



Brussels, 10 July 2019  
(OR. en, fr)

11111/19  
CRS CRP 24

## SUMMARY RECORD

PERMANENT REPRESENTATIVES COMMITTEE (Part 2)

26 June 2019

### I. Adoption of the agenda

10606/1/19 REV 1 OJ CRP2 24

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

#### General Affairs

#### 3. European Council follow-up *State of play*

The Committee took note of the main outcomes of the European Council and was informed that the note would be revised to better reflect the incoming Presidency's intentions.

#### 4. Meeting of the Council (General Affairs/Cohesion) on 25 June 2019: Follow-up

The above-mentioned item was withdrawn.

#### Foreign Affairs

#### 5. Meeting of the Council (Foreign Affairs) on 17 June 2019: Follow-up

The Committee took note of the main outcomes of the Council meeting and took note of the information provided by the Polish delegation.

6. Meeting of the Council (Foreign Affairs) on 15 July 2019:  
Agenda

The EEAS presented the main items on the agenda and took note of the request by several delegations for the addition of a formal item on the Central African Republic.

7. EU-Japan Summit, 25 April 2019: Follow-up

The Committee took note of the information regarding implementation of commitments made in the EU-Japan Joint Statement of 25 April 2019 and agreed to revert to this issue at one of its forthcoming sessions.

8. EU-Ukraine Summit (Kyiv, 8 July 2019)  
*State of play*

The Committee discussed the state of play and agreed to return to this at its next session.

### **Economic and Financial Affairs**

10. Meeting of the Council (Economic and Financial Affairs) on 9  
July 2019: Preparation  
Other items in connection with the Council meeting

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

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

Migration - temporary arrangements

The Committee took note of the statement by Italy.

##### Statement by Italy

"Italy takes note of document 7219/2019 REV1 and wishes to clarify that such document represents a contribution by the Presidency to a debate which is still on-going and is not yet concluded.

Moreover, this contribution does not represent the point of view expressed by all member States during the meetings therein mentioned on an issue which, at present, does not enjoy consensus."

ESPAS report

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

Decision on the non-replacement of Members of the Commission

The Committee took note of the information provided by the Presidency and the Council legal service as well as the views expressed by the Estonian and Dutch delegations.

EU-Switzerland relations

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

---

**"I" items approved**

**Judicial Affairs**

- |     |   |                 |
|-----|---|-----------------|
| 11. | Case C-386/19 P (HAMAS v. Council)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>  | 10303/19<br>JUR |
| 12. | Case T-291/19 (Viktor Pavlovyh Pshonka v. Council of the EU)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>  | 10311/19<br>JUR |
| 13. | Case T-292/19 (Artem Viktorovych Pshonka v. Council of the EU)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>  | 10312/19<br>JUR |
| 14. | Case T-157/19 (Şanlı v. Council)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>  | 10323/19<br>JUR |
| 15. | Case T-327/19 (Mohamed Hosni Elsayed Mubarak v. Council)<br><i>Information note for the Permanent Representatives Committee (Part 2)</i>  | 10532/19<br>JUR |
| 16. | Opinion procedure before the Court of Justice (Case A-1/17)<br>- Opinion of the Full Court of 30 April 2019<br><i>Information note for the Permanent Representatives Committee (Part 2)</i> | 10329/19<br>JUR |

## Economic and Financial Affairs

17. Regulation on Crowdfunding  
*Mandate for negotiations with the European Parliament*

10544/19  
10557/19  
EF

### Statement by Austria

"As Austria has explained continuously over the past months, due to the harmonisation approach taken by the compromise text, an exemption of crowdfunding service providers without cross-border activities from the scope would be of utmost importance to allow providers to continue operating under their current national regime. Such an exemption would at least guarantee a minimum level of subsidiarity and proportionality and would acknowledge the fact that the elaborate requirements of the Regulation would prove excessively burdensome for many of the small national service providers and could put their viability in peril. The extension period proposed in Article 38a1 unfortunately does not provide a satisfactory solution as it would only postpone the Regulation's application for a maximum of 24 months without addressing the fundamental concerns described."

