



Brussels, 7 March 2019
(OR. en)

7198/19
CRS CRP 7

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
20 and 22 February 2019

I. Adoption of the agenda

6512/1/19 REV 1 OJ CRP2 7 COMIX 107
6502/1/19 REV 1 OJ CRP1 7 + ADD 1

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 2)

General Affairs

2. Meeting of the Council (General Affairs) on 19 February 2019:
Follow-up

The above-mentioned item was withdrawn.

3. Relations with the EP (February 2019)
Debriefing

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

5. Multiannual Financial Framework 2021-2027 - Consolidation of progress achieved with the European Parliament on sectoral proposals
Information from the Presidency

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

Justice and Home Affairs

13. Regulation establishing the Rights and Values programme 6420/19
State of play and guidance for further work

The Committee discussed the state of play and provided guidance for further work.

Economic and Financial Affairs

6. Meeting of the Council (Economic and Financial Affairs) on 12 March 2019: Agenda

The Presidency presented the main items on the agenda.

7. Proposal for a Regulation of the European Parliament and of the Council establishing the InvestEU Programme 6441/19
Partial mandate for negotiations with the European Parliament

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

Foreign Affairs

8. EU-LAS Summit (Sharm el-Sheikh, 24-25 February 2019) 6416/19 R-UE
State of play

The Committee held an exchange of views on the state of play and provided further guidance in view of finalising the draft Summit declaration.

9. Decision on the conclusion of the International Agreement on Olive Oil and Table Olives 6482/1/19 REV 1
State of play and guidance for further work

The Committee took note of the state of play, provided guidance for further work and agreed to revert to this issue at its next session.

Justice and Home Affairs

10. Regulation amending the European Border and Coast Guard Regulation
- a) Regulation amending the European Border and Coast Guard and EUROSUR Regulations 6357/19
Mandate for negotiations with the European Parliament
- b) Regulation amending the Joint Action 98/700/JHA on the FADO system 6362/19
Mandate for negotiations with the European Parliament

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

12. (poss.) Amending Regulation 2018/1806 to prepare for Brexit - visa 6114/19
Confirmation of the final compromise text with a view to agreement

The Committee took note of the information provided by the Presidency and agreed to revert to this issue at one of its forthcoming sessions.

General Affairs

4. IIA on Better Law-Making – International agreements
Debriefing
State of play and guidance for further work

The Committee took note of the state of play and agreed to revert to this issue at one of its forthcoming sessions.

Justice and Home Affairs

14. Appointment of the European Chief Prosecutor 6238/19
Preparatory process within the Council 6256/19 R-UE
6419/19
6487/19 R-UE

The Committee determined its ranking of the three candidates included on the shortlist.

Statement by Italy

"Italy has always been a staunch supporter of the establishment of the European Public Prosecutor and firmly believes in its importance in the context of the integration process of the European Union.

However, Italy maintains a very critical position towards the procedures so far followed for the appointment of European Chief Prosecutor. The reasons of statements of the Selection Panel recently circulated are insufficient to justify the decision to select three candidates instead of five and do not offer an adequate comparative assessment regarding the skills and requirements of the three short-listed candidates, especially with reference to the experience in the field of financial crime.

As a matter of priority, Italy requires the Council to mandate the Selection Panel to verify the regulatory and legal provisions that regulate at national level for each of the three short-listed candidates the fulfillment of the minimum eligibility requirements indicated by the EPPO Regulation (article 14, paragraph 2), as well as that those basic eligibility requirements are met.

Italy believes that this additional preliminary verification by the Panel is a priority in order not to jeopardize the quality of the enhanced cooperation to which Italy aims at in order to have a representative and strong European Public Prosecutor, also in view of future discussions on the enlargement of its competences to other crimes.

Italy therefore asks that the next steps of the procedure be subject to the verification of the minimum requirements for the appointment as a matter of priority."

15. Meeting of the Council (Justice and Home Affairs) on
7-8 March 2019: Preparation
Other items in connection with the Council meeting

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

Foreign Affairs

17. EU-China Summit (Brussels, 9 April 2019) 6116/19
Orientation debate

The Committee held an exchange of views on the preparation of the above-mentioned Summit.

