



Brussels, 17 June 2021
(OR. en)

9813/21
CRS CRP 20

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
26 May 2021

I. Adoption of the agenda

8852/2//21 REV 2 OJ CRP1 20
CM 3356/21 OJ CRP2

The Committee adopted the agenda.

II. Approval of the "I" items

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

III. Discussion items

COREPER (PART 1)

Employment, Social Policy, Health and Consumer Affairs

2. Meeting of the Council (Employment, Social Policy, Health and Consumer Affairs) on 14 and 15 June 2021: Agenda

The Presidency presented the main items on the agenda. The Commission, supported by the Italian delegation asked for the addition of an agenda item concerning the social scoreboard.

Transport, Telecommunications and Energy

3. Meeting of the Council (Transport, Telecommunications and Energy) on 3 and 4 June 2021: Preparation

There were no objections to the proposal by the Presidency to withdraw the A-item concerning the "EU-CELAC 2021-2023 Strategic Roadmap for the implementation of the Brussels Declaration and EU-CELAC Action Plan on Science, Technology and Innovation" from the provisional agenda of the meeting of the TTE Council (Telecom and Transport) that will take place on 3-4 June.

1. Sustainable and smart mobility strategy — the way forward
Exchange of views 8695/21

The Committee prepared this item for the Council meeting.

2. Single European Sky 2 +
- a) Regulation on the implementation of the Single European Sky (recast) 8419/21 + ADD 1-3 + ADD 1 COR 1
 - b) Regulation amending EASA Basic Regulation
General approach

The Committee prepared this item for the Council meeting.

Internal Market and Industry

4. Directive amending Directive 2013/34/EU as regards disclosure of income tax information (CBCR) 8789/21
Preparation for the trilogue

The Committee prepared a revised mandate for the forthcoming trilogue.

COREPER (PART 2)

General Affairs

EU-Switzerland

Information from the Commission

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

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

None.

"I" items approved**COREPER (PART 1)****Institutional Affairs****Written questions**

5. Replies to questions for written answer submitted to the Council by Members of the European Parliament
Adoption by silence procedure
- 8919/21
PE-QE
- a) Özlem Demirel (The Left)
"Expanding the mandate of Operation IRINI" 8676/21
- b) Filip De Man (ID)
"Sanctions against Russia" 8256/21
- c) Gunnar Beck (ID)
"The possibility of adding Antifa to the EU list of terrorist organisations" 8257/21
- d) Özlem Demirel (The Left)
"Proceeds from confiscated weapons for the Peace Facility"
"Overview of weapons confiscated under EUNAVFOR MED IRINI" 8260/21

Appointments

6. Chair of the European Insurance and Occupational Pensions Authority (EIOPA)
Adoption
- 8751/1/21 REV 1
8744/21
EF

EU positions for international negotiations

7. ICAO - EU Coordination for the 223rd session of the ICAO Council (Montreal, 7 – 25 June 2021)
Approval
- 8688/21 + ADD 1
AVIATION

Energy

8. Regulation establishing European Instrument for Nuclear Safety Cooperation and repealing Regulation (Euratom) No 237/2014
Adoption
- 8569/21
12568/20
ATO

Research

9. Council approval of the joint member statement on the launch of mission innovation 2.0
Approval
Authorisation to sign on behalf of the European Union
- 8740/21 + ADD 1
RECH
10. Council Decision establishing the measures necessary for the implementation of the Protocol, annexed to the Treaty establishing the European Community, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel
General approach
- 8871/21 + ADD 1
RECH

Statement by the Commission

"Given the objective pursued by the legislator, the Commission understands that the term 'revenue generated by selling part of the assets' (or variations of the same expression) in recital 12 and article 4(1) of the amended Council Decision 2003/76, and in recital 3 and article 1, of the amended Council Decision 2003/77, and points 1 and 5 of the Annex to amended Council Decision 2003/77, is to be intended as the cash amount generated by selling part of the assets."

