



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 January 2012

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**PE 8
JAI 19
JUST 1
SCHENGEN 5
DATAPROTECT 3**

NOTE

from: General Secretariat of the Council
to: Delegations

Subject: Summary record of the meeting of the European Parliament **Committee on Civil Liberties, Justice and Home Affairs (LIBE)**, held in Brussels on 12 January 2012

The meeting was chaired by Mr LÓPEZ AGUILAR (S&D, ES) and by Ms GAL (EPP, HU). The committee adopted the agenda.

2. Chair's announcements

The Chair announced that, since 1 January 2012, the LIBE committee had five new members: Mr Bratkowski (EPP, PL), Mr Engel (EPP, LU), Mr Malinov (EPP, BG), Mr Weidenholzer (S&D, AU) and Ms McIntyre (ECR, UK).

3. The LIBE committee approved the minutes of the meetings of 24-25 May 2011, 29 September 2011, 17 October 2011, and 7 November 2011.

4. Agreement between the EU, Iceland and Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto

Rapporteur: Claude Moraes (S&D)

Responsible: LIBE –

- Consideration of draft report

Mr Enciu (S&D, RO), on behalf the rapporteur Mr Moraes (S&D, UK), presented the agreement which aims at extending the mutual legal assistance regime currently in force between EU Member States to Norway and Iceland. Mr Enciu said that the rapporteur supported the EP consent to this agreement.

- Deadline for tabling amendments: 20 January 2012, 12.00

5. Application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast version)

Rapporteur: Cecilia Wikström (ALDE)

- Presentation of the state of play

The rapporteur, Ms Wikström (ALDE, SE), considered that the Polish Presidency proposal on early warning, preparedness and management of asylum crises went in the right direction. However, she stressed that the monitoring and evaluation should be carried out in relation to all Member States and all aspects of their asylum systems. She mentioned that the Regulation should focus on solidarity with a reference to Article 80 TFEU in the case of a huge influx of asylum seekers and for Dublin transfers. She said that the European Parliament should be informed at the first stages of the early warning process. She also welcomed the ECJ preliminary ruling of 21 December 2011 on the transfer of asylum seekers under the EU Dublin Regulation whereby an asylum seeker may not be transferred to a Member State where he or she risks being subjected to inhuman treatment.

The Council Presidency representative informed the committee that this file was a top priority for the Presidency and that it will continue building on the achievements of the Polish Presidency while taking a horizontal approach to this Regulation.

Ms Lambert (S&D, UK) agreed that there was a need for an evaluation of asylum systems but pointed out that other problematic issues such as the detention of asylum seekers remained outstanding. Ms Guillaume (S&D, FR) was concerned by the fact that the proposed evaluation mechanism was too inter-governmental and that the European Parliament's role was too limited. Mr Kirkhope (ECR, UK) stressed that the priority should always be to ensure that asylum seekers were treated properly in the Member State of entry.

Ms Romero (S&D, ES) considered that the Polish Presidency evaluation and alert mechanism was insufficient since it did not tackle the real problems. She said that the situation in detention centres was a disgrace. She thought that the Regulation should provide for a solidarity mechanism and that it should be based on the Community method.

The Commission representative thanked the Danish Presidency for its willingness to make progress on all aspects of the Dublin Regulation. She said that the Commission supported an early warning mechanism as part of a balanced compromise on the Regulation but that this mechanism was not a panacea for all problems. She suggested that the process should include a compulsory phase. Referring to the recent Commission Communication on enhanced intra-EU solidarity in the field of asylum¹, she stressed that the mechanism needed to be complemented by solidarity. She added that the Commission would continue to monitor the implementation of the acquis by Member States.

Ms Wikström concluded that it was time for action, given the 2012 deadline for completion of the Common European Asylum System.

*** *Electronic vote* ***

¹ COM(2011) 835 final

6. Mutual recognition of protection measures in civil matters

Rapporteur for the opinion: Carmen Romero López (S&D)

Responsible: JURI, FEMM –

- The draft opinion was adopted as amended.

7. Participation by Iceland, Liechtenstein, Norway and Switzerland in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis

Rapporteur: Timothy Kirkhope (ECR) PR – PE452.763v01-00

Responsible: LIBE –

Opinions: AFET – Decision: no opinion

- The draft recommendation (consent) was adopted.

