



Brussels, 15 June 2023
(OR. en)

9857/23
CRS CRP 19

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
24, 26 and 30 May 2023

I. Adoption of the agenda

9516/1/23 REV 1 + REV 1 COR 1 OJ CRP1 19
9421/1/23 REV 1 + COR 1 + ADD 1 REV 1 OJ CRP2 19

The Committee adopted the agenda.

II. Approval of the "I" items

The Committee approved the "I" items as set out in the Annex, with the exception of items 36 and 38.

III. Discussion items "II"

COREPER (PART 1)

Environment

2. Regulation on shipments of waste 9379/23 + ADD 1
Mandate for negotiations with the European Parliament

The Committee agreed on a mandate for negotiations with the European Parliament and agreed to make the mandate public.

Statement by Germany is set out in the ADD 1 to this document.

Fisheries

3. Regulation amending various Regulations as regards fisheries 9430/1/23 REV 1
control 9431/1/23 REV 1
Preparation for the trilogue

The Committee prepared a revised mandate for the forthcoming trilogue.

Internal Market and Industry

4. Regulation on geographical indication protection for craft and industrial products 9412/23
Analysis of the final compromise text with a view to agreement

The Committee analysed and confirmed agreement on the final compromise text. The Committee also authorised the Chair to send a letter to inform the European Parliament with a view to an agreement.

Telecommunications

5. Regulation on harmonised rules on fair access to and use of data (Data Act)
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 23 May 2023.

6. Regulation amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity
Presidency debriefing on the outcome of the trilogue

The Presidency debriefed on the trilogue which took place on 23 May 2023.

Environment

7. Regulation on nature restoration 9378/23
Guidance for further work

The Committee provided guidance for further work.

Employment, Social Policy, Health and Consumer Affairs

8. Meeting of the Council (Employment, Social Policy, Health and Consumer Affairs) on 12 and 13 June 2023: Preparation

The Committee agreed to take an additional AOB item requested by France in public session.

Directive on improving working conditions in platform work 9172/23
General approach

The Committee started preparing this item for the Council meeting.

COREPER (PART 2)

WEDNESDAY 24 MAY 2023

General Affairs

14. Meeting of the Council (General Affairs) on 30 May 2023:
Preparation

- a) Preparation of the European Council on 29-30 June 2023: 8745/23
Annotated Draft Agenda
Exchange of views

The Committee prepared this item for the Council meeting.

- b) Values of the Union in Hungary: Article 7(1) TEU 8913/23
(reasoned proposal)
Hearing

The Committee prepared this item for the Council meeting.

- c) Rule of law in Poland: Article 7(1) TEU (reasoned 8915/23
proposal)
Hearing

The Committee prepared this item for the Council meeting.

- d) Other items in connection with the Council meeting

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

15. EDIRPA Regulation
Mandate for negotiations with the European Parliament 9522/23

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

Foreign Affairs

17. Preparation of the EU-US Trade and Technology Council (3031 May 2023 Luleå, Sweden): draft joint statement
Exchange of views
Preparation for the approval of an NBI
- 9441/23
8992/1/23 REV 1

The Committee held an exchange of views and agreed to revert to this item on 26 May 2023.

18. EU-CELAC Summit (Brussels, 17-18 July 2023)
Exchange of views

The Committee held an exchange of views and agreed to revert to this item on 26 May 2023.

19. Russian aggression against Ukraine

- a) Council Decision and Regulation concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine
8770/23
7888/23
8769/23 + ADD 1
- b) Council Decision, Implementing Regulation and Regulation concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine
9028/23
8493/23
8495/23
9027/23
Preparation for the adoption

The Committee held an exchange of views and agreed to revert on this issue at a forthcoming meeting.

Economic and Financial Affairs

20. Meeting of the Council (Economic and Financial Affairs) on 16 June 2023: Agenda

The Presidency presented the main items on the agenda.

Justice and Home Affairs

21. Meeting of the Council (Justice and Home Affairs) on 8-9 June 2023: Preparation

- a) Countering security challenges: assessment by the Intelligence Advisory Board
Presentation
State of play

The Committee prepared this item for the Council meeting.