18. 17th EU-Canada Summit (Montréal, 11-12 April 2019) 6369/19 + COR 1
Orientation debate

The Committee held an exchange of views on the preparation of the above-mentioned Summit.

COREPER (PART 1)

WEDNESDAY 20 FEBRUARY 2019

Internal Market and Industry

35. Directive on cross-border conversions, mergers and divisions
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 February 2019.

Research

36. Regulation establishing Horizon Europe - Framework Programme 6086/19
Preparation for the trilogue

The Committee agreed on a revised mandate for the forthcoming trilogue.

Internal Market and Industry

37. Regulation on platform-to-business relations 6090/19
Analysis of the final compromise text with a view of 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. The Commission reassured delegations about the interpretation of Article 1(4) stating that the Regulation would not unduly limit Member States' ability to prohibit or sanction unilateral conduct or unfair commercial practices under their national laws. The Commission also explained its role in the monitoring process.

Statement by the Council Legal Service

"The Council Legal Service notes that Article 1(4) provides that Member States may prohibit or sanction unilateral conduct or unfair commercial practices under their national laws, in conformity with Union law, to the extent that the relevant aspects are not covered by the provisions of the Regulation.

This means that, where the final compromise text contains provisions in relation to unilateral conduct or unfair commercial practices, national laws cannot contradict these provisions. However, the text does not regulate such matters exhaustively.

To take the example of Article 8, this contains three specific provisions, prohibiting retroactive modifications to terms and conditions and laying down certain transparency rules in relation to the right of contractual termination and the post-contractual access of online intermediation services to information provided or generated by the business user.

This Article does not constitute a comprehensive regulation of unfair commercial practices at Union level in this field. In particular, the transparency rules laid down in relation to certain practices do not prevent Member States from establishing substantive provisions with respect to such practices, provided that the transparency rules are respected.

In conclusion, Article 1(4) allows Member States to prohibit or sanction unilateral conduct or unfair commercial practices under their national laws, provided that they comply with the provisions of the Regulation establishing certain rules in relation to such matters."

38. Regulation on supplementary protection certificate for medical products 6383/19
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 Belgium, France, Ireland, Spain, the Netherlands and Portugal

"The undersigned Member States can support the political compromise regarding this regulation that provides carefully crafted exceptions to the supplementary protection certificate within the remit of intellectual property. We insist that future legislative initiatives also include incentives to promote research and development and that these initiatives should aim at strengthening the necessary conditions in the European Union that allow for the enhancement of intellectual property rights and innovation by the pharmaceutical sector."

39. Directive on Copyright in the Digital Single Market 6382/19
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 the Commission

"The Commission acknowledges the importance of sports events organisations and their role in financing of sport activities in the Union. In view of the societal and economic dimension of sport in the Union, the Commission will assess the challenges of sport event organisers in the digital environment, in particular issues related to the illegal online transmissions of sport broadcasts."

Statement by the Netherlands, Luxembourg, Poland, Italy and Finland

"The objectives of this Directive were to enhance the good functioning of the internal market and to stimulate innovation, creativity, investment and production of new content, also in the digital environment. The signatories support these objectives. Digital technologies have radically changed the way content is produced, distributed and accessed. The legislative framework needs to reflect and guide these changes.

However, in our view, the final text of the Directive fails to deliver adequately on the above-mentioned aims. We believe that the Directive in its current form is a step back for the Digital Single Market rather than a step forward.

Most notably we regret that the Directive does not strike the right balance between the protection of right holders and the interests of EU citizens and companies. It therefore risks to hinder innovation rather than promote it and to have a negative impact the competitiveness of the European Digital Single Market.

Furthermore, we feel that the Directive lacks legal clarity, will lead to legal uncertainty for many stakeholders concerned and may encroach upon EU citizens rights.

We therefore cannot express our consent with the proposed text of the Directive."

Statement by Malta

"Malta reiterates its dissatisfaction with the final text of Article 12. The text does not provide an equitable balance between publishers and authors' rights. Therefore, Malta feels that authors' rights are not sufficiently protected in the final provisions of Article 12."