**** End of electronic vote ****

8. Green Paper on the right to family reunification of third-country nationals living in the European Union (Directive 2003/86/EC)

- Presentation by the Commission and exchange of views

The Commission representative presented the Green Paper adopted on 15 November 2011. During the discussion, Ms Wikström (ALDE, SE) asked the Commission why it had presented this Green Paper now while several other important files were ongoing. Mme Guillaume (S&D, FR) stressed that there were a number of gaps in the implementation of the current Directive and felt there was a need for greater harmonisation.

Mr Pirker (EPP, AT) was of the view that the family was fundamentally important for society. He favoured a definition which included close family and added that preventing forced marriages, fraud and abuses was essential. He defended integration and assistance measures for immigrants in order to ensure stability in the society.

Mr de Jong (GUE/NGL, NL) considered that the objective was to revise the rules with a view to respect family reunification as a human right. He added that guidelines could be useful and that the Commission should monitor the implementation of the current Directive.

Mr Zijlstra (NI, NL) wondered why the Green Paper failed to address the negative effects of immigration.

Mr Tavares (Greens/ALE, PT) asked for reliable statistics on forced marriages that could otherwise take a disproportionate dimension in the public debate. Mme In't Veld (ALDE, NL) warned of the risk that the debate would turn into a discussion on immigration in general and took the view that the Commission should be vigilant in relation to the policy follow-up. Ms Lambert (S&D, UK) said that family reunification was a human right and that it was essential to base the discussion on figures.

The Commission representative explained that the Green Paper had now been adopted, in the light of the ongoing debate in various Member States and in view of the problems with the implementation of the current Directive. She also said that it was difficult to obtain real data on abuse and forced marriages and that the Commission had asked for more information from Member States and civil society. She also highlighted that integration measures were important, stressing in particular the EU fund on integration.

The Chair of the committee said that it had been decided to draft a LIBE oral question on this issue and that a vote on this question was planned for the next LIBE meeting on 25 and 26 January.

9. European statistics on safety from crime

Rapporteur: Timothy Kirkhope (ECR)

Responsible: LIBE –

Opinions: BUDG – Decision: no opinion

- First exchange of views

The rapporteur, Mr Kirkhope (ECR, UK), underlined a number of problems in the proposed Regulation on European statistics on safety from crime adopted by the Commission on 8 June 2011. He questioned in particular the proposed budget of 12 millions euros to implement an EU household survey on this issue as well as the added value of this survey. He also wondered whether the EU standardised methodology would be useful when there were so many different national systems and definitions. He also stressed that the results of a survey of subjective attitudes and feelings about crime were different from crime statistics.

The Commission representative explained that the proposal for an EU survey had to be seen in the context of the 2010 Stockholm Programme and of the lack of comparable EU level information in this area.

Ms Alfano (ALDE, IT) said that she was expecting much tougher action and defended the need to harmonise statistics on crime. Mr Marinescu (EPP, RO) and Mr de Jong (GUE/NGL, NL) wondered about the credibility and use of these statistics. Mr Pirker (EPP, AT) was against the production of these statistics and was not convinced that data could be compared for the purposes of this survey, given the different definitions of criminal offences in the Member States. He questioned whether the proposed budget was justified.

The Commission representative replied that the proposal aimed to collect facts - not just subjective elements - which would allow comparison between countries. He added that the proposal also addressed the concerns expressed by the European Data Protection Supervisor. Mr Kirkhope concluded by saying that he would organise a shadow rapporteurs' meeting on this proposal.

10. Attacks against information systems and repeal of Council Framework

Decision 2005/222/JHA

Rapporteur: Monika Hohlmeier (PPE)

Responsible: LIBE –

Opinions: AFET – Kristiina Ojuland (ALDE); BUDG – Decision: no opinion; ITRE – Christian Ehler (PPE)

- Consideration of draft report

Ms Hohlmeier (EPP, DE) presented her amendments which related mainly to the definitions in the Directive; the requirement to provide adequate protection against attacks; cooperation, training and information exchange between law enforcement bodies and judicial authorities. She considered that identity theft was a separate issue which should be addressed in a horizontal instrument.

The Council Presidency representative said that she hoped to finalise this Directive by the end of the Presidency and agreed on the need to address identity theft in a horizontal instrument. The Commission representative said that it appreciated the work of the rapporteur.

During the discussion, Mr Alvaro (ALDE, DE) generally agreed with the rapporteur's approach and added that it was important to include preventive measures in this Directive. Several MEPs (Mr Enciu (S&D, RO) Mr Albrecht (Greens/ALE, DE), Mr Pirker (EPP, AT) Mr Voss (EPP, DE)) said that preventive measures were even more important than sanctions. Mr Enciu was of the view that Europol should be involved within its current mandate and that there should be a uniform definition of minor cases. Mr Pirker (EPP, AT) raised the question of hacking of critical infrastructures. Mr Albrecht (Greens/ALE, DE) recalled the need to maintain the presumption of innocence.