11. Council Decision on the adoption of the Research Programme of the Research Fund for Coal and Steel and on the multiannual technical guidelines for this programme
Political agreement
- 8866/21
RECH

Economic and Financial Affairs

12. Regulation establishing the Customs control equipment instrument
Adoption of the Council's position at first reading and of the statement of the Council's reasons
- 8861/21 + ADD 1
7234/21 + ADD 1
UD

Statement by Denmark

"Denmark cannot support the adoption of the Council's position at first reading on the proposal to establish the instrument for financial support for customs control equipment.

Denmark is still deeply concerned that the instrument described in the Council's position at first reading does not constitute an instrument that clearly respects the division of competences and responsibility laid down in the Treaty. It is crucial for Denmark, that a new funding instrument respects that the organization of customs controls is for Member States alone to decide, including assessing the needs they have and, in view of these needs, apply for (co)funding from the EU-instrument based on criteria, which is clear and pre-defined in the regulation itself.

Denmark is thus still of the opinion that (co)funding of customs equipment would be more appropriately achieved with a customs instrument in line with already known instruments in other areas, which has proven to respect the division of competences and responsibilities of the Treaty.

In addition, the repeatedly asked-for overview of funds already available and used for customs purposes from existing programs, has regrettably not been received. This overview has been deemed crucial to assess the funds that should be included in a new customs instrument, and to what extent funds should be moved from other instruments/programs etc. to a new instrument."

Statement by the Commission

"The Commission regrets that the legislator departed in recital 22 from the standard recital agreed in the Interinstitutional Agreement on Better Law-Making. The Commission underlines that the principles agreed in the Common Understanding annexed to this Interinstitutional Agreement already ensure full transparency. The Commission will prepare any delegated acts under this Regulation in line with these agreed principles. The addition to the standard recital should not create a precedent for other cases."

Justice and Home Affairs

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| 13. | Regulation amending the Visa Information System (VIS)
Regulation
<i>Adoption of the Council's position at first reading and of the statement of the Council's reasons</i> | 8868/21
5950/21 + ADD 1
VISA |
| 14. | Regulation for consequential amendments of VIS
<i>Adoption of the Council's position at first reading and of the statement of the Council's reasons</i> | 8870/21
5951/21 + ADD 1
VISA |
| 22. | Coordinated EU and its Member States position with view to the new OEWG organisational meetings
<i>Approval</i> | 8964/21
CYBER |

General Affairs

15. Cohesion policy legislative package 2021-2027: 8851/21 + ADD 1
Common Provisions Regulation + ADD 1 REV 1
*Adoption of the Council's position at first reading and of the 6674/21 + ADD 1-3
statement of the Council's reasons* + ADD 2 COR 1
FSTR

Statement by Hungary

"The procedure towards the adoption of the Cohesion Policy regulations has reached another important step. Hungary sees it necessary to reiterate its earlier statement regarding the representation and interpretation of gender in these regulations.

Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Hungary ensures equality between women and men within the framework of its national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union.

For these reasons Hungary interprets the concept of "gender" as reference to sex, in line with Article 8, 10, 19 and 157 of the Treaty on the Functioning of the European Union and Article 21 and 23 of the Charter of Fundamental Rights of the European Union.

Furthermore Hungary is convinced that the content of gender is not appropriate to be defined in these legislative documents.

In line with these and its national legislation, Hungary interprets the concept of 'gender' as reference to 'sex' and the concept of 'gender equality' as reference to the 'equality between men and women' in the Regulations. As regards the breakdown of data, Hungary believes that the first line of Annex I and Annex II of the ESF+ Regulation (and also footnote 27 in Annex III of JTF Regulation) should be applied and refer to the term "gender" and the parenthesis as a whole and not only one of the subcategories listed there.

Bearing in mind the fact that determining the content of the term "gender" falls under the exclusive competence of the Member States, the relevant recitals, articles, annexes and footnotes should be understood as referring to the term gender interpreted in accordance with national legislation."

