



Brussels, 19 June 2019  
(OR. en)

10413/19  
CRS CRP 19

**SUMMARY RECORD**  
PERMANENT REPRESENTATIVES COMMITTEE  
22 and 24 May 2019

**I. Adoption of the agenda**

9480/1/19 REV 1 OJ CRP2 19 COMIX 277 + COR 1  
9483/19 OJ CRP1 19

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)**

**Justice and Home Affairs**

2. Meeting of the Council (Justice and Home Affairs) on 6-7 June  
2019: Preparation

- a) Counter-terrorism: Update on cooperation between  
competent authorities dealing with counter-terrorism<sup>1</sup>  
*Exchange of views*

The Committee prepared this item for the Council.

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<sup>1</sup> Exceptionally, in the presence of the Schengen Associated States.

- b) Return Directive (recast) 9396/19  
*Partial general approach*

The Committee agreed on the draft text and agreed to submit it to the Council for a partial general approach.

- c) Commission proposals in the context of the Multiannual Financial Framework
- i) Regulation establishing the border management and visa instrument (BMVI) as part of the Integrated Border Management Fund 9311/19  
*Partial general approach*

The Committee agreed on the draft text and agreed to submit it to the Council for a partial general approach.

- ii) Regulation establishing the Asylum and Migration Fund (AMF) 9312/19  
*Partial general approach*

The Committee discussed this issue and agreed to revert to it at its next session.

- d) The future of EU Law Enforcement 9393/19  
*Policy debate*

The Committee prepared this item for the Council.

- e) The future of EU substantive criminal law 9318/19  
*Policy debate*

The Committee prepared this item for the Council.

- f) The way forward in the field of mutual recognition in criminal matters 9317/19  
*Policy debate*

The Committee prepared this item for the Council.

- g) Conclusions on the synergies between Eurojust and the networks established by the Council in the area of judicial cooperation in criminal matters 9316/19 + COR 1  
*Adoption*

The Committee prepared this item for the Council. The Committee also approved the text of the draft conclusions and agreed to forward them to the Council for adoption.

h) e-evidence

- a) Council Decision on the opening of negotiations for EU-US agreement on cross-border access to e-evidence

9289/1/19 REV 1  
9114/19

The Committee prepared this item for the Council. The Committee also approved the text of the draft Council Decision, as amended during the meeting, and agreed to forward it to the Council for adoption.

#### Statement by Ireland

"The Irish delegation notes that it is intended that the Council will make a decision authorising the opening of negotiations for an Agreement between the European Union and the United States on cross-border access to electronic evidence, less than 3 months after presentation of this proposed decision to the Council.

In these exceptional circumstances, mindful of the importance of the proposed Council Decision and in acknowledgement of the need to allow its speedy adoption, the Irish delegation will not insist, in this instance, upon its right to have 3 months within which to exercise Ireland's option to notify the President of the Council of its wish to participate in the adoption and application of the proposed Council Decision in accordance with the provisions of Article 3 of Protocol 21 on the Position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union."

- b) Council Decision authorising the participation in the negotiations on a second additional protocol to the Budapest Convention  
*Adoption*

9296/19  
9116/19

The Committee prepared this item for the Council. The Committee also approved the text of the draft Council Decision and agreed to forward it to the Council for adoption.

#### Statement by Ireland

"The Irish delegation notes that it is intended that the Council will make a decision authorising the participation in negotiations on a Second Additional Protocol to the Council of Europe Convention on Cybercrime, less than 3 months after presentation of this proposed decision to the Council.

In these exceptional circumstances, mindful of the importance of the proposed Council Decision and in acknowledgement of the need to allow its speedy adoption, the Irish delegation will not insist, in this instance, upon its right to have 3 months within which to exercise Ireland's option to notify the President of the Council of its wish to participate in the adoption and application of the proposed Council Decision in accordance with the provisions of Article 3 of Protocol 21 on the Position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union."

- i) Conclusions on retention of data for the purpose of fighting crime  
*Adoption*

8621/19

The Committee prepared this item for the Council. The Committee also approved the text of the draft conclusions and agreed to forward them to the Council for adoption.