Employment and Social Policy

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|-----|---|---------------|
| 40. | Regulation on establishing a European Labour Authority | 6128/19 |
| | <i>Presidency briefing on the outcome of the trilogue</i> | + ADD 1 |
| | <i>Analysis of the final compromise text with a view to agreement</i> | + ADD 1 COR 1 |
| | | + ADD 2 |

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 14 February 2019.

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 of the Representatives of the Member States concerning the Joint Statement to be made by the European Parliament, the Council and the Commission at the occasion of the adoption of the Regulation establishing ELA

"The representatives of the Member States agree that the process for the selection of the seat of ELA referred to in paragraph 1 of the joint statement to be made by the European Parliament, the Council and the Commission at the occasion of the adoption of the Regulation establishing ELA, will be launched between the Member States without delay, as foreseen by the Treaties."

41. Regulation on European Social Statistics 6597/19 + COR 1
Analysis of the Presidency compromise text

The Committee analysed and agreed with the Presidency compromise text with a view to finalising the file.

Environment

42. Regulation on CO2 standards for heavy-duty vehicles
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 18-19 February 2019.

43. Regulation on persistent organic pollutants (POPs) (recast)
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 19 February 2019.

Transport

44. Amending Regulation 1316/2013 to prepare for Brexit (CEF) 6360/19
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.

45. Directive on the promotion of clean and energy-efficient road transport vehicles 6345/19 + COR 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 Austria

"While Austria generally supports the objectives of this Directive, it must be pointed out that the financial impacts of this Directive were not presented correctly and the targets foreseen for public transport sector can de facto not be achieved without restrictions to the provision of public transport services. Moreover, the construction of the necessary infrastructure will cause additional costs. Furthermore, the implementation of this Directive will further lead to a massive increase in administrative burden. For these reasons, Austria cannot accept the Directive in its current form."

Statement by Poland

"Poland strongly supports the general aim of the proposed amended Directive, to increase the market uptake of clean, i.e. low- and zero-emission vehicles in public procurement and hence contribute to the reduction of overall transport emissions and the competitiveness and growth in the transport sector.

Since the beginning of the process, Poland presented its supportive approach toward the European Commission's proposal and was committed to reach the most appropriate compromise, which would be on one hand, ambitious enough to reach the outlined aim, on the other – feasible to implement.

Poland notes the overall positive outcome of negotiations but at the same time points out that the implementation of the amended Directive will be time-consuming and complicated.

We consider level of ambition initially proposed by the European Commission as evidence-based and already very ambitious. Raising the level of LDV targets without strong analytical background is in our opinion not appropriate, in particular as the lower level of ambition for LDV targets proposed by the Commission resulted from the assessment of the availability of clean LDV and the maturity of this market. Therefore, Poland cannot support the proposed increase.

Moreover, Poland is of the opinion that the implementation period should be extended to 30 months.

Longer period will not affect negatively the aims of the amended Directive, in contrary, it will bring an added value for the quality of implementing measures. The amended Directive does not contain ready-made solutions, implementation of which would guarantee achievement of the projected goals. Implementation will require thorough analysis, development, testing and implementing of new solutions in order to achieve goals which were set.

Within one country there is a different specificity in individual areas, structures and administrative dependency, type of entities purchasing vehicles or providing services with their use. New solutions will most probably require far-reaching law changes which will go through the parliamentary process. This approach was taken by most of Member States which advocated maintaining the Council's position regarding the extended implementation period.

Therefore Poland stays strongly on the position that 30-months implementation period is necessary to reach aims of the Directive in the most appropriate way."

Statement by Estonia

"Estonia fully supports the aims and objectives of the directive, which pave the way towards low-emission mobility. We support and intend moving towards low and zero-emission public transportation.

However, Estonia wishes to reiterate its concern regarding the 50% subtarget for zero-emission buses (Annex, Table 5 footnote). More precisely, Estonia considers that the subtarget might impede choosing the technology that best fits Member States local conditions. The capacity of procuring zero-emission buses as an obligation in different Member States is not thoroughly analyzed. The Commission impact assessment did not foresee nor analyze setting a subtarget for zero-emission buses. There was no Council impact assessment carried out either on this matter. Setting this target is a policy choice with substantial impact on Member States but as well on industry. As a result, this kind of a policy measure should not be adopted in a hurry without any further impact analysis.