- b) Combatting violent extremism and terrorism
Exchange of views
- 9425/23

The Committee prepared this item for the Council meeting.

- c) Access to data for effective law enforcement / “going dark” 9369/23
State of play

The Committee prepared this item for the Council meeting.

- d) Russia’s aggression against Ukraine:
i) Implications for internal security 9334/23
ii) Temporary protection for people fleeing the war
State of play

The Committee prepared this item for the Council meeting.

- e) Directive against strategic lawsuits against public participation ("anti-SLAPP Directive") 9263/23
General approach

The Committee prepared this item for the Council meeting.

- f) Directive on the definition of criminal offences and penalties for the violation of Union restrictive measures 9312/23
General approach

The Committee prepared this item for the Council meeting.

- g) Other items in connection with the Council meeting

The Committee took note of the information provided by the Presidency and approved the attendance of Europol and Eurojust for the debate on Ukraine as well as for the lunch discussion on organised crime.

The Committee also agreed to the following agenda changes:

- At the request of Italy: modification of an agenda item as regards addition of Tunisia;
- At the request of Slovenia: an any other business item on the Brdo process.

FRIDAY 26 MAY 2023 (14.00)

Foreign Affairs

17. Preparation of the EU-US Trade and Technology Council (3031 May 2023 Luleå, Sweden): draft joint statement 9441/1/23 REV 1
8992/2/23 REV 2
Exchange of views
Preparation for the approval of an NBI

The Committee held an exchange of views and agreed to revert on this issue on Monday, 30 May 2023.

18. EU-CELAC Summit (Brussels, 17-18 July 2023)
Exchange of views

The Committee held an exchange of views.

22. Meeting of the Council (Foreign Affairs/Trade) on 25 May 2023: Follow-up

The above-mentioned item was withdrawn.

Justice and Home Affairs

23. Meeting of the Council (Justice and Home Affairs) on 8-9 June 2023: Preparation

g) Other items in connection with the Council meeting

The Committee took note of the information provided by the Presidency.
Bulgaria requested an any other business item on a pilot project at its border with Türkiye.

- h) Directive on combating violence against women and domestic violence 9305/23 + ADD 1
General approach

The Committee prepared this item for the Council meeting.

A joint statement by Belgium, Greece, Italy and Luxembourg

Belgium, Greece, Italy and Luxembourg strongly support the European Commission's proposal for a directive on combating violence against women and domestic violence. Gender-based violence, and in particular sexual violence, is a scourge that must be addressed in unison. This type of violence has shown to be so entrenched in our society that a national response, already pervasive across Europe, is no longer sufficient. The figures are as worrying as ever and joint action is now required.

We furthermore support the Presidency's compromise text in order to reach a general approach at the JHA Council meeting on 9 June 2023.

However, we strongly regret the lack of political ambition with regard to the criminalisation of the offence of rape. In particular, we do not share the analysis of a number of Member States that the legal basis in the treaties would be inadequate to establish minimum rules on the offence of rape.

In its opinion, the Legal Service of the Council has stated that the "Council could [...] choose to endorse a more extensive reading of the legal basis as regards the notion of sexual exploitation of women and children, on the basis of two aspects [...], namely i) the use of the coordinating conjunction "and" in the description of the area of crime in Article 83(1) TFEU, and ii) the fact that in the Child Sexual Abuse and Sexual Exploitation Directive, the legal basis of "sexual exploitation of children" has been interpreted somewhat extensively and used in order to establish minimum rules concerning an offence where the exploitative element is less present but is rather focused on the use of violence as a form of sexual abuse." The configuration of society is such that being a woman or a child undoubtedly makes one more vulnerable to sexual violence and constitutes a vulnerability to abuse that can be presumed. This approach justifies reasoning similar to that adopted in the Child Sexual Abuse Directive Article 3, paragraph 5, (iii).

Given the disturbing evolution of gender-based violence in the past decades, these types of crimes are unlikely to significantly decrease without additional EU action. Therefore, we deeply regret this missed opportunity to set minimum rules regarding an effective fight against gender-based violence.