#### Statement by Poland

"Poland supports the general objective of the draft data retention conclusions for the purpose of fighting crime and, as a compromise, accepts the submitted document. At the same time, Poland would like to highlight the fact that during the expert meetings deletion of the word serious in point 1 of the Considerations of the Council (page 6), was suggested many times. In Poland's opinion, it is problematic to accept the gravity of crime as a criterion for access to telecommunications data and allow the access only in the case of serious crimes. Furthermore, in many Member States there is no definition of a serious crime.

In the Polish legal system there is a distinction between crimes and offences based on the social harmfulness of an act. Prohibited acts are divided into those recognized as serious (crimes) and other (offences).

Access to telecommunications data is, without a doubt, one of the most essential tools for law enforcement in the process of providing high level of security, often being the only possibility of obtaining evidence in the case of nuisance and socially harmful crimes. Deprivation of this tool may compromise the investigation process and put to hazard legally protected interests of crime victims."

- j) Other items in connection with the Council meeting

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

#### **Foreign Affairs**

3. Meeting of the Council (Foreign Affairs / Trade) on 27 May 2019 - preparation

- a) WTO reform and negotiations  
*State of play*

9506/19

The Committee prepared this item for the Council.

- b) EU-US trade relations  
*State of play*

The Committee prepared this item for the Council.

- c) Preparation for signature of the EU-Vietnam FTA and Investment Protection Agreement  
*Exchange of views*

The Committee prepared this item for the Council.

- d) Other items in connection with the Council meeting

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

- 4. Meeting of the Council (Foreign Affairs/Development) on 16 May 2019: Follow up

The above-mentioned item was withdrawn.

### **Economic and Financial Affairs**

- 6. Meeting of the Council (Economic and Financial Affairs) on 14 June 2019: Agenda

The Presidency presented the main items on the agenda. A number of delegations requested the inclusion of an item on the Financial Transaction Tax on the agenda.

### **General Affairs**

- 7. Meeting of the Council (General Affairs) on 21 May 2019: Follow-up

The above-mentioned item was withdrawn.

## COREPER (PART 1)

### Transport, Telecommunications and Energy

24. Meeting of the Council (Transport, Telecommunications and Energy) on 6 and 7 June 2019: Preparation

1. Regulation on ePrivacy 9351/19  
*Progress report*

The Committee prepared this item for the Council.

2. Council Decision on the position to be taken on behalf of the European Union in the International Telecommunication Union (ITU) World Radiocommunication Conference 2019 (WRC-19) 9355/19  
*Adoption*

The Committee prepared this item for the Council.

#### Statement by the Commission

"The Commission welcomes the adoption of the Council Decision on the position to be taken on behalf of the European Union in the International Telecommunication Union (ITU) World Radiocommunication Conference 2019 (WRC-19).

However, the Commission stresses the second paragraph of Article 1 of the Decision limits its scope to parts of Union exclusive competence. However, Union competence that may fall within the scope of the work of World Radiocommunications Conference is wider. Should a matter arise at the World Radiocommunications Conference that falls under Union competence but is not covered by the aforementioned paragraph, it will not be possible to specify a Union position in accordance with the procedure described in that paragraph. As a result the Union would be prevented from expressing a position at the World Radiocommunications Conference.

Lastly, this decision under Article 218(9) TFEU should be limited to establishing the Union position to be expressed at bodies established by an international agreement when these are to adopt acts having legal effects. It is therefore not appropriate to introduce additional procedural requirements regarding on the spot coordination.

In light of the above, the Commission underlines that this decision cannot constitute a precedent and it reserves all its rights."

3. Directive amending Directive 1999/62 on Eurovignette (road charging Directive) 9331/19  
*Progress report*

The Committee prepared this item for the Council.

4. Regulation on rail passengers' rights and obligations  
*Progress report* 9333/19

The Committee prepared this item for the Council.

5. Directive amending Directive 2006/1/EC on the use of  
hired vehicles 9447/1/19 REV 1  
*Progress report*

The Committee prepared this item for the Council.