Statement by Ireland

"Ireland supports the Council position at first reading on all of the regulations that form part of the post 2020 cohesion legislative package. Ireland notes Article 80, Common Provisions Regulation (ST 6674/21 + ADD 1 + ADD 2), on single audit arrangements, and regrets the link agreed between participation in EPPO and access to a simplified audit. Given its common law system, Ireland is not participating in EPPO and therefore cannot avail of these simplified audit arrangements. Ireland believes this is contrary to the principle of equal treatment of Member States and the principle enshrined in Article 327 TFEU according to which enhanced cooperation shall respect the competences, rights and obligations of those MS which do not participate in it."

Statement by Poland

"Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the framework of the Polish national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union. For these reasons, in wordings referring to gender Poland will interpret it as a equality between women and men, according to Article 8 TFEU."

Statement by Malta

"Malta welcomes the formal adoption of the Common Provisions Regulation (CPR). Malta nevertheless regrets that investments in road related infrastructure are assigned a zero climate contribution coefficient and are not given similar weighting to rail transport. This situation will inevitably place Member States without a possible rail transport system at a disadvantage.

Being a small island Member State with no possibility of railways and where mass transport systems are not feasible, the upgrading of roads is necessary for Malta in the same way that investments in railways are required for those Member States that will enhance their share of rail transport. Malta recalls that its unique national circumstances and its limited emissions reduction potential make investments in more efficient road infrastructure, in conjunction with the electrification of vehicles, one of the few key opportunities for Malta to continue building on a holistic approach towards decarbonisation and progress towards climate neutrality. These same national circumstances are also the main contributing factor to the absence of railways.

This also has implications for the planning of projects and the flexibility in programming. As Annex I does not capture Malta's specific realities and limitations, Malta will have to cumulate from all projects in order to reach the targets set. This constrains the possibility to tailor projects to Malta's specific needs, leaving little possibility for other projects. Malta therefore calls on the Commission to show the necessary flexibility during the planning and programming of the Funds given the uniqueness of this case."

Statements by the Commission on clearance of pre-financing

"The payment ceilings in the MFF regulation took into account the assumption that all pre-financing would be cleared annually. The Commission considers that the agreement reached by the co-legislators on the CPR might result in going beyond the applicable MFF ceilings for payment appropriations, taking into account the expected payment profiles. This might result in a payment backlog in the second half of the next period."

on structured dialogue under Temporary measures for the use of the Funds in response to exceptional and unusual circumstances

"The provisions adopted by the co-legislators require the Commission to immediately inform the Parliament and the Council about the assessment of the situation regarding the exceptional and unusual circumstances. The co-legislators also require the Commission to inform them immediately about the envisaged follow-up through temporary measures for the use of the funds and to take due consideration of the positions taken and views expressed through the structured dialogue to which the Commission may be invited by the Parliament or the Council.

Those requirements are not in accordance with Article 291(2) and (3) TFEU and with the Comitology Regulation No 182/2011, which do not provide for any involvement of the Parliament and the Council in the control of the exercise of the implementing powers conferred on the Commission. They may result in situations where the Commission's implementing powers would be constrained. Therefore the Commission can only satisfy these requirements in so far as these do not impinge on its implementing powers as they are regulated under Article 291 TFEU and the Comitology Regulation No 182/2011.

These provisions cannot in any event be replicated in a different legal framework where no exceptional and unusual circumstances are provided for."

on further measures to protect the EU budget and the Next Generation EU against fraud and irregularities by requiring an obligatory use of a single data mining tool provided by the Commission

"In the Inter-institutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap for the introduction of new own resources, Points 30 to 33 require the Commission to make available an integrated and interoperable information and monitoring system including a single data-mining and risk-scoring tool to access and analyse the required data with a view to a generalised application by Member States. In addition, the three institutions agreed to sincerely cooperate, in the course of the legislative procedure relating to the relevant basic acts, to ensure the follow up to the European Council conclusions of July 2020 regarding this element.