Ms Hohlmeier concluded that Europol should indeed act within its existing competences and that, given the possibility to use programmes for dual use, i.e. for lawful as well as criminal purposes, the possession of a tool should not be punishable as such.

- *Next steps:*
 - deadline for tabling amendments: 26 January, 17.00
 - orientation vote in LIBE: 27-28 February

11. Coordinators' meeting (*in camera*)

12. The European Investigation Order in criminal matters

Rapporteur: Nuno Melo (PPE)

Responsible: LIBE –

- Presentation of draft report

The rapporteur, Mr Melo (EPP, PT), considered that the challenge of the proposal was to ensure efficient EU cross-border judicial cooperation while not undermining fundamental rights and national constitutional and legal systems. He pointed out that his amendments related mainly to safeguarding fundamental rights, in particular the need for EIO request to be validated by a judge, the proportionality test and additional grounds for refusal such as the “ne bis in idem principle”.

The Council Presidency representative viewed the draft report positively and looked forward to starting discussions on this file. She indicated that the involvement of a judicial authority required further work.

The Commission representative felt that the draft Report was a good basis for discussion and that the EIO was an essential tool for judicial cooperation in a common area of justice in respect of the procedural rights of accused persons.

Mr Crocetta (S&D, IT) considered that an EIO was necessary but stressed the need to enshrine guarantees of citizens' rights and freedoms, in particular in relation to court orders and the possibility of appeal.

Mr Albrecht (Greens/ALE, DE) thought that grounds for refusal needed to be described more clearly and that minor offences should not be included in this package, the focus being on core issues.

Mr Coelho (EPP, PT) supported the draft report considering that the cornerstone of a Europe of justice was mutual trust. Due to the fundamental importance of the proposal, Mr Voss (EPP, DE) requested another debate and an extension of the deadline for amendments.

Ms In't Veld (ALDE, NL), on behalf of Ms Ludford (ALDE, UK), welcomed the proposal but emphasised the need for caution, given the experience with the European Arrest Warrant. She requested the inclusion of provisions on the rights of suspects and reference to the proposal on victims' rights. She considered that a judicial authority was necessary for the issuing state but not for the executing state.

Mr Melo concluded that his draft report included the possibility of appeal and the requirement for a judicial body to issue the order. He added that if the alleged offence was not a crime in the executing country, this should constitute grounds for refusal. He agreed to extend the deadline for amendments.

- *Next steps:*
 - deadline for amendments: 31 January (likely to be extended to 3 February)
 - orientation vote: 27-28 February 2012

12. The situation in Hungary

- Presentation by Ms Françoise Le Bail, Director General of DG Justice, of the evaluation by the Commission of the situation in Hungary and initiatives to be taken

The Commission representative said that the Commission was completing its legal analysis of compliance of some aspects of Hungarian law with EU law and the Charter of Fundamental Rights. She mentioned that in December 2011, Commission Vice-President Reding had sent a letter to the Hungarian authorities outlining three concerns in the justice area:

- The retirement age of judges and prosecutors (from 70 to 62 years) and the Commission's concerns about its compatibility with the EU Directive on equal treatment in employment which prohibits discrimination.
- The independence of the judiciary, in particular the operational management of the Court, the end of mandate of the President of the Supreme Court and the Commission's concerns about compatibility with Article 47 of the Charter of Fundamental Rights;
- The independence of the data protection supervisor and the Commission's concerns about compatibility with the Data Protection Directive and the Charter of Fundamental Rights.

She also outlined concerns in other areas, in particular regarding the independence of national banks.

Ms Le Bail informed the committee that, on the basis of its legal analysis, the Commission would take a decision on 17 January, which could entail launching infringement proceedings.

On behalf of political groups:

Mr Engel (EPP, LU) suggested waiting for the Commission's assessment and the response of the Hungarian authorities before taking a position on this issue.

Ms Göncz (S&D, HU) asked what kind of action the Commission was expecting the Hungarian authorities to take, considering that political answers were also required. She deplored the fact that, following the debate on media law last year, only cosmetic changes were made to the law. She also asked the Commission whether it had performed an analysis of Hungarian electoral and church law.