### Statement by Bulgaria

"Bulgaria fully supports the objectives of the Regulation to facilitate the scaling up of crowdfunding services across the internal market in order to increase the access to finance for start-ups and SMEs in general. We acknowledge that significant changes have been made to the initial proposal of the European Commission. However, we consider it important to note that we still have concerns as regards the risk of Regulatory arbitrage and investor protection issues. The threshold for the crowdfunding offers as well as other important aspects of the Regulation such as authorisation, supervision and cooperation between national competent authorities in cross border cases, should be further discussed during the negotiations with the European Parliament."

### Statement by the Czech Republic

"We appreciate the efforts and the hard work done by RO PRES on the proposal. However, there are two crucial issues which should be taken into account.

#### **1. MiFID-licensed entities and the interplay between MiFID II and ECSP Regulation**

The crowdfunding is defined in Article 3 by reference to MiFID II. It implies that entity providing solely services consisting of the placing without firm commitment and the reception and transmission of client orders is capable to receive a MiFID license. There is the interplay between MiFID and ECSP Regulation. In our view the fact that electronic information system is used should not lead to a change of licensing regime. MiFID firms should be able to provide a crowdfunding without a need to get a new license. This could be valid even in case rule for a provision of crowdfunding services listed in ECSP regulation would apply.

As regards the Recital 9, there is stipulated that *a distinguishing feature of crowdfunding services is that the crowdfunding service provider offers these two services jointly on a crowdfunding platform*. However, the provision of solely MiFID services would qualify as crowdfunding as well. As it was mentioned above, this approach is not technologically neutral. It is not acceptable for us to easily say, that the only difference between MiFID and crowdfunding services is, that crowdfunding services are provided electronically via internet. MiFID services can also be provided via internet thus the channel cannot be the distinguishing point.

## 2. An exemption for crowdfunding service providers without cross-border activities

The final compromise represents a robust regulation of crowdfunding services provided in the wide scale. Nevertheless, there are small local platforms, which will not be able to meet all requirements set by the ECSP Regulation. Therefore, an exemption for crowdfunding service providers who do not intend to provide services cross-border and are established under national law place a right balance in the ECSP Regulation.

We believe that these concerns will be taken into account during negotiation with the European Parliament."

- |  |          |
|--|----------|
| 18. Directive on Crowdfunding                                | 10544/19 |
| <i>Mandate for negotiations with the European Parliament</i> | 10558/19 |
|  | EF       |

### Statement by Austria

"As Austria has explained continuously over the past months, due to the harmonisation approach taken by the compromise text, an exemption of crowdfunding service providers without cross-border activities from the scope would be of utmost importance to allow providers to continue operating under their current national regime. Such an exemption would at least guarantee a minimum level of subsidiarity and proportionality and would acknowledge the fact that the elaborate requirements of the Regulation would prove excessively burdensome for many of the small national service providers and could put their viability in peril. The extension period proposed in Article 38a1 unfortunately does not provide a satisfactory solution as it would only postpone the Regulation's application for a maximum of 24 months without addressing the fundamental concerns described."

### Statement by the Czech Republic

"We appreciate the efforts and the hard work done by RO PRES on the proposal. However, there are two crucial issues which should be taken into account.

#### **1. MiFID-licensed entities and the interplay between MiFID II and ECSP Regulation**

The crowdfunding is defined in Article 3 by reference to MiFID II. It implies that entity providing solely services consisting of the placing without firm commitment and the reception and transmission of client orders is capable to receive a MiFID license. There is the interplay between MiFID and ECSP Regulation. In our view the fact that electronic information system is used should not lead to a change of licensing regime. MiFID firms should be able to provide a crowdfunding without a need to get a new license. This could be valid even in case rule for a provision of crowdfunding services listed in ECSP regulation would apply.