The Commission considers that the agreement reached by the co-legislators under Article 69(2) (responsibilities of Member States) on the obligatory use of a single data-mining tool and the collection and analysis of data on the beneficial owners of the recipients of funding is not sufficient to enhance the protection of the Union budget and Next Generation EU against fraud and irregularities and to ensure efficient checks on conflicts of interests, irregularities, issues of double funding, and criminal misuse of the funds. Therefore, the approach agreed by the co-legislators in the Common Provisions Regulation does not appropriately reflect the desired ambition and spirit of the Inter-institutional Agreement."

on the protection of the EU budget through the use of a percentage retention of payments to shared management programmes

"The Commission considers that the agreement by the co-legislators to reduce the retention rate on shared management payments from 10% to 5% creates an increased risk of the EU budget paying amounts that are affected by irregularities.

To minimise this risk, the Commission will make an appropriate use of interruptions and suspensions of payments to programmes whenever it considers that the 5% retention rate is insufficient to cover the amount of any potential irregularities."

16. Cohesion policy legislative package 2021-2027: 8853/21 + ADD 1
European Regional Development Fund and Cohesion Fund 6168/21 + ADD 1
(ERDF/CF) Regulation FSTR
*Adoption of the Council's position at first reading and of the
statement of the Council's reasons*

Statement by Hungary

"The procedure towards the adoption of the Cohesion Policy regulations has reached another important step. Hungary sees it necessary to reiterate its earlier statement regarding the representation and interpretation of gender in these regulations.

Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Hungary ensures equality between women and men within the framework of its national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union.

For these reasons Hungary interprets the concept of "gender" as reference to sex, in line with Article 8, 10, 19 and 157 of the Treaty on the Functioning of the European Union and Article 21 and 23 of the Charter of Fundamental Rights of the European Union.

Furthermore Hungary is convinced that the content of gender is not appropriate to be defined in these legislative documents.

In line with these and its national legislation, Hungary interprets the concept of 'gender' as reference to 'sex' and the concept of 'gender equality' as reference to the 'equality between men and women' in the Regulations. As regards the breakdown of data, Hungary believes that the first line of Annex I and Annex II of the ESF+ Regulation (and also footnote 27 in Annex III of JTF Regulation) should be applied and refer to the term "gender" and the parenthesis as a whole and not only one of the subcategories listed there.

Bearing in mind the fact that determining the content of the term "gender" falls under the exclusive competence of the Member States, the relevant recitals, articles, annexes and footnotes should be understood as referring to the term gender interpreted in accordance with national legislation."

Statement by Poland

"Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the framework of the Polish national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union. For these reasons, in wordings referring to gender Poland will interpret it as a equality between women and men, according to Article 8 TFEU."

17. Cohesion policy legislative package 2021-2027: 8859/21 + ADD 1
European Social Fund Plus (ESF+) Regulation 6980/21 + ADD 1
*Adoption of the Council's position at first reading and of the
statement of the Council's reasons* FSTR

Statement by Hungary

"The procedure towards the adoption of the Cohesion Policy regulations has reached another important step. Hungary sees it necessary to reiterate its earlier statement regarding the representation and interpretation of gender in these regulations.

Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Hungary ensures equality between women and men within the framework of its national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union.

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Bearing in mind the fact that determining the content of the term "gender" falls under the exclusive competence of the Member States, the relevant recitals, articles, annexes and footnotes should be understood as referring to the term gender interpreted in accordance with national legislation."

Statement by Bulgaria

"The Republic of Bulgaria understands the reporting on common indicators in Annexes I and II of the European Social Fund Plus Regulation and in Annex III of the Just Transition Fund Regulation by using a category of "non-binary", as not obligatory. The Republic of Bulgaria does not intend to gather and report relevant data, as such a category does not exist in its national legislation."