A joint Statement by Czech Republic and Estonia

The Czech Republic and Estonia wholeheartedly support the aims of combating violence against women and domestic violence. However, we would like to highlight our concerns about a possible precedent being created with the broad interpretation of the area of computer crime within the meaning of Article 83 paragraph 1 of the Treaty on the Functioning of the European Union ("TFEU" or "Treaty"). This provision provides the Union with a competence to establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis. The drafters of the Treaty kept in mind the specific need to safeguard the fundamental aspects of national criminal justice systems as is evident from Article 83 paragraph 3 TFEU. This is also underlined in Article 67 paragraph 1 TFEU which explicitly emphasizes the need to respect different legal systems and traditions of the Member States, which reflects the fact that Justice and Home Affairs matters fall within the core area of the sovereignty of the Member States.

The list of so-called eurocrimes in Article 83 paragraph 1 TFEU covers eleven areas of crime, which merit a common Union approach due to their particularly serious nature and typical

cross-border dimension. This list can be extended only by a unanimous decision of the Council after obtaining consent of the European Parliament. Keeping this in mind, the interpretation of the list of eurocrimes should not be interpreted broadly.

At the EU level, there are two legal instruments based on Article 83 paragraph 1 TFEU with reference to the area of computer crime - Directive 2019/713 and Directive 2013/40/EU. Both of these instruments cover offences that can only be committed through the use of technology, where the devices are both the tool for committing the crime and the target of the crime (cyber-dependant crime). The proposal for a Directive on combating violence against women and domestic violence follows a different logic, the technology itself is not necessary to commit a criminal offense but it is used to increase the scale or reach of “traditional” crimes (cyber-enabled crime).

Consequently, if “computer crime” would be interpreted as covering every act that could be perpetrated by means of a computer system, this would vest the European Union with an unlimited competence to criminalise various conduct unrelated to any other area of offences already listed in Article 83 paragraph 1 TFEU only by reference to the fact that such acts can be perpetrated by means of a computer system. This would not only significantly broaden the scope of EU competences, but it might bring about a spill-over effect, because Member States implementing such legislation would have to ensure that their criminal law forms a coherent whole. Therefore, such new offences would most likely be transposed in a technology neutral way which would mean that despite the reference in EU legislation to the offence being committed by means of a computer system, national transposition would expectedly also cover other forms of committing such an offence.

The Article 10 on incitement to hatred is one of these examples. Establishing minimum requirements of incitement to hatred would have been better suited following an agreement to expand the list of eurocrimes in Article 83 paragraph 1 TFEU. This would have allowed for a comprehensive overview of the existing acquis to ensure that the offences are well formulated, cover the most serious forms of incitement and do not infringe upon the freedom of expression.

Statement by Hungary

Hungary has concerns about the legal basis of the proposal on the Directive on combating violence against women and domestic violence. Article 83 of the Treaty on the Functioning of the European Union provides that “[t]he European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.” This Article lists “computer crime” among the so-called eurocrimes. However, this cannot be construed to mean that the legislative powers established by this Article would extend to the harmonisation of all criminal offences that are committed online or by using computers

- i) Directive amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims
General approach

9313/23

The Committee prepared this item for the Council meeting.

- j) Directive on asset recovery and confiscation
General approach

9314/23

The Committee prepared this item for the Council meeting.

TUESDAY 30 MAY 2023 (09.00)

Foreign Affairs

17. Preparation of the EU-US Trade and Technology Council (3031
May 2023 Luleå, Sweden): draft joint statement
Exchange of views
Preparation for the approval of an NBI

9441/3/23 REV 3

8992/4/23 REV 4

The Committee confirmed its agreement on the draft joint statement and agreed to submit this item to the Council for approval as an A item.

IV. Any other business

COREPER (PART 1)

Meeting of the Council (Transport, Telecommunications and Energy) on 1 and 2 June 2023

The Committee agreed to take an AOB requested by Bulgaria, the Czech Republic, France, Hungary, Italy, Poland, Romania and Slovakia in public session.

COREPER (PART 2)

G7 summit, 19-21 May 2023

The Committee took note of the information provided by the cabinet of the President of the European Council and the Commission.

EU-Republic of Korea summit, 22 May 2023

The Committee took note of the information provided by the cabinet of the President of the European Council, the Commission and the EEAS.