6. Regulation on streamlining measures for the realisation of  
the trans-European transport network (TEN-T) 9189/19  
*Progress report*

The Committee prepared this item for the Council.

7. Regulation on electronic freight transport information  
(eFTI)<sup>2</sup> 9181/19  
*General approach*

The Committee prepared this item for the Council.

### **Employment, Social Policy, Health and Consumers Affairs**

25. Meeting of the Council (Employment, Social Policy, Health and Consumer Affairs) on 13 and 14 June 2019

1. Agenda

The Presidency presented the main points on the agenda.

2. Preparation

- Conclusions on combatting antimicrobial resistance 9274/19  
*Adoption*

The Committee prepared this item for the Council.

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<sup>2</sup> When adopting a General approach or a Partial General approach after the European Parliament has adopted its position at first reading, the Council is not acting within the meaning of Article 294(4) and (5) TFEU.

## **Health**

26. Appointment of four members of the Management Board of the European Medicines Agency (EMA) 7702/19  
*Recommendation to Council* 7703/19  
7380/19 + ADD 1

The Committee decided to recommend to Council to appoint Ms Nancy DE BRIYNE, Mr Marco GRECO, Mr Wolf-Dieter LUDWIG and Mr Ioannis NATSIS as members of the EMA Management Board.

## **IV. Any other business**

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

EU-US trade relations

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

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

None.

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**"I" items approved****COREPER (PART 2)****Judicial Affairs**

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|-----|---|----------------|
| 8.  | Cases before the General Court - Syria Cases<br>T-55/19 (Cham Holding & Bena Properties v. Council)<br>T-56/19 (Syriatel v. Council)<br>T-57/19 (Rami Makhoul v. Council)<br>T-58/19 (Razan Othman v. Council)<br>T-59/19 (Ehab Makhoul v. Council)<br>T-61/19 (Société Drex Technologie v. Council)<br>T-62/19 (Al Mashreq Investment v. Council)<br>T-137/19 (La Société Souruh v. Council)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i> | 9326/19<br>JUR |
| 9.  | Case T-178/19, Nader Kalai v. Council<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>   | 9389/19<br>JUR |
| 10. | Case T-252/19 (Laurent Pech v. Council)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>   | 9410/19<br>JUR |
| 11. | T-148/19 (PKK v Council)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>  | 9409/19<br>JUR |

**Institutional Affairs**

- |     |   |                            |
|-----|---|----------------------------|
| 12. | <b>Minutes of Council meetings</b><br><i>Approval</i> |                            |
| a)  | JAI 7-8.3.2019  | 7235/19 + COR 1 +<br>ADD 1 |
| b)  | ECOFIN 12.3.2019                                      | 7499/19 + ADD 1            |
| c)  | FAC 18.3.2019   | 7597/19 + ADD 1            |

## Transparency

- |   |                       |
|---|-----------------------|
| 13. Public access to documents<br>Confirmatory application No 12/c/01/19<br><i>Adoption</i> | 8433/19<br>INF<br>API |
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## Justice and Home Affairs

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|---|--|
| 14. Regulation amending the Community Code on Visas (Visa Code)<br><i>Adoption of the legislative act</i>                     | 9172/19 + ADD 1<br>PE-CONS 29/19<br>VISA |
| 15. Regulation on strengthening the security of ID cards and of residence documents<br><i>Adoption of the legislative act</i> | 9167/19 + ADD 1<br>PE-CONS 70/19<br>JAI  |

### Statement by the Czech Republic

"The Czech Republic appreciates the development that has been made in improving the level of security of identity cards issued to Union citizens and residence documents issued to their family members.

However, we cannot agree with the mandatory introduction of biometric data in identity cards and, therefore, cannot support the proposal for a regulation as it stands now. The Czech Republic could only take the opposite view if biometric data (and specifically fingerprints) were included in identity cards on a voluntary basis only.

From the data protection perspective, obligatory storage of biometric data in identity cards is a very sensitive issue for the Czech Republic as the majority of the population is obliged to hold an identity card.

Since only half of the Member States require their citizens to hold an identity card, the Czech Republic considers the proposal for a regulation to be disproportionate."