Statement by Poland

"Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the framework of the Polish national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union. For these reasons, in wordings referring to gender Poland will interpret it as a equality between women and men, according to Article 8 TFEU."

Statements by the Commission
on ESF+ investments to combat child poverty

"In 2019 there were 18 million children at risk of poverty and social exclusion in the EU with very high numbers in some Member States. The COVID-19 outbreak and its socio-economic consequences have exacerbated inequalities and poverty with a more pronounced effect on them. Child poverty is consistently present in all Member States and continues to be higher than for working-age adults.

The Commission therefore welcomes the balanced agreement making the ESF+ a decisive tool to address the challenge of child poverty. The agreement recognises the urgency to invest in children in all Member States.

On 24 March the Commission adopted a proposal for a Council Recommendation establishing a European Child Guarantee with the aim to tackle the challenge structurally. When programming the ESF+, the Commission will do its utmost to ensure that Member States dedicate appropriate ESF+ funding to contribute to implementing the Child Guarantee. Moreover, it will encourage Member States to also use other EU funding instruments and national resources available to support adequate investments in this area."

on ESF+ investments in youth employment

"The Commission underlines that young people have been disproportionately hit by the socio-economic crisis following the COVID-19 outbreak. From December 2019 to December 2020 youth unemployment has increased by 3 percentage points in the EU, bringing the number of unemployed young persons to over 3.1 million. The Commission also recalls that youth unemployment has been consistently and significantly higher than that of the adult population with the latest figures showing a difference of over 10 percentage points (17.8% compared to 6.6% in December 2020).

The Commission welcomes the agreement reached by the co-legislators which recognises the challenge across all Member States. The ESF+ is the most important EU funding instrument to implement the recently adopted reinforced Youth Guarantee as well as other relevant measures under the Youth Employment Support initiative.

When programming the ESF+, the Commission will do its utmost to ensure that Member States dedicate appropriate ESF+ funding to implement the reinforced Youth Guarantee. Moreover, it will encourage Member States to use also other EU funding instruments and national resources available to support adequate investments in this area."

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| 18. Cohesion policy legislative package 2021-2027:
Interreg Regulation
<i>Adoption of the Council's position at first reading and of the
statement of the Council's reasons</i> | 8857/21 + ADD 1
5488/21 + ADD 1
FSTR |
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Statement by Hungary

"The procedure towards the adoption of the Cohesion Policy regulations has reached another important step. Hungary sees it necessary to reiterate its earlier statement regarding the representation and interpretation of gender in these regulations.

Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Hungary ensures equality between women and men within the framework of its national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union.

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Furthermore Hungary is convinced that the content of gender is not appropriate to be defined in these legislative documents.

In line with these and its national legislation, Hungary interprets the concept of 'gender' as reference to 'sex' and the concept of 'gender equality' as reference to the 'equality between men and women' in the Regulations. As regards the breakdown of data, Hungary believes that the first line of Annex I and Annex II of the ESF+ Regulation (and also footnote 27 in Annex III of JTF Regulation) should be applied and refer to the term "gender" and the parenthesis as a whole and not only one of the subcategories listed there.

Bearing in mind the fact that determining the content of the term "gender" falls under the exclusive competence of the Member States, the relevant recitals, articles, annexes and footnotes should be understood as referring to the term gender interpreted in accordance with national legislation."

Statement by Poland

"Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the framework of the Polish national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union. For these reasons, in wordings referring to gender Poland will interpret it as a equality between women and men, according to Article 8 TFEU."

Transparency

19. Public access to documents
Confirmatory application No 12/c/01/21
Adoption

8788/21 + ADD 1
+ ADD 1 COR 1
INF
API

Statement by Lithuania

"Being consistent with a position already expressed in the Working Party on Social Questions, Lithuania maintains its view that there is an overriding public interest in full disclosure of the CLS opinion, and is not convinced that the draft reply is sufficiently motivated to justify the contrary."

