



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 28 March 2014
(OR. en)**

**7467/14
ADD 1**

**PV/CONS 11
JAI 150
COMIX 147**

DRAFT MINUTES

Subject: **3298th** meeting of the Council of the European Union (**JUSTICE AND HOME AFFAIRS**), held in Brussels on 3 and 4 March 2014

PUBLIC DELIBERATION ITEMS¹

Page

LEGISLATIVE DELIBERATIONS

"A" ITEMS (doc. 6950/14 PTS A 16)

1. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 428/2009 setting up a Community Regime for the control of exports, transfer, brokering and transit of dual use items [First reading] (LA+S) 3
2. Proposal for a Directive of the European Parliament and of the Council on Deposit Guarantee Schemes (recast) [First reading] (LA)..... 4
3. Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries [First reading] (LA+S)..... 5

"B" ITEMS (doc. 6949/14 OJ/CONS 11 JAI 120 COMIX 125)

3. Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA [First reading] 5
4. Any other business 6
10. Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) [First reading] 6
11. Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data [First reading]..... 7
12. Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office..... 7
13. Proposal for a Directive of the European Parliament and of the Council on procedural safeguards for children suspected or accused in criminal proceedings [First reading]..... 7
14. Any other business 8

*

* *

¹ Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

LEGISLATIVE DELIBERATIONS

(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

"A" ITEMS

1. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 428/2009 setting up a Community Regime for the control of exports, transfer, brokering and transit of dual use items [First reading] (LA+S)

– Adoption

a) of the Council's position at first reading

b) of the statement of the Council's reasons

6700/14 CODEC 475 COMER 59 PESC 167 CONOP 17 ECO 24 UD 49 ATO 16
+ ADD 1

18086/13 COMER 298 PESC 1565 CONOP 161 ECO 224 UD 347 ATO 163
CODEC 3063

+ ADD 1

approved by Coreper, Part 2, on 26.02.2014

The Council approved its position at first reading, , in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. (Legal basis: Article 207 of the TFEU)

Joint Statement by the European Parliament, the Council and the Commission on the review of the dual-use export control system

"The European Parliament, the Council and the Commission recognise the importance of continuously enhancing the effectiveness and coherence of the EU's strategic export controls regime, ensuring a high level of security and adequate transparency without impeding competitiveness and legitimate trade in dual-use items.

The three institutions consider that modernisation and further convergence of the system is needed in order to keep up with new threats and rapid technological changes, to reduce distortions, create a genuine common market for dual-use items (uniform level playing field for exporters) and continue serving as an export control model for third countries.

To this end, it is essential to streamline the process for updating the control lists (Annexes to the Regulation); strengthen risk assessment and exchange of information, develop improved industry standards, and reduce disparities in implementation.

The European Parliament, the Council and the Commission acknowledge the issues regarding the export of certain information and communication technologies (ICT) that can be used in connection with human rights violations as well as to undermine the EU's security, particularly for technologies used for mass-surveillance, monitoring, tracking, tracing and censoring, as well as for software vulnerabilities.

Technical consultations have been initiated in this respect, including in the framework of EU Dual Use Peer Visit, the Dual Use Coordination Group, and the export control regimes, and actions continue to be taken to address situations of urgency through sanctions (pursuant to Article 215 TFEU), or national measures. Efforts will also be intensified to promote multilateral agreements in the context of export control regimes, and options will be explored to address this issue in the context of the on-going review of EU dual-use export control policy, and the preparation of a Commission Communication. In this context the three institutions took note of the agreement on 4 December 2013 by the Participating States of the Wassenaar Arrangement to adopt controls on complex surveillance tools that enable unauthorised access to computer systems, and on IP-network surveillance systems.

The European Parliament, the Council and the Commission also commit to further development of the existing "catch-all" mechanism for dual-use items falling outside the Annex I of the Regulation, in order to further enhance the export control system and its application within the European single market."

Commission Statement **on delegated acts**

"In the context of this Regulation, the Commission recalls the commitment it has taken in paragraph 15 of the Framework Agreement on relations between the European Parliament and the European Commission to provide to the Parliament full information and documentation on its meetings with national experts within the framework of its work on the preparation of delegated acts."

Commission Statement **on updating the Regulation**

"In order to ensure a more integrated, efficient and coherent European approach to the movement (exports, transfer, brokering and transit) of strategic items, the Commission will put forward a new proposal for updating the Regulation as expeditiously as possible."

2. Proposal for a Directive of the European Parliament and of the Council on Deposit Guarantee Schemes (recast) [First reading] (LA)

- Adoption
 - a) of the Council's position at first reading
 - b) of the statement of the Council's reasons
6707/14 CODEC 476 EF 53 ECOFIN 164
5199/14 EF 7 ECOFIN 23 CODEC 50
+ COR 1 (hr)
+ ADD 1
approved by Coreper, Part 2, on 26.02.2014

The Council approved its position at first reading, , in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. (Legal basis: Article 53(1) of the TFEU)

3. Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries [First reading] (LA+S)

- Adoption
 - a) of the Council's position at first reading
 - b) of the statement of the Council's reasons
6708/14 CODEC 477 PECHE 77 ENV 160
+ ADD 1
6103/14 PECHE 51 ENV 106 CODEC 307
+ COR 1 (fr, es, de, ga, it)
+ ADD 1
approved by Coreper, Part 1, on 26.02.2014

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. (Legal basis: Article 43(2) of the TFEU)

Statement by Poland

"Poland emphasizes the necessity of an in-depth review of appropriateness and effectiveness of this Regulation, as laid down in its Article 7 paragraph 3. In particular, the scientific basis for the driftnet ban for the Baltic salmon fisheries and cost-effectiveness of monitoring provisions should be subject to a detailed scrutiny. Poland is of the opinion that the review process must fulfil the highest standards of transparency and involve the relevant stakeholders."