In the Estonian case and considering the current infrastructure and technological development, including technology price, only electric buses can be viewed as zero-emission buses in the meaning of the Directive. In recent years, two of our biggest cities have concluded contracts for long-term public transportation tenders and our capital has also committed to renewing one third of their bus fleet in the coming years with new CNG buses using bio-methane as a fuel. The state has also been actively involved in supporting the setting up of refueling infrastructure for bio-methane all over the country. We see bio-methane as an option to provide zero CO₂-emission fuel as well as a way to bring additional economic activity to rural areas by producing bio-methane from agricultural residues. Producing bio-methane from biodegradable waste contributes to achieving circular economy goals.

In Estonia, a few bigger municipalities make up a majority of public transportation procurement. This leaves us with a situation where before 2025, the majority of bus procurement contracts will be for longer distance county-level transportation, but electric buses are currently an option only for urban public transportation as their driving range is limited. Therefore, we risk not achieving the subtarget of zero-emission buses at least during the first period up to 2025. Using bio-methane, which is considered as a zero CO₂-emission fuel in the greenhouse gas inventory, could help to ensure a smoother transition to low-emission transportation in countries, where electric or hydrogen buses are not yet a viable option for regional public transportation.

Consequently, and yet again stressing the commitment and support for the aims and objectives of the Directive, Estonia regrets that the subtarget can be fulfilled only with electric or hydrogen buses. In this context, Estonia will abstain regarding the current legislative proposal."

46. Regulation on air connectivity: "Brexit" contingency
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 19 February 2019.

47. Regulation on road transportation sector: "Brexit" contingency 6572/19
Presidency debriefing on the outcome of the trilogue
Preparation for the trilogue

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 18 February 2019. The Committee agreed on a revised mandate for the forthcoming trilogue.

48. Directive amending Directive 2008/96/EC on road infrastructure safety management 6136/19 + COR 1
Preparation for the trilogue

The Committee agreed on a revised mandate for the forthcoming trilogue.

Transport, Telecommunications and Energy

49. Meeting of the Council (Transport, Telecommunications and Energy) on 4 March 2019:
Preparation

1. Regulation on tyres labelling 6327/19
General approach

The Committee prepared this item for the Council.

2. Clean Planet for all: Strategic long-term vision for a climate neutral economy 6115/19
Policy debate

The Committee prepared this item for the Council.

Energy

50. Revision of the Gas Directive 6351/19 + COR 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 Cyprus

"The Republic of Cyprus reiterates its concerns in relation to the issues of competences and further recalls that nothing in this Directive shall be interpreted in a way that encroaches on the Principles that are set out in Article 5 of the TEU."

FRIDAY 22 FEBRUARY 2019

Space

51. Regulation establishing the space programme of the Union 6326/19 + ADD 1
Preparation for the trilogue

The Committee agreed on a revised mandate for the forthcoming trilogue.

Statement by Germany

"Article 29 para. 3

DE has concerns regarding the insertion of "security interests of the Union" into Article 29 para. 3. In DE's view, the wording is in contradiction with Article 4 para. 2 TEU, according to which security remains in the sole responsibility of the individual Member States.

Article 34 para. 2(a) and recital 34a

As regards Article 34 para. 2(a) and recital 34a, DE clarifies that the formulations contained therein do not prejudice an extension of the scope of application of decision 496/2014/CFSP. This decision is and remains exclusively applicable to GNSS. A decision on whether to possibly extend the scope of application of decision 496/2014/CFSP by virtue of a revision of decision 496/2014/CFSP and to establish a security monitoring structure for further components other than Galileo can only be taken on the basis of a risk and threat analysis after it has been carried out."

Fisheries

52. Regulation on technical measures 6469/19 + ADD 1
Analysis of the final compromise text with a view to agreement + ADD 1 COR 1
PECHE

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.