As regards the Recital 9, there is stipulated that *a distinguishing feature of crowdfunding services is that the crowdfunding service provider offers these two services jointly on a crowdfunding platform*. However, the provision of solely MiFID services would qualify as crowdfunding as well. As it was mentioned above, this approach is not technologically neutral. It is not acceptable for us to easily say, that the only difference between MiFID and crowdfunding services is, that crowdfunding services are provided electronically via internet. MiFID services can also be provided via internet thus the channel cannot be the distinguishing point.

## 2. An exemption for crowdfunding service providers without cross-border activities

The final compromise represents a robust regulation of crowdfunding services provided in the wide scale. Nevertheless, there are small local platforms, which will not be able to meet all requirements set by the ECSP Regulation. Therefore, an exemption for crowdfunding service providers who do not intend to provide services cross-border and are established under national law place a right balance in the ECSP Regulation.

We believe that these concerns will be taken into account during negotiation with the European Parliament."

- |     |  |                |
|-----|--|----------------|
| 19. | Regulation on Sustainable Finance - taxonomy<br><i>Progress report</i> | 10559/19<br>EF |
|-----|--|----------------|

### General Affairs

- |     |   |                   |
|-----|---|-------------------|
| 20. | Transparency Register<br><i>Progress report</i>   | 9688/19<br>AG     |
| 22. | Narrative paper on an open, free, stable and secure cyberspace<br><i>Approval</i>       | 10472/19<br>CYBER |
| 23. | Implementation of the Interinstitutional Agreement on Better Law-Making - State of play | 10455/19<br>INST  |

25. Multiannual Financial Framework 2021-2027 - Rule of Law  
Regulation  
*Progress report*

9499/1/19 REV1  
CADREFIN

Joint statement by Hungary and Poland

on the proposal for a Regulation on the protection of the Union's budget in case of generalised deficiencies as regards the Rule of Law in the Member States

"We note with concern the progress of the negotiations, as the proposal with the Presidency's modifications still raises serious concerns regarding conformity with the Treaties as it intends to circumvent the procedure laid down in Article 7 TEU.

We reiterate our view, that there are already adequate instruments for both the protection of the Union's budget and safeguarding the values of the EU. Furthermore the Council Legal Service (CLS) stated in its opinion, that the proposed mechanism could create duplications and would overlap with the already existing instruments, therefore cannot be regarded as independent or autonomous from the procedure laid down in Article 7 TEU.

The CLS and Court of Auditors opinions also emphasized that a regime of conditionality can be activated only if the cases of malfunctioning are identified with a clear and sufficiently precise definition. In our view, the proposed vague, not objectively assessable criteria and an open-ended list would mean that the Commission might act without applying a strict conditionality. We also maintain our position that a risk is only a presumption therefore measures should not be taken on that basis. The position of the Commission as foreseen in the draft regulation is not balanced by the Council. We believe that the role of the Council in the decision making process should be strengthened.

In line with its legal basis, the aim of the proposal should be to protect the financial interest of the EU. In order to ensure that the proposal serves this objective, there should be a direct link between the generalised malfunctioning and the implementation of the EU budget. The measures taken should be proportionate to the impact of the generalised deficiency on the sound financial management of the EU budget, take into account the economic and social circumstances of the Member States and a maximum should be determined. Any measures have to be lifted once the impact on the EU budget ceases to exist.

Given the political sensitivity and importance of this dossier, we stress that having clear political guidelines from the European Council on the most controversial elements is a precondition to reach progress in the negotiations."