Statement by Poland

"Poland votes yes to the draft reply to confirmatory application 12/c/01/21. Additionally (...) Poland is supportive of the widest possible access to the CLS opinion."

Statement by Finland

"Finland cannot concur with the draft reply. Taking into account settled case-law of the Court (i.e. Turco, points 59–67 and 69; De Capitani, points 97, 99-103), Finland considers that it is unclear and not sufficiently motivated how disclosure of the document specifically and actually undermines the ongoing decision-making process as well as the protection of legal advice, how this risk is reasonably foreseeable and not purely hypothetical and in what way the document is of particularly sensitive nature or has a particularly wide scope that goes beyond the context of the legislative process in question.

Finland considers that the publication of the document can in fact facilitate the ongoing decision-making process. The public interest prevails the concerns raised by the GS. It is vital that the document can be analyzed and anchored with those concerned, for example the social partners."

Statement by Sweden

"Sweden cannot concur with the draft reply. Taking into account settled case-law of the Court (i.e. Turco, points 59–67 and 69; De Capitani, points 97, 99-103), Sweden considers that it is unclear and not sufficiently motivated how disclosure of the document specifically and actually undermines the ongoing decision-making process as well as the protection of legal advice, how this risk is reasonably foreseeable and not purely hypothetical and in what way the document is of particularly sensitive nature or has a particularly wide scope that goes beyond the context of the legislative process in question.

Sweden considers that the publication of the document can in fact facilitate the ongoing decision-making process. The public interest prevails the concerns raised by the GS. It is vital that the document can be analyzed and anchored with those concerned, for example the social partners."

Statement by The Netherlands

"The Netherlands cannot concur with the draft reply. Taking into account settled case-law of the Court (i.e. Turco, points 59–67 and 69; De Capitani, points 97, 99-103), The Netherlands considers that it is unclear and not sufficiently motivated how disclosure of the document specifically and actually undermines the ongoing decision-making process as well as the protection of legal advice, how this risk is reasonably foreseeable and not purely hypothetical and in what way the document is of particularly sensitive nature or has a particularly wide scope that goes beyond the context of the legislative process in question.

The Netherlands considers that the publication of the document can in fact facilitate the ongoing decision-making process. The public interest prevails the concerns raised by the GS. It is vital that the document can be analyzed and anchored with those concerned, for example the social partners."

Statement by Belgium

"Belgium cannot concur with the draft reply. Taking into account settled case-law of the Court (i.e. Turco, points 59–67 and 69; De Capitani, points 97, 99-103), Belgium considers that it is unclear and not sufficiently motivated how disclosure of the document specifically and actually undermines the ongoing decision-making process as well as the protection of legal advice, how this risk is reasonably foreseeable and not purely hypothetical and in what way the document is of particularly sensitive nature or has a particularly wide scope that goes beyond the context of the legislative process in question.

Belgium considers that the publication of the document can in fact facilitate the ongoing decision-making process. The public interest prevails the concerns raised by the GS. It is vital that the document can be analyzed and anchored with those concerned, for example the social partners."

Statement by Estonia

"Estonia cannot concur with the draft reply. Taking into account settled case-law of the Court (i.e. Turco, points 59–67 and 69; De Capitani, points 97, 99-103), Estonia considers that it is unclear and not sufficiently motivated how disclosure of the document specifically and actually undermines the ongoing decision-making process as well as the protection of legal advice, how this risk is reasonably foreseeable and not purely hypothetical and in what way the document is of particularly sensitive nature or has a particularly wide scope that goes beyond the context of the legislative process in question.

Estonia considers that the publication of the document can in fact facilitate the ongoing decision-making process. The public interest prevails the concerns raised by the GS. It is vital that the document can be analyzed and anchored with those concerned, for example the social partners."