Statements by the Commission

- on the adaptation of tonnage

"In the context of the ongoing evaluation of the entry-exit regime set out in Article 23 of Regulation (EU) No 1380/2013, the Commission will examine whether changes are required on the need to adjust the capacity ceilings set out in Regulation (EU) No 1380/2013."

- on derogations to Article 13 (3) of Regulation (EC) No 1967/2006 (the Mediterranean Regulation)

"Where Member States submit requests for a derogation to Article 13 (3) of Regulation (EC) No 1967/2006 (Mediterranean Regulation), these can be granted if the conditions for such a derogation are fulfilled, as a viable way to permit important fisheries whilst protecting the coastal zone."

- on regionalisation

"The Commission relies on the Member States' resolve to make the regionalization process a success for the Common Fisheries Policy. The Commission trusts that Member States will ensure that regionalized technical measures will continue contributing to the objectives of the Common Fisheries Policy, in particular reduction of unwanted catches, and will act in accordance with the principle of loyal cooperation to swiftly address via joint recommendations any potential deterioration of the conservation status currently in place. The Commission underlines that the empowerment of the Commission to adopt by means of delegated acts measures as set out in the Member States' joint recommendations does not have the power to affect the Commission's discretion to adopt such acts. Moreover, in the absence of such joint recommendations by the Member States having a direct management interest, the Commission will use all legal means available to it to address any such deterioration, including, where necessary, emergency measures in line with Article 12 Regulation (EU) No 1380/2013 and the right to submit proposals for the relevant measures in the Common Fisheries Policy field under the Treaty."

- on Article 29 on scientific research

"In relation to the provisions laid down in Article 29 of this Regulation on scientific research, the Commission envisages to regularly seek the advice of STECF where scientific research conducted by more than 6 commercial vessels involves any gears or uses listed in Article 7 of this Regulation to confirm that the level of participation is justified on scientific grounds."

Statement by the Netherlands

"The objective of this regulation is to support the implementation of the Common Fisheries Policy regarding the taking and landing of fisheries resources as well as the operation of fishing gears and the interaction of fishing activities with marine ecosystems. The Netherlands supports these objectives.

In this context the regulation deals with the use of electric pulse techniques. In past years the Netherlands has authorized the use of this technique based on the current legislation. In our view, pulse technique has significant advantages compared with the traditional beam trawls for nature, environment, climate and fisheries. These advantages have been confirmed by recent scientific studies.

The Netherlands therefore regrets that the new regulation contains a prohibition on fishing with the use of electric pulse trawl as of 1st July 2021. We believe that the development of innovative techniques, such as pulse, is vital to address the challenges that the fisheries sector faces in the area of climate, nature and economic sustainability. Furthermore, a prohibition on pulse fisheries has major socio-economic consequences for the fishermen concerned.

In our view, current and future decisions in the area of the Common Fisheries Policy and its technical measures should be based on the best scientific knowledge available.

Based on these arguments the Netherlands is not in a position to support the proposed text of the Regulation on Technical Measures."

Environment

42. (continuation) Regulation on CO2 standards for heavy-duty vehicles

6398/19

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 supports the compromise text. We acknowledge the Presidency's extensive efforts of taking into consideration Germany's concerns on the file. However, Germany wishes to point out that the agreement reached is ambitious and poses major challenges for vehicle manufacturers, especially with regard to the year 2025. From Germany's point of view, it is urgently necessary to expand the European charging infrastructure in order to facilitate unrestricted crossborder deployment of electrical powertrains. This requires a concerted strategy from the Commission and Member States. Charging infrastructure for heavy duty vehicles presents new and different challenges, also compared to, e.g., the light duty vehicle sector. Germany also points to the importance of a review by the Commission in 2022 without preconceived conclusions. All elements of this review, including the mandate to assess the possibility of a methodology for taking into account alternative fuels, are very important."

53. Regulation on LIFE 5637/19
Preparation for the trilogue

The Committee agreed on a revised mandate for the forthcoming trilogue.

54. Meeting of the Council (Environment) on 5 March 2019: Preparation

1. Directive on drinking water (recast) 6374/19
General approach

The Committee prepared this item for the Council.

2. Regulation on water re-use 6355/19
Policy debate

The Committee agreed to withdraw this item from the Council agenda.