Leaders' meeting with Armenia and Azerbaijan, 14 May 2023

The Committee took note of the information provided by the cabinet of the President of the European Council.

Renewed specific implementing arrangements between the EU and Ukraine for Ukraine to receive EU classified information at the level RESTREINT UE/EU RESTRICTED in electronic format

The Committee took note of the information provided by the EEAS

FAC/Trade on 25 May 2023

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

Media leaks relating to Moldova sanctions

The Committee took note of the information provided by Romania.

Situation in Belarus

The Committee took note of the information provided by Poland.

Pact on Migration and Asylum

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

Non-discussion items "I"**COREPER (PART 1)****Institutional Affairs****Appointments**

9. Two Member States' representatives of the Management Board
of the European Food Safety Authority
Adoption 8491/23
8498/23
AGRILEG

Letters

10. Possible extension of the term of office of the Executive
Director of the European Union Intellectual Property Office
(EUIPO)
Approval of a letter 9408/23
PI

EU positions for international negotiations

11. Council Decision on the EU position to be taken within the
International Maritime Organization at the 107th session of the
Maritime Safety Committee
Adoption 8664/23 + ADD 1
8653/23
TRANS

Statement by the Commission is set out in the document 8664/23 ADD 1

Research

12. Council Decision on the extension of the S&T cooperation
agreement with the United States of America
Agreement in principle 9123/1/23 REV 1
8892/23
Request for the consent of the European Parliament RECH
13. Joint Innovation Agenda between the European Union and the
African Union 9118/23
Authorisation to sign an NBI RECH

COREPER (PART 2)

WEDNESDAY 24 MAY 2023

Institutional Affairs

Other

24. Attendance of a third party at the Working Party on civil matters (General Questions) on 20 June 2023
Approval
- 6824/23
JUSTCIV

Transparency

25. Public access to documents
Confirmatory application No 07/c/01/23
Approval
- 8314/23 + ADD 1
INF

Economic and Financial Affairs

26. Decision as regards the amount of macro-financial assistance to the Republic of Moldova
Adoption of the legislative act
- 9394/23
PE-CONS 14/23
ECOFIN

General Affairs

27. Regulation on sanitary and phytosanitary measures on certain retail goods, plants, seed potatoes, agricultural machinery and pet animals moving into Northern Ireland
Adoption of the legislative act
- 9390/23
PE-CONS 17/23
UK
28. Regulation on tariff rate quotas on certain products transferred to Northern Ireland
Adoption of the legislative act
- 9392/23
PE-CONS 18/23
UK
29. Regulation of the medicinal products for human use to be placed on the market in Northern Ireland
Adoption of the legislative act
- 9393/23
PE-CONS 20/1/23
REV 1
UK
30. Key political messages for the 2023 high level political forum on sustainable development
Approval
- 9435/23
SUSTDEV
31. EU Integrated Resolve 2022 (PACE): final exercise report
Endorsement
- 9488/2/23 REV 2
9093/23 R-UE
COPS

Justice and Home Affairs

32. Revision of the Single Permit Directive
General approach

9371/23 + ADD 1
9474/23
MIGR

Statement by Hungary

Hungary would like to emphasize its appreciation to the Presidency's efforts to find a compromise in the Council on the recast.

However, there are still elements in the proposal that are not in line with our position. We are opposed to efforts to encourage the mobility of workers within Member States, which poses a serious challenge to the countries of our region. The recast of the Directive would further restrict the space for manoeuvre, particularly with regard to the possibility of changing status and allowing periods of unemployment.

National competences should be retained to ensure that decisions can respond flexibly to labour market needs and changes in these, taking into account the different economic, geographic, cultural and social conditions. We consider it essential to leave Member States the freedom to decide who can enter their territory to work, under what conditions and admission procedure. Therefore, we would like to stress our strong position according to which Hungary does not consider either necessary or appropriate the further harmonisation in the field of legal migration, and in this regard we would like to reiterate our position on legal migration in general.

We acknowledge that the reached compromise is the result of proper negotiations, however, for the reasons mentioned above Hungary abstains from adopting the general approach.