### Statement by Poland

"Poland supports the general aim of the proposal of improving security within the EU by ensuring security of selected identity documents. Within that context, Poland is also in favor of implementing some level of harmonization of national identity documents. In a spirit of compromise Poland accepts the text presented by the Presidency.

However, Poland wishes to draw attention to the question it has pointed out consequently during the negotiations, namely that the Regulation cannot encroach on areas of the exclusive competence of the Member States, e.g. set out methods of determining a person's gender.

This Regulation may only stipulate how to indicate the holder's gender in the national document, provided that their gender has been previously determined in accordance with the national law. Poland expresses regret that this distinction has not been clearly set out in the negotiated text."

16. Directive on Insolvency, Restructuring & Second Chance  
*Adoption of the legislative act*

9170/1/19 REV 1  
+ ADD 1  
PE-CONS 93/18  
JUSTCIV

#### Statement by Germany

"Germany approves the position of the European Parliament at first reading on the Commission "Proposal for a Directive of the European Parliament and of the Council on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures (COM(2016) 723)".

However – with reference to its earlier protocol declarations at the JHA Council Meetings of 4/5 June and 11/12 October 2018 - Germany reiterates its view that within the context of the Banking Union, the proposal does not make a significant contribution to the measures necessary for a sustainable reduction and future avoidance of non-performing loans. Farther-reaching elements would be required, such as ensuring secured creditors have effective access to the value of the collateral security in liquidation procedures.

Furthermore, in Title II (Preventive Restructuring Frameworks), the Directive grants a large number of options to be exercised at national discretion, leaving Member States room for implementations which do not provide adequate safeguards against abuse and against economically inefficient restructuring attempts. This can lead to the delaying of necessary insolvency proceedings which can in turn lead to lower rates of return.

In addition, the collection of data on recovery rates envisaged in Article 29 (3) (b) of Title V (Monitoring) should be obligatory for all Member States in order to allow a comparison of the efficiency of insolvency procedures within the context of the Banking Union.

As a result, the proposed Directive does not offer the required minimum level of creditor protection and therefore does not represent an important step towards fulfilling the Council conclusions on the "Action plan to tackle non-performing loans in Europe" of 11 July 2017."

#### Statement by Portugal

"Portugal acknowledges that there is sufficient flexibility within the text of the "Proposal for a Directive of the European Parliament and of the Council on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU" in order to allow Member States to exclude specific categories of debt from discharge of debt, or restrict access to discharge of debt or lay down a longer discharge period where such exclusions, restrictions or longer periods are duly justified.

It is the view of Portugal that Member States may maintain or introduce provisions excluding or restricting access to discharge of tax debts, not only because such measures are to be considered duly justified due to the special nature of tax debts, but also because the approval of EU legislation with an impact on the payment of turnover taxes, excise duties and other forms of taxation would require a different specific legal basis, subject to special legislative procedures, as prescribed by the Treaty on the Functioning of the European Union.

Bearing this in mind, Portugal would like to reserve this position regarding the regulation of access to discharge of tax debts when transposing the Directive."

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|-----|--|---------|
| 17. | Regulation on European Production and Preservation Orders for e-evidence<br><i>General approach (supplement)</i>                               | 9365/19 |
| 18. | ETIAS consequential amendments   | 9229/19 |
|     | a) Regulation for consequential amendments of ETIAS regarding police and judicial cooperation  | FRONT   |
|     | b) Regulation for consequential amendments of ETIAS regarding borders and visa<br><i>Mandate for negotiations with the European Parliament</i> |         |

Statement by Denmark

"Denmark considers ETIAS to be an important instrument in the effort to secure and strengthen the control of the external borders and considers it of utmost importance to achieve the ETIAS objectives of identifying whether the presence of ETIAS applicants in the territory of the Member States would pose a security risk.

Denmark considers the country of first intended stay to be best suited to manually process an application where the manual processing is not triggered by data entered or supplied by a Member State. This principle should not be conditional on whether or not the hit is based on data processed in systems controlled by Europol and whether or not the Member State of first intended stay participates to the Europol regulation.