3. Clean Planet for all: Strategic long-term vision for a
climate neutral economy 6347/19
Policy debate

The Committee prepared this item for the Council.

4. Greening the European semester 6260/19
Exchange of views

The Committee prepared this item for the Council.

5. European Union framework on endocrine disruptors 6348/19
Policy debate

The Committee prepared this item for the Council.

Transport

48. (continuation) Directive amending Directive 2008/96/EC on
road infrastructure safety management
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 21 February 2019.

55. Regulation on the Connecting Europe Facility (CEF)
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 February 2019.

47. (continuation) Regulation on road transportation sector: "Brexit"
contingency
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 21 February 2019.

Employment, Social Policy and Health

56. Meeting of the Council (Employment, Social Policy, Health and Consumer Affairs) on 15 March 2019: Agenda

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

Employment and Social Policy

57. Regulation on measures in the field of social security coordination: "Brexit" contingency 6480/19
+ ADD 1 REV 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.

IV. Any other business

COREPER (PART 2)

EUTF Africa

The Committee took note of the request by the Italian delegation.

Brexit preparedness

The Committee took note of the information provided by the French delegation.

FAC follow-up

The Committee took note of the information provided by the Dutch delegation.

COREPER (PART 1)

None.

"I" items approved

COREPER (PART 2)

Institutional Affairs

19. **Minutes of Council meetings**

Approval

a) ECOFIN 4.12.2018 15188/18
+ ADD 1 REV 1

b) JAI 6.12.2018 15264/2/18 REV 2
+ ADD 1
+ ADD 1 COR 1

c) FAC 10.12.2018 15389/18
+ ADD 1

d) GAC 11.12.2018 15391/18
+ ADD 1

Appointments

20. Convening of a Conference of the Representatives of the Governments of the Member States - Appointment of a Judge of the Court of justice and of two Judges of the General Court
Approval 6024/19
COUR

General Affairs

21. EP Resolutions and decisions (February 2019) 6268/19
PE-RE

Justice and Home Affairs

22. Directive on law enforcement access to financial information
Confirmation of the final compromise text with a view to agreement 6417/19 + COR 1
ENFOPOL

Statement by Italy

"Italy shares the goal of the Directive on the use of financial information not only for the prevention of money laundering and terrorist financing but also for other purposes linked to serious crimes.

Despite the fact that the final text, accommodating some of our comments, takes into account in the recitals the nature, tasks and prerogatives established by the national legislation during the implementing phase, Italy reiterates its concerns for the provision of specific obligations on Member States.

Italy expressed, during the negotiation, its preference for a greater degree of flexibility to use national mechanisms in the implementation of the provisions of the Directive."

Statement by Germany

"Germany generally supports the aim of the draft Directive to improve access to information by Financial Intelligence Units and public authorities responsible for the detection, investigation or prosecution, to intensify the cooperation between the respective competent bodies and to, overall, strengthen financial investigation. However, Germany has significant reservations against individual provisions of the compromise text, particularly against the definition of "law enforcement information" in article 2 (f) and articles 9, 9a and 10b and recital 21a, which have not been part of the Council's mandate for the negotiation in the trilogue agreed on 21 November 2018. The present compromise text has, from a German point of view, brought about significant changes for the worse compared to the mandate of the Council, partly also compared to the proposal by the Commission.

For Germany, it is a particular concern that there is no possibility to circumvent the requirements for the data collection of individual authorities. This, however, is now to be feared, as the definition of "law enforcement information" in article 2 lit. (f) subparagraph (2) includes data and information which the requesting authority would yet have to collect. At the same time, according to the wording of the draft Directive, it stays irrelevant whether the requesting authority would be allowed to immediately collect such data.