Ms Weber (ALDE, RO) considered that the Parliament was entitled to take action without waiting to see what the Commission was doing. She wondered about the legal basis for launching infringement proceedings and asked the Commission to look at the compatibility of Hungarian law with Article 2 of the Treaty. She also deplored the fact that candidate countries and Member States were treated differently with regard to the need to respect fundamental rights.

Mr Tavares (Greens/ALE, PT) considered that EU citizens expected the European Parliament to act on fundamental rights and wondered whether a candidate country with such laws in place would be likely to be able to accede to the EU. Mr Triantaphyllides (GUE/NGL, CY) asked whether an infringement of labour laws had been considered.

During the discussion:

Ms Sippel (S&D, DE) was of the view that the EU was losing credibility if one Member State was not respecting fundamental rights. Ms Ernst (GUE/NGL, DE) said that Hungary was heading for "de-democratisation" and that the European Parliament had to react.

Ms In't Veld (ALDE, NL) stated that Hungary is bound by its EU treaty and legal obligations, that the European Parliament had an autonomous role and that the application of Article 7 of the Treaty would be justified in this case. She added that lack of enforcement of human rights was a problem in the EU and that other Member States were also violating fundamental rights (e.g. Roma issue in France, treatment of asylum seekers in the Netherlands).

Ms Gal (EPP, HU) said that there was a need for major changes in the Hungarian legal system and that it could happen that there were mistakes in some laws but that there was no violation of democracy or the rule of law.

Ms Alfano (ALDE, IT) also supported the application of Article 7 TEU for the sake of law and the democracy. Ms Morvai (NI, HU) stressed the difficult working and social conditions of people in Hungary.

Mr Voss (EPP, DE) said that legality was the cornerstone of the action and wondered whether the Charter would also be applicable to Member States.

Ms Gomes (S&D, PT) considered that the Commission and the Council had not done their work on this issue and that this debate was for - and not against - the Hungarian people.

Mr Michel (ALDE, BE) was of the view that the situation in Hungary was extremely serious for the EU project of tolerance and diversity and that the democratic regime in Hungary was becoming an authoritarian regime.

Mr Alvaro (ALDE, DE) said that Copenhagen criteria did not disappear when a country joined the EU, that the Charter was applicable to Member States and that Article 7 had to be triggered on the basis of Article 2 TEU.

Mr Sogor (EPP, RO) defended Hungarian church law, adding that several other Member States had fewer recognised churches and that there was no state religion in Hungary.

Ms Bozkurt (S&D, NL) stressed the need for the Commission to launch legal proceedings against Hungary.

Mr Szajer (EPP, HU) explained that Hungarian reforms resulted from the will of the people and that if there were only a few mistakes in these laws, the Hungarian government had done a good job.

The Commission representative replied that there was no difference of treatment between candidate countries and Member States, that no Member State could fail to respect the Treaty or the Charter and that national constitutions need to be in conformity with EU laws and principles. She added that, in the case of Hungary, this was both a legal and political issue.

She said that the Commission expected Hungary to be in full compliance with EU laws, Treaties and the Charter and that the Commission would take a decision on the basis of legal analysis. She added that the Commission is acting in record time: Hungarian laws entered into force on 1 January and the Commission will take a decision on 17 January.

13. Multiannual Framework for the EU Agency for Fundamental Rights (FRA) for 2013-2017

Responsible: LIBE –

Opinions: AFET – BUDG – FEMM –

- Presentation by the Commission

The Commission representative presented the proposal which aims at defining the thematic areas of activity of the Agency in a five-year multiannual framework.

Mr Michel (ALDE, BE) strongly criticized the fact the Agency could not give its opinion on the fundamental rights' situation in a given Member State and that it was necessary to amend the Regulation and to give real investigation powers to the Agency for this purpose.

Ms In't Veld (ALDE, NL) stated that the Agency should be at the heart of the debate on Hungary and should become a real Fundamental Rights watchdog. She also deplored the fact that the Agency refused the European Parliament's request to issue a report on media freedom in the Member States.

The Commission replied that the aim of this proposal was to specify the Agency's thematic areas, not to define the tasks and competences of the Agency. He explained that the evaluation of the Agency was ongoing and that a report and recommendations should be available by the beginning of 2013, adding that the debate would then address the tasks and competences of the Agency.

14. Any other business

15. Next meeting(s)

- 23 January 2012, 17.15 – 17.45 (Brussels) CONSTITUTIVE MEETING (NEW!)
- 25 January 2012, 9.00 – 12.30 and 15.00 – 18.30 (Brussels)
- 26 January 2012, 9.00 – 12.30 (Brussels)