Denmark encourages that a solution is found in accordance with Regulation (EU) 2016/794, Europol's operational and strategic agreements with third countries, to which *inter alia* Denmark is subject, and any further future agreements concluded between Europol and third countries etc, including those associated with the European Union where Europol makes the relevant information on hits with Europol's databases available to the country of first intended stay, where this country does not participate in the Europol regulation."

### Statement by the Republic of Croatia

"The Republic of Croatia welcomes the work of the Presidency related to the proposals for consequential amendments to ETIAS, VIS, EES, SIS BORDER and ECRIS-TCN Regulations necessary for the establishment of ETIAS.

The interoperability of the abovementioned systems is exceptionally important for border management and consequently for strengthening the security of the European Union. We therefore support the establishment of the conditions that will further contribute to that matter. The Republic of Croatia would like to point out that, with a view to joining the Schengen area as soon as possible, as a prerequisite for conducting searches against some of the systems essential for making decisions related to ETIAS authorisations (EES and VIS), an evaluation procedure has been conducted and we soon expect to receive a formal confirmation from the European Commission that the evaluation procedure has been completed in all areas of the Schengen acquis and that the Republic of Croatia meets all technical requirements for membership in the Schengen area. The European Commission is also expected to confirm that the Republic of Croatia continues to fulfil the obligations relating to the application of the Schengen acquis adopted as defined by the Accession Treaty.

The Republic of Croatia would like to point out that its access to VIS, which is a precondition for the efficient application of EES and ETIAS, will be enabled only after the Council adopts a political decision on its accession to the Schengen area. The Republic of Croatia has actively engaged in ensuring all the preconditions for the efficient application of new information systems and their interoperability with the existing information systems. However, if the abovementioned political decision is not adopted by the entry into force of the ETIAS Regulation, the Republic of Croatia will not be able to conduct all the checks necessary for issuing ETIAS authorisations. This is what the Republic of Croatia would like to point to, primarily having in mind how important the implementation of both the ETIAS Regulation and the EES Regulation is for the overall security of the European Union, as well as the efficient control of its external borders."

### Statement by Sweden

"Sweden acknowledges the need for efficient access to existing information in EU information systems and to previous convictions from Member States to support the ETIAS objectives of identifying whether the presence of ETIAS applicants in the territory of the Member States would pose a security risk.

However, Sweden wants to highlight the need for sufficient assessment of the business and integrity consequences of the proposed solution. The consequences of ETIAS querying Ecris-TCN have not been described in any impact assessments for the legislative proposals involved; neither for Ecris-TCN nor for the interoperability proposals, ETIAS or the present ETIAS consequential amendments.

The proposal contains the "flagging" of relevant offences in Ecris-TCN. Since Ecris-TCN would then contain not only identity data, but also information about the convictions, this would mean a substantial change to the recently adopted Ecris-TCN regulation. The flagging will also pose practical problems and possibly a considerable administrative burden for the national Central Authorities for Ecris, having to assess in each case if a conviction should be flagged in Ecris-TCN or not.

Before "flagging" is introduced in Ecris-TCN for the purpose of ETIAS queries, cost/benefit and integrity aspects of the solution should be analyzed."

## Foreign Affairs

- |     |   |   |
|-----|---|---|
| 19. | ACP-EU Council of Ministers, 23-24 May 2019 - Draft<br>Annotated Agenda<br><i>Adoption</i>  | 9146/19<br>ACP                            |
| 20. | Council Decision on EU position in the ACP-EU Council of<br>Ministers regarding delegation of powers to the ACP-EU<br>Committee of Ambassadors to adopt transitional measures<br>pursuant to Article 95(4) of the ACP-EU Partnership Agreement<br><i>Adoption</i> | 9491/19<br>9446/19<br>ACP                 |
| 21. | Mandate for plurilateral negotiations on e-commerce<br><i>Adoption</i>  | 9306/1/19 REV 1<br>8993/19 + ADD 1<br>WTO |
| 22. | Restrictive measures in view of the situation in Venezuela -<br>update of statement of reasons: pre-notification<br><i>Approval</i>   | 9472/19<br>CORLX                          |
| 23. | Council Decision and Implementing Regulation concerning<br>restrictive measures against Iran - review<br><i>Adoption</i>  | 9475/19<br>8858/19<br>8860/19<br>CORLX    |