33. Conclusions on the fight against trafficking in cultural goods
Approval

9387/23
ENFOPOL

34. Istanbul Convention

9252/23 + ADD 1
FREMP

Statements by Bulgaria, Hungary, Italy, Poland and Slovakia are set out in document
9252/23 ADD 1.

- a) Council Decision on the conclusion of the Istanbul Convention with regard to institutions and public administration of the Union
Adoption
- b) Council Decision on the conclusion of the Istanbul Convention with regard to matters related to judicial cooperation in criminal matters, asylum and non-refoulement
Adoption

5514/23 + COR 1

5523/1/23 REV 1

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| c) | Code of conduct laying down the internal arrangements regarding the exercise of the rights and obligations of the European Union and Member States under the Istanbul Convention
<i>Approval</i> | 8113/23 + COR 1 |
| d) | Declaration concerning the competence of the European Union regarding matters governed by the Istanbul Convention
<i>Approval</i> | 8114/23 |

Foreign Affairs

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| 35. | Renewal of Regulation on temporary trade liberalisation supplementing trade concessions under the EU-Ukraine Association Agreement
<i>Adoption of the legislative act</i> | 9396/23
PE-CONS 19/23
POLCOM |
| 36. | Council Decision on signing and provisional application of the EUOACPS Partnership (“post-Cotonou”) Agreement
<i>Adoption</i>
<i>Decision to use the written procedure</i> | 8280/1/23 REV 1
8371/23 DCL 1
8372/23 DCL 1
ACP |
| 37. | Reply to the OACPS
<i>Approval of a letter</i> | 9540/23
ACP |
| 38. | Council Decisions on an assistance measure under the European Peace Facility to support the Nigerien Armed Forces
<i>Adoption</i> | 9095/23
7665/23
7666/23
CORLX |
| 39. | Council Decision authorising the opening of negotiations on a Protocol amending the Enhanced Partnership and Cooperation Agreement with Kazakhstan
<i>Adoption</i> | 9438/23 + ADD 1
8994/23 + ADD 1
COEST |

A statement by Cyprus and Greece is set out in document 9438/23 ADD 1.

A statement by the Commission is set out in the ADD to this document.

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| 40. | Coordination with third countries regarding EU restrictive measures
<i>Approval</i> | 9489/23
COEST |
| 41. | Council Decision on the conclusion of the Agreement with the Federative Republic of Brazil regarding the modifications of the EU's TRQs in the WTO schedule following Brexit
<i>Adoption</i> | 9433/23
15053/22
15054/22
POLCOM |
| 42. | Statement of the EU and its Member States for the second UN Habitat Assembly
<i>Approval</i> | 9429/23
DEVGEN |
| 43. | (poss.) Restrictive measures against serious human rights violations and abuses: coordination with third states
<i>Approval</i> | 9257/23
COHOM |
| 44. | Restrictive measures in view of the situation in South Sudan - notification letter
<i>Approval of a letter</i> | 9609/23
CORLX |

EU positions for international negotiations

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| 45. | Council Decision on the EU position within the EEA Joint Committee concerning an amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (Budget Line 07 20 03 01 - Social Security)
<i>Adoption</i> | 8363/23
8362/23 + ADD 1
AELE |
| 46. | Council Decision on the EU position in the EU-UK specialised committee on social security coordination regarding the designation of the financial institution to serve as reference
<i>Adoption</i> | 9017/23
9013/23 + ADD 1
UK |

A statement by the Commission is set out in the ADD of this document.

Other items

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| 47. Approval of a cryptographic product
<i>Approval</i> | 9180/23 R-UE
CSCI
CSC |
| 48. Approval of a cryptographic product
<i>Approval</i> | 9181/23 R-UE
CSCI
CSC |
| 49. Approval of a cryptographic product
<i>Approval</i> | 9182/23 R-UE
CSCI
CSC |

FRIDAY 26 MAY 2023

Foreign Affairs

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| 50. Council Decision and Implementing Regulation concerning restrictive measures in view of actions destabilising the Republic of Moldova
<i>Adoption</i> | 6517/23
6514/23
6516/23
CORLX |
| 51. Council Decision and Implementing Regulation concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine
<i>Adoption</i> | 9578/23 + COR 1
9575/23
9577/23
CORLX |
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