Statement by Denmark

"Denmark cannot concur with the draft reply. Taking into account settled case-law of the Court (i.e. Turco, points 59–67 and 69; De Capitani, points 97, 99-103), Denmark considers that it is unclear and not sufficiently motivated how disclosure of the document specifically and actually undermines the ongoing decision-making process as well as the protection of legal advice, how this risk is reasonably foreseeable and not purely hypothetical and in what way the document is of particularly sensitive nature or has a particularly wide scope that goes beyond the context of the legislative process in question.

Denmark considers that the publication of the document can in fact facilitate the ongoing decision-making process. The public interest prevails the concerns raised by the GS. It is vital that the document can be analyzed and anchored with those concerned, for example the social partners."

Statement by Austria

"Austria cannot concur with the draft reply. Taking into account settled case-law of the Court (i.e. Turco, points 59–67 and 69; De Capitani, points 97, 99-103), Austria considers that it is unclear and not sufficiently motivated how disclosure of the document specifically and actually undermines the ongoing decision-making process as well as the protection of legal advice, how this risk is reasonably foreseeable and not purely hypothetical and in what way the document is of particularly sensitive nature or has a particularly wide scope that goes beyond the context of the legislative process in question.

Austria considers that the publication of the document can in fact facilitate the ongoing decision-making process. The public interest prevails the concerns raised by the GS. It is vital that the document can be analyzed and anchored with those concerned, for example the social partners."

Statement by Hungary

"Hungary, in a general way, shares the view of the General Secretariat as expressed by the Council at several occasions concerning legal opinions of the Council Legal Service, that there is a probable risk, that the disclosure of such documents could seriously undermine the institution's decision-making process and the protection of legal advice, therefore the applicability of exceptions especially under Article 4(3) and 4(2), second indent, of Regulation (EC) No 1049/2001 should be duly considered in those instances. Nevertheless, we recall that such a decision should always be based on an individual analysis of the content of the requested documents and the specific circumstances of the case, including the assessment whether there is an overriding public interest in disclosure. Hungary deems that due to those specific circumstances in the present case, such an overriding public interest can be established for the following reasons.

The proposal for a Directive of the European Parliament and of the Council on adequate minimum wages in the European Union directly and significantly affects not only workers and employers but their representative bodies as well, therefore will have a profound and most likely limiting effect on the autonomy of the social partners. It should also be emphasized that social partners play a central role in the proposal, which foresees a legal instrument about their role and autonomy; for this reason and considering the gravity of the subject matter, we believe that the opinion of the Council Legal Service should be publicly disclosed. This disclosure is necessary in order to facilitate a public discussion on the legal matters covered by the opinion, also considering that such a discussion is otherwise openly covered by the Commission too. In light of the above we think that there is an overriding public interest that justifies the disclosure of the document in question under Article 4 (2) and (3) of Regulation 1049/2001/EC.

Nevertheless, based on the understanding that each application shall be assessed and judged on its own merit, we note that the above consideration is limited to the present case and the specific document concerned and without prejudice to the general position of Hungary outlining the importance of the protection of decision-making process and legal advice when deciding of the publicity of Council documents including opinions of its Legal Service."

Foreign Affairs

23. EU-Japan Green Alliance
Approval

8763/1/21 REV 1
COASI

The Committee was not in a position to agree on the item.

Delegated or Implementing Acts

Agriculture

20. Commission Regulation (EU) .../... of XXX amending Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for ametoctradin, bixafen, fenazaquin, spinetoram, tefluthrin and thiencarbazon-methyl in or on certain products
Decision not to oppose adoption
- 8893/21
8176/21 + ADD 1-2
AGRILEG
21. 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 24-epibrassinolide, *Allium cepa* L. bulb extract, cyflumetofen, fludioxonil, fluroxypyr, sodium 5-nitroguaiacolate, sodium o-nitrophenolate and sodium p-nitrophenolate in or on certain products
Decision not to oppose adoption
- 8915/21
8180/21 + ADD 1-2
AGRILEG
-