## COREPER (PART 1)

### Institutional Affairs

#### Written questions

27. Replies to questions for written answer submitted to the Council by Members of the European Parliament  
*Adoption by silence procedure* 9399/1/19 REV 1  
PE-QE
- a) Miguel Viegas (GUE/NGL) 8786/19  
'Taking back mercenaries and agents involved in the aggression in and destabilisation of Syria'
- b) Frédérique Ries (ALDE) and Louis Michel (ALDE) 8787/19  
'Insufficient progress in reducing underwater noise pollution'
- c) Francesc Gambús (PPE) 8823/19  
'EU aid for clean-up operation following the wreck of the Grande America'
28. **Minutes of Council meetings**  
*Approval*
- a) EPSCO 15.03.2019 7572/19 + ADD 1
- b) AGRIFISH 18.03.2019 7596/19 + ADD 1
- #### Appointments
29. Fifteen members of the Management Board of the European Chemicals Agency (ECHA)  
*Adoption* 9269/19  
9277/19  
COMPET
30. Members and alternate members of the Management Board of the European Institute for Gender Equality 2019-2022  
*Adoption* 7574/19  
7508/19  
SOC
31. Members and alternate members (LU) for the Advisory Committee on Safety and Health at Work  
*Adoption* 8906/19  
8905/19  
SOC

## **Judicial Affairs**

32. Case T-126/19 (Krajowa Izba Gospodarcza Chłodnictwa i Klimatyzacji v Commission) 9321/19  
Information note for the Permanent Representatives Committee JUR  
(Part 1)

## **EU positions for international negotiations**

33. Council Decision on the position to be taken on behalf of the EU 9265/19  
in the framework of the NASCO Convention as regards the 8836/19  
application for accession to that Convention submitted by PECHE  
the UK  
*Adoption*

## **Fisheries**

34. Regulation on a multiannual recovery plan for Mediterranean 9203/19  
swordfish PE-CONS 18/19  
*Adoption of the legislative act* PECHE
35. Regulation on a multi-annual plan for demersal stocks in the 9206/19 + ADD 1  
Western Mediterranean Sea + ADD 2 REV 1  
*Adoption of the legislative act* PE-CONS 32/19  
PECHE

### Statement by the Commission

- on 'best available scientific advice'

"As regards 'best available scientific advice', the Commission underlines that the current practice is to accept only the scientific advice issued or reviewed by an independent scientific body recognised at Union or international level, such as the Scientific, Technical and Economic Committee for Fisheries (STECF), the Scientific Advisory Committee (SAC) of the General Fisheries Commission for the Mediterranean (GFCM) or the International Council for the Exploration of the Sea (ICES).

The Commission could explore the possibility to propose in the future a definition of "best available scientific advice."

- on the amendment of Annex I of the MAP (inclusion of depth intervals as a criteria for the segmentation of the fishing effort)

"In the context of the evaluation of the Plan, five years after its entry into force, different scenarios could be envisaged for its revision, including the introduction in Annex I of other criteria designing the effort segmentation, such as depth intervals for the stocks concerned stipulated in Article 7(1) and the prohibition to increase capacity stipulated in Article 9(5) of the plan. Any such revision will depend on the best available scientific advice."



- on regional cooperation

"The Commission will, on behalf of the Member States, continue its efforts in order to adopt conservation measures within the General Fisheries Commission for the Mediterranean (GFCM) in order to ensure the sustainable exploitation of shared stocks in the Mediterranean, in accordance with the MedFish4Ever Declaration of 2017."

### **Transport**

36. Directive on the minimum training of seafarers  
*Adoption of the legislative act*

9205/19  
PE-CONS 39/19  
MAR

### **Telecommunications**

37. Directive on the re-use of public sector information (PSI)  
*Adoption of the legislative act*

9204/19  
PE-CONS 28/19  
TELECOM