"B" ITEMS

3. Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA [First reading]

- State of play/Orientation debate
6476/14 JAI 85 CATS 22 ENFOPOL 33 CODEC 410

The Council was informed about the state of play of discussions on the draft Europol Regulation. It was confirmed that the Law Enforcement Working Party would continue to examine the text where all references relating to the idea of the EUROPOL-CEPOL merger would be deleted.

The Council also held an orientation debate on the future of CEPOL. Delegations agreed on the need to update the existing CEPOL Decision in the light of the Treaties post-Lisbon and to do so by inviting the Commission to present a legislative proposal as soon as possible.

The Commission confirmed its willingness to present such a legislative proposal.

4. Any other business

– **Information from the Presidency on current legislative proposals**

- a) **Proposal for a Directive of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purpose of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing (Recast) [First reading]**
- b) **Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer [First reading]**

The Council took note of the information on the state of play of the above-mentioned legislative proposals in the field of legal migration. It welcomed the agreement at First reading reached on the ICT Directive and noted the state of play of the examination of the Students and Researchers Directive. The Presidency indicated that the Council preparatory bodies will pursue the examination of the latter and invited Member States to show additional flexibility on the examination of that proposal.

10. **Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) [First reading]**

– State of play/Orientation debate

6762/1/14 REV 1 DATAPROTECT 30 JAI 102 MI 191 DRS 26 DAPIX 25
FREMP 28 COMIX 110 CODEC 503

The Council held an orientation debate on certain issues of the proposal for a General Data Protection Regulation.

The Ministers broadly supported the draft provisions as regards the territorial scope of the regulation. Regarding Chapter V on international transfers of personal data to third countries, it was concluded that notwithstanding the general support expressed for the key principles underlying this Chapter, the vast majority of delegations emphasised that more technical work needs to be done on important aspects of this chapter and the question of alternative models for international data transfer will need to be studied in-depth.

Regarding Chapters I-IV, it was concluded that the work will continue at technical level on the basis of the progress achieved so far on pseudonymisation, portability of personal data and obligations of controllers and processors.

Whilst a majority of delegations appeared to be of the opinion that the scope of the profiling provision in the General Data Protection Regulation should be confined to regulating automated decision-making, some delegations pleaded in favour of specific provisions on profiling.

11. Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data [First reading]

- State of play
6799/14 DATAPROTECT 32 JAI 108 DAPIX 28 FREMP 31 COMIX 113
CODEC 514

The Council took note that the Mixed Committee at Ministerial level had been informed about the state of play.

12. Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office

- State of play/Orientation debate
6490/1/14 REV 1 EPPO 9 EUROJUST 38 CATS 23 FIN 117
COPEN 53 GAF 10

The Council noted that :

- a clear majority support the idea of having a College based office, provided that the independence and efficiency of the Office will be ensured;
- a great majority underlined their wish to ensure that minor cases of offences can be prosecuted at national level; and
- it had been agreed that the issue of procedural safeguards must be discussed further at expert level.

13. Proposal for a Directive of the European Parliament and of the Council on procedural safeguards for children suspected or accused in criminal proceedings [First reading]

- Orientation debate
6403/14 DROIPEN 19 COPEN 50 CODEC 382

The Council held an orientation debate on the proposal for a Directive on the basis of the three questions set out in doc. 6403/14. The Presidency provided the following provisional summary of the discussions:

- As regards the first question, while certain Member States consider that the Directive should not apply anymore when the suspect or accused person becomes of age, other Member States consider that certain rights should continue to apply in that situation. The Working Party is invited to see which rights, if any, should continue to apply after the person becomes of age.
- As regards the second question, a large majority of Member States consider that children should not be able to waive the right of access to a lawyer, independently whether they are deprived of liberty or not. The Working Party is invited to explore the issue of exceptions for minor cases.
- As regards the third question, a majority of Member States favour, or can at least accept option C, meaning that the Directive should not contain any principle on the protection of privacy, but that Member States should ensure such privacy, taking the interests of children duly into account. The Working Party is invited to look at appropriate drafting in this respect.

The Presidency, supported by the Commission, expressed the hope that the Council could reach a general approach on the proposal by June 2014.

14. Any other business

– Information from the Presidency on current legislative proposals

- a) **Proposal for a Directive of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA [First reading]**

The Council was informed by the Presidency about the agreement reached with the responsible Parliamentary committee on the proposal to be voted in plenary in April.

- b) **Proposal for a Regulation of the European Parliament and of the Council creating a European Account Preservation Order to facilitate cross border debt recovery in civil and commercial matters [First reading]**
- c) **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [First reading]**

The Council took note that it should be able to approve the European Parliament's position and that both Regulations should be adopted by the end of this semester.

- d) **Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1346/2000 on insolvency proceedings [First reading]**

The Council took note of an oral report made by the Presidency on the state of play regarding the proposal for a Regulation amending the Regulation on Insolvency proceedings.