26. Draft EU Common Position on Chapter 9, Serbia  
*Adoption*

10490/19  
ELARG



## **Justice and Home Affairs**

27. Schengen evaluation Recommendation - Finland return  
*Adoption* 10378/19  
10376/19  
SCH-EVAL
28. Schengen evaluation Recommendation - Switzerland visa policy  
*Adoption* 10382/19  
10381/19  
SCH-EVAL
29. Schengen evaluation Recommendation - Estonia visa policy  
*Adoption* 10380/19  
10379/19  
SCH-EVAL
30. Schengen evaluation Recommendation - Estonia police  
cooperation  
*Adoption* 10389/19  
10388/19  
SCH-EVAL
31. Schengen evaluation Recommendation - Lithuania visa policy  
*Adoption* 10384/19  
10383/19  
SCH-EVAL
32. Schengen evaluation Recommendation - Lithuania police  
cooperation  
*Adoption* 10386/19  
10385/19  
SCH-EVAL

## **Foreign Affairs**

33. PSC Decision EUNAVFOR MED/1/2019 - appointment of the  
EU Force Commander  
*Decision to publish in the Official Journal* 10242/19  
9906/19  
PSC DEC
34. PSC Decision EUTM RCA/1/2019 - Appointment of the EU  
Mission Force Commander  
*Decision to publish in the Official Journal* 10421/19  
9790/19  
PSC DEC
35. Council Decision and Implementing Regulation concerning  
restrictive measures in view of the situation in Venezuela -  
update of statements of reasons  
*Adoption* 10328/19  
9568/19  
9569/19  
CORLX
36. Council Decision on EUPOL COPPS Mission - extension  
*Decision to use the written procedure for the adoption* 10333/19  
9564/19  
CORLX

37.	Council Decision on EUBAM Rafah Mission - extension <i>Decision to use the written procedure for the adoption</i>	10335/19 9572/19 CORLX
38.	Council Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and Council Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism - updated statements of reasons <i>Decision to use the written procedure for the adoption</i>	10466/19 + ADD 1 CORLX
39.	Council Decision concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine - extension <i>Decision to use the written procedure for the adoption</i>	10564/19 10226/19 CORLX
40.	Guinea-Bissau restrictive measures - review <i>Adoption</i>	10567/19 CORLX
41.	Ukraine misappropriation of state funds - restrictive measures: letter of reply <i>Adoption</i>	10571/19 CORLX
42.	Council Decision on the security of systems and services deployed, operated and used under the European Space Programme <i>Agreement in principle</i>	10585/19 CORLX
43.	Annual Report of the Friends of the Presidency on Countering Hybrid Threats <i>Approval</i>	10491/19 10473/19 HYBRID
44.	Countering Hybrid Threats - Best Practices Guide <i>Approval</i>	10492/19 10474/19 HYBRID
45.	Conclusions on the Joint Synthesis Report <i>Adoption</i>	9233/19 DEVGEN
46.	EU HEX ML 18 (PACE) Final Exercise Report	10439/19 9630/19 <b>R-UE</b> POLMIL
47.	14th EU-Morocco Association Council - Joint Declaration <i>Establishment of the EU position</i>	10616/19 MA

## EU positions for international negotiations

48. Council Decision between the European Economic Community and the Republic of San Marino with regard to applicable provisions on organic production and labelling of organic products, and arrangements for imports of organic products  
*Adoption* 8997/19  
8996/19  
AELE
49. Council Decision on the EU position at CITES CoP 18  
*Adoption* 10456/1/19 REV 1  
+ REV 1 ADD 1  
9680/19  
ENV

### Joint statement by France and Luxembourg

"La France et le Luxembourg, afin de favoriser l'émergence d'un compromis européen, ont accepté le projet de Décision de la Présidence relative à la COP18 de la CITES. Pour autant, la France et le Luxembourg regrettent qu'il n'ait pas été possible pour l'Union européenne d'adopter une position plus allante concernant les éléphants d'Afrique australe. Dès 2016, la France a été le premier Etat européen à restreindre son marché intérieur d'ivoire d'éléphant, rejointe par le Luxembourg en 2018. La France et le Luxembourg souhaitent, avec les partenaires de la Coalition pour l'éléphant d'Afrique, promouvoir ces mesures aussi bien au niveau européen qu'international."

