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NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	8669/18, 8983/18
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Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRIS-TCN system) and amending Regulation (EU) No 1077/2011 - Note with questions

I. Introduction

Following the meeting of the Working Party on 14 May, the Presidency met with the European Parliament during meetings on 16 and 17 May. During these meetings, the European Parliament marked its agreement on the compromise solution on 'facial images' (several lines in the text, including 9, 20, 38, 64, 93, 94, 119, 300) and on various other points.

Delegations will find an updated four column table in 8983/18. All texts in blue have provisionally been agreed upon in the technical meeting, following 'green light' in the Working Party. It is assumed that Member States are still happy with these texts, so that they can be turned green at the next trilogue, which is foreseen for 6 June.

II. Questions for Member States

With a view to the next technical meeting on 23 May 2018, the Presidency would like to obtain confirmation from the Member States (MS) that the following texts, as set out in the fourth column of 8983/18, are acceptable in the context of a global compromise package:

- 1) Line 98, relating to Article 7(3) (clarification);
- 2) Line 133, relating to Article 11(4): it is suggested to replace *'two years after the entry into force of this Regulation'* by *'as soon as possible'* (two years may be a bit too tight);
- 3) Line 134, relating to Article 11(5): MS are invited to confirm the Council's position on this point, which EP cannot accept (yet);
- 4) Line 229, relating to Article 23(7a): following the suggestion by the EP in AM 79 to allow TCN to obtain a certificate concerning their criminal record, the Presidency suggests inserting a **recital** in the text with the language in the fourth column;
- 5) Line 232, relating to Article 24(2): following the suggestion by the EP in AM 80, the Presidency suggest inserting a recital in the text, see again the language in the fourth column;
- 6) Line 235, relating to Article 25: EP insists on language in the operative part regarding remedies. A similar solution has been found as for 'penalties', see Article 20 in line 213, with reference to both the right to bring an action before a court **and** the right to bring a complaint, see Articles 77 and 78 of the GDPR;
- 7) Line 287, relating to Article 34(3)-(3d): EP is worried about additional costs and prefers inserting additional language (NB: MS showed flexibility on this point in the past);
- 8) Line 298, relating to Article 34(6): the words "where relevant" have been inserted in the EP's text, in order to make it acceptable;
- 9) Line 343, relating to Article 38(1): in order to avoid a possible 'clash' between paragraphs 1 and 2, and to indicate that paragraph 2 is a *'lex specialis'*, the words *'without prejudice to paragraph 2'* have been added at the end of paragraph 1.