Article 9 contains a provision concerning the Union-wide exchange of information between Financial Intelligence Units which is not consistent with the Anti-Money Laundering Directive [Directive (EU) 2015/849], in particular with articles 32 and 53 thereof. The Council Legal Service has already expressed its concerns regarding contradictions of article 9 with the Anti-Money Laundering Directive in a written opinion on the draft of the Commission (opinion 12 October 2018, 13100/18). The present provision of article 9 does not reconcile these contradictions. It establishes requirements for an exchange of information by the Financial Intelligence Units which is beyond their tasks as defined by Union law and therefore interferes with the freedom of the Member States to organise the respective national Financial Intelligence Unit in conformity with their respective legal order. Moreover, the provision provides for requirements regarding the exchange of information in relation to terrorism or organised crime while Union law, neither through the Anti-Money Laundering Directive nor the present draft Directive, narrows down these notions, establishes the competence for the Financial Intelligence Units to combat these crimes or distinguishes the exchange of information from other instruments of mutual exchange of police and judicial information.

Article 9a provides for the exchange of data between the competent authorities of different Member States, which are, according to article 3 paragraph 2, appointed by the respective Member State. In doing so, article 3 paragraph 2 grants the member states a wide margin of discretion for the designation of these authorities, which may also be determined on a decentralised regional level and may have very diverging tasks, and obliges the Member States to notify the authorities within four months after the expiry of the transition period. In contrast, article 9a requires the Member States to already provide, by the end of the transposition period, for a Union-wide exchange between these authorities which are yet to be determined. Hence, the Member States would have to implement, in a legally binding way, an exchange of information in the sensitive area of financial information in which they leave essential decisions to discretionary decisions of other Member States.

Moreover, with the determination of FIU.net as the exclusive channel of communication, article 10b paragraph 1 is not in conformity with the Anti-Money-Laundering Directive either.

With the explicit mentioning of an “EU-FIU” as an example for a “coordination and support mechanism”, recital 21a deviates from the reporting tasks laid down in Article 65 Anti-Money-Laundering Directive.

Moreover, specific data protection provisions of the new compromise text do not seem systematically coherent, in as far as Directive (EU) 2016/680 as well as Directive (EU) 2016/679 shall be applicable.

Aforementioned deficits will cause significant complication for Member States to ensure a complete, correct and legally certain transposition of the Directive's requirements. Germany therefore raises reservations and cannot agree to the present compromise text of the Directive."

23.	Schengen evaluation Recommendation - Spain data protection <i>Adoption</i>	6392/19 6391/19 SCH-EVAL
24.	Schengen evaluation Recommendation - Switzerland data protection <i>Adoption</i>	6400/19 6399/19 SCH-EVAL
25.	Schengen evaluation Recommendation - Finland data protection <i>Adoption</i>	6394/19 6393/19 SCH-EVAL
26.	Schengen evaluation Recommendation - Finland police cooperation <i>Adoption</i>	6402/19 6401/19 SCH-EVAL
27.	Schengen evaluation Recommendation - Latvia police cooperation <i>Adoption</i>	6396/19 6395/19 SCH-EVAL
28.	Schengen evaluation Recommendation - Latvia external border <i>Adoption</i>	6404/19 6403/19 SCH-EVAL

11. transferred from Part II
Regulation amending the Community Code on Visas (Visa Code) 6571/19
Confirmation of the final compromise text with a view to agreement

Statement by Italy

"In a spirit of compromise, Italy accepts the text of the "Proposal for a Regulation of the European Parliament and of the council amending Regulation (EC) No 810/2009 establishing a Community Code on visas (Visa Code)" (Doc. 6113/19), presented by the Presidency. At the same time, Italy wishes to draw attention to a specific issue raised by the Italian delegation several times during the negotiations: the reduction of the maximum term for deciding on visa applications from 60 to 45 days (article 23 par. 2). Italy regrets that, in spite of the efforts during the negotiations, the final compromise text differs from the Council mandate. The new provision risks being incompatible with the structure and the workload of the Italian consular services, especially in some exceptional cases, notably when further scrutiny of the application is needed."

