471/18 + ADD 1  
*Adoption* WTO
103. Conclusion of the EU-Japan Economic Partnership Agreement 15544/18  
*Adoption* 7964/18  
WTO
104. PSC Decision EUMM GEORGIA/1/2018 - extension of the 15215/18  
mandate of the Head of Mission 14369/18  
*Decision to publish in the Official Journal* PSC DEC
105. Conclusions on the European Court of Auditors Special Report 13767/18  
"The EU Chemical, Biological, Radiological and Nuclear CONOP  
Centres of Excellence"  
*Adoption*
106. Council Decision on OCTs and Greenland 15464/18  
*Progress report* ACP
107. Democratic People's Republic of Korea restrictive measures - 15488/18  
delisting EU designations - Decision and Implementing 15439/18  
Regulation 15441/18  
*Adoption* CORLX

108.	Neighbourhood, Development and International Cooperation Instrument (NDICI) <i>Progress report</i>	15454/18 CADREFIN
109.	PSC Decision EUCAP Somalia/1/2018 - extension of the mandate of the Head of Mission <i>Decision to publish in the Official Journal</i>	15042/18 14660/18 PSC DEC
110.	PSC Decision EUCAP Sahel/2/2018 - extension of the mandate of the Head of Mission <i>Decision to publish in the Official Journal</i>	15044/18 14907/18 PSC DEC
111.	PSC Decision EUBAM Libya/2/2018 - extension of the mandate of the Head of Mission <i>Decision to publish in the Official Journal</i>	15592/18 14643/18 PSC DEC
112.	Council Decision authorising negotiations for amending tariff rate quota for poultry meat set up in the Association Agreement with Ukraine <i>Adoption</i>	15154/18 15078/18 + ADD1
113.	Practical Arrangements on Counter-Terrorism between the EU and the UN - Authorisation to open negotiations <i>Approval</i>	15493/18 COTER
114.	Restrictive measures to combat terrorism - Common Position 2001/931/CFSP - review and new listings <i>Adoption</i>	15636/18 15413/18 15415/18 CORLX
115.	Restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine - de-listing - Decision and Implementing Regulation <i>Adoption</i>	15659/18 15422/18 15425/18 CORLX

## **EU positions for international negotiations**

- |   |                              |
|---|------------------------------|
| 116. Council Decision on the EU position on the extension of the EU-PA Action Plan<br><i>Adoption</i>     | 15538/18<br>15113/18<br>MAMA |
| 117. Council Decision on the EU position on the extension of the EU-Israel Action Plan<br><i>Adoption</i> | 15539/18<br>15114/18<br>MAMA |

## **Other items**

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|---|-------------------------------------|
| 118. Interim approval of a cryptographic product<br><i>Approval</i> | 14957/18 <b>R-UE</b><br>CSCI<br>CSC |
|---|-------------------------------------|
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