### Joint statement by Austria, Belgium, Denmark, Latvia and Sweden

"Austria, Belgium, Denmark, Latvia and Sweden underline the importance of following the rules and principles of the international agreements EU and its member states are part of. In that regard, we have serious concerns regarding the proposed line to take for the incoming Conference of the Parties of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (as in document 9611/19 and its annexes). We underline further the crucial importance for the EU and its member states to follow the principles of the CITES Convention when assessing proposals, especially the listing criteria set out in Resolution Conference 9.24 (Rev CoP17). Including taking into consideration the most relevant and robust scientific advice for the assessment of listing proposals. The listing criteria guarantee meaningful conservation efforts in the framework of the CITES convention. Ignoring these jeopardizes the efficiency of the Convention and undermines its credibility. Additionally, successful management of a species and efforts by the respective country that result in significant improvements of the conservation status have to be recognised. Besides, our internal EU-procedures, such as the decision-making mechanisms that are commonly used to formulate a common EU-position, must be respected."

## Other items

- |     |  |                              |
|-----|--|------------------------------|
| 50. | Pilot tests on using of videoconferencing facilities at certain Working Parties during the Finnish Presidency<br><i>Approval</i> | 10630/19<br>9117/19<br>CIS   |
| 51. | Interim approval of a cryptographic product<br><i>Approval</i>   | 10194/19 R-UE<br>CSCI<br>CSC |

## Energy

- |     |  |                |
|-----|--|----------------|
| 52. | Regulation on Ignalina power plant decommissioning<br><i>Progress report</i> | 9798/19<br>ATO |
|-----|--|----------------|

### Statement by Austria

"Regarding the climate spending targets, Austria would like to see only those measures taken into account that are actually climate-relevant. The Austrian position is that expenditure on nuclear research and the dismantling of nuclear facilities must not be presented as climate-relevant.

Austria called and still calls for the removal of the corresponding recitals 22 (proposal Ignalina) and 25 (proposal radioactive waste), but at least for putting these recitals in square brackets for further discussions. Putting them into curly brackets is highly unusual given the fact that all other horizontal aspects are in square brackets."

### Statement by Germany

"Germany wishes to thank the Presidency for its progress report and underlines its support for the objectives of the two Regulations financing the decommissioning of the referred nuclear facilities.

We note that the capacity for both regulations to contribute to the horizontal climate target of the MFF referred to therein continues to be unclear.

With a view to expediting negotiations on this sectoral file, Germany proposes for this question to be taken up and decided in the horizontal AHWP-MFF. This should allow to appraise the issue in the context of all ongoing negotiations for sectoral regulations of the future MFF."

53. Regulation on funding for decommissioning and management of radioactive waste 9966/19  
ATO  
*Progress report*

Statement by Austria

"Regarding the climate spending targets, Austria would like to see only those measures taken into account that are actually climate-relevant. The Austrian position is that expenditure on nuclear research and the dismantling of nuclear facilities must not be presented as climate-relevant.

Austria called and still calls for the removal of the corresponding recitals 22 (proposal Ignalina) and 25 (proposal radioactive waste), but at least for putting these recitals in square brackets for further discussions. Putting them into curly brackets is highly unusual given the fact that all other horizontal aspects are in square brackets."

Statement by Germany

"Germany wishes to thank the Presidency for its progress report and underlines its support for the objectives of the two Regulations financing the decommissioning of the referred nuclear facilities.

We note that the capacity for both regulations to contribute to the horizontal climate target of the MFF referred to therein continues to be unclear.

With a view to expediting negotiations on this sectoral file, Germany proposes for this question to be taken up and decided in the horizontal AHWP-MFF. This should allow to appraise the issue in the context of all ongoing negotiations for sectoral regulations of the future MFF."

54. Report on the implementation of the obligations under the Convention on Nuclear Safety - 8th Review Meeting of the Contracting Parties 10365/19 + ADD 1  
ATO

**Transport**

55. Preparation of the 40th ICAO Assembly (Montreal, 26 September - 4 October 2019): First batch of European working papers 10227/19 + COR 1  
TRANS  
*Endorsement*

**Internal Market and Industry**

56. Regulation on Customs Equipment and Regulation on Customs Programmes 10604/19  
10600/19  
UD  
*State of play*