Foreign Affairs

29. Council Decision on the EU position within the Committee on Government Procurement on the accession of United Kingdom 5745/19
Decision to use the written procedure for the adoption 5742/19 +ADD 1
WTO
30. Union for the Mediterranean (UfM) Employment and Labour 6397/19
Ministerial Declaration MAMA
Adoption
31. Council Decision concerning restrictive measures against 6471/19
Belarus - review 6278/19
Decision to use the written procedure for the adoption CORLX
32. Decision and Implementing Regulation Restrictive measures in 6473/19
respect of actions undermining or threatening the territorial 6175/19
integrity, sovereignty and independence of Ukraine - review 6180/19
Adoption CORLX
33. Syria restrictive measures - letter of reply regarding designated 6519/19
person CORLX
Adoption
34. Authorisation for signing two Agreements between EFTA States 6504/19
and the United Kingdom following the withdrawal of the United EEE
Kingdom from the European Union
Decision to use the written procedure for the adoption

COREPER (PART 1)

WEDNESDAY 20 FEBRUARY 2019

Institutional Affairs

Written questions

58. Replies to questions for written answer submitted to the Council by Members of the European Parliament
Adoption by silence procedure
- a) Louis Michel (ALDE)
'Cyberattacks, cybersecurity, penalties' 6297/19
- b) Kathleen Van Brempt (S&D)
'RELEX working party' 5594/19
- c) Monika Beňová (S&D)
'Human gene editing' 5686/19
- d) Miguel Viegas (GUE/NGL)
'Maximum cadmium levels in fertilisers' 5739/19
59. **Minutes of Council meetings**
Approval
- a) AGRIFISH 19-20.11.2018 14402/1/18 REV 1
+ ADD 1 REV 1
- b) EYCS 26-27.11.2018 14766/1/18 REV 1
+ ADD 1

Education

60. Regulation on the Erasmus+ programme: "Brexit" contingency
Confirmation of the final compromise text with a view to agreement 6273/19
EDUC

Fisheries

61. Proposal for a Regulation amending Regulation (EU) 2017/2403 as regards fishing authorisations for Union fishing vessels in United Kingdom waters and fishing operations of United Kingdom fishing vessels in Union waters
Approval of the Commission proposal text
- 6418/1/19 REV 1
5678/19
PECHE
62. Proposal for a Regulation amending Regulation (EU) No 508/2014 on certain rules relating to the European Maritime and Fisheries Fund by reason of the withdrawal of the United Kingdom from the Union
Approval of the Commission proposal text
- 6418/1/19 REV 1
5668/19
PECHE

Transport

64. Council Decision on the conclusion of the Western Balkans Transport Community Treaty
Adoption
- 6364/19 + ADD 1
13111/18
TRANS
65. Council Decision on the election of the Secretary-General at the 14th session of the General Assembly of Intergovernmental Organisation for International Carriage by Rail (OTIF) (Berne, 27 February 2019)
Endorsement of suggested approach
- 6234/19
TRANS

Delegated or Implementing Acts

Agriculture

66. Commission Regulation (EU) .../... of XXX amending Annexes II, III and IV to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for clothianidin, cycloxydim, epoxiconazole, flonicamid, haloxyfop, mandestrobin, mepiquat, Metschnikowia fructicola strain NRRLY-27328 and prohexadione in or on certain products
Decision not to oppose adoption
- 6258/19
5599/19 + ADD 1-2
AGRILEG

Internal Market

67. Commission Regulation (EU) .../... of XXX amending Annexes III and V to Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products
Decision not to oppose adoption 6319/19
5383/19
+ ADD 1 REV 1
MI
68. Commission Regulation (EU) .../... of xx.xx. amending Annex VI to Regulation (EC) No 1223/2009 of the European Parliament and of the Council on cosmetic products
Decision not to oppose adoption 6325/19
5280/19 + ADD 1
MI

Telecommunications

71. Eastern Partnership Declaration (Bucharest, 28 February 2019)
Decision to use the written procedure for the approval 6628/19

FRIDAY 22 FEBRUARY 2019

Transport

63. Item transferred from meeting on Wednesday
Regulation on aviation safety: "Brexit" contingency
Confirmation of the final compromise text with a view to agreement 5894/19
69. Conclusions on passengers rights (CoA SR No 30/2018)
Adoption 6485/19

Delegated or Implementing Acts

70. Commission Regulation (EU) .../... of XXX amending Annex VI to Directive 2007/59/EC of the European Parliament and of the Council on the certification of train drivers operating locomotives and trains on the railway system in the Community
Decision not to oppose adoption 6375/19
15334/18
TRANS