



Council of the  
European Union

Brussels, 13 November 2015  
(OR. en)

12895/15

LIMITE

PV/CONS 52  
JAI 737  
COMIX 481

## DRAFT MINUTES<sup>1</sup>

Subject: **3415th** meeting of the Council of the European Union (**JUSTICE AND HOME AFFAIRS**), held in Luxembourg, on 8 and 9 October 2015

---

<sup>1</sup> Information on Council legislative deliberations, on other cases of Council deliberations open to the public and on public debates may be found in [Addendum 1](#) to these minutes.

## **CONTENTS**

### **Page**

1. Adoption of the provisional agenda ..... 4

### **HOME AFFAIRS**

#### **LEGISLATIVE DELIBERATIONS**

2. Approval of the list of "A" items..... 4
3. Visa policy..... 4
- (a) Proposal for a Regulation of the European Parliament and of the Council on the Union Code on visas (recast) [First reading]
  - (b) Proposal for a Regulation of the European Parliament and of the Council establishing a touring visa and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 562/2006 and (EC) No 767/2008 [First reading]
4. Follow-up on legislative proposals of 9 September 2015 ..... 5
- (a) Proposal for a Regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person [First reading]
  - (b) Proposal for a Regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU [First reading]
5. Proposal for a Directive of the European Parliament and of the Council on the use of Passenger Name Record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime [First reading]..... 5
6. Any other business ..... 6

## **NON-LEGISLATIVE ACTIVITIES**

7.	Approval of the list of "A" items.....	6
8.	Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece, adopted on 14 September.....	6
9.	The future of the return policy.....	6
10.	The future of the external border management policy .....	6
11.	Counter-terrorism .....	7
12.	The fight against international organised and serious crime .....	8
13.	Renewed EU Internal Security Strategy (2015-2020).....	8
14.	Any other business .....	9

## **JUSTICE**

## **LEGISLATIVE DELIBERATIONS**

15.	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] .....	9
16.	Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office.....	10
17.	Any other business .....	10

## **NON-LEGISLATIVE ACTIVITIES**

18.	Consequences of the Maximilian Schrems v. Data Protection Commissioner judgement of 6 October 2015 (C-362/14) .....	10
19.	Accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms .....	11
20.	Migration crisis: aspects of judicial cooperation and the fight against xenophobia.....	11
21.	Implications of the Taricco judgement of 8 September 2015 (C-105/14) for ongoing files....	12
22.	Any other business .....	12
ANNEX - Statements for the Council minutes.....		13

\*

\*      \*

1. **Adoption of the agenda**

12631/15 OJ/CONS 52 JAI 714 COMIX 462

The Council adopted the above agenda.

HOME AFFAIRS

**LEGISLATIVE DELIBERATIONS**

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

2. **Approval of the list of "A" items**

12632/15 PTS A 71

The Council adopted the list of "A" items as listed in doc. 12632/15.

The documents on item 1 should read as follows:

Item 1: 12316/15 CODEC 1232 FSTR 62 FC 61 REGIO 75 SOC 534 EMPL 350  
BUDGET 33 AGRISTR 63 PECHE 314 CADREFIN 57  
PE-CONS 50/15 FSTR 51 FC 50 REGIO 65 SOC 473 EMPL 312 BUDGET 26  
AGRISTR 59 PECHE 268 CADREFIN 46 CODEC 1083  
+ COR 1  
+ COR 2 (fr)

Details on the adoption of these items are set out in the Addendum.

3. **Visa policy**

(a) **Proposal for a Regulation of the European Parliament and of the Council on the Union Code on visas (recast) [First reading]**

(b) **Proposal for a Regulation of the European Parliament and of the Council establishing a touring visa and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 562/2006 and (EC) No 767/2008 [First reading]**

= Policy debate/Progress report  
12382/15 VISA 314 CODEC 1248 COMIX 435

The Council confirmed the conclusions drawn by the Presidency at the meeting of the Mixed Committee at Ministerial level (see doc. 12956/15).

4. **Follow-up on legislative proposals of 9 September 2015**<sup>1</sup>

- (a) **Proposal for a Regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person [First reading]**

11843/15 ASIM 79 CODEC 1167

+ ADD 1

- (b) **Proposal for a Regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU [First reading]**

11845/15 ASIM 81 COWEB 86 CODEC 1171

+ ADD 1

= Progress report

12557/15 ASIM 101 COWEB 94 CODEC 1280

+ COR 1

The Council took note of the information provided by the Presidency on the state of play of the examination of the above mentioned Commission proposals. The Council invited its preparatory bodies to pursue the examination of the two legislative proposals in order to allow the Presidency to start negotiations with the European Parliament as soon as possible with a view to reaching an agreement.

5. **Proposal for a Directive of the European Parliament and of the Council on the use of Passenger Name Record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime** [First reading]

= Progress report

The Council was informed of the Presidency's plans regarding the ongoing trilogues with the European Parliament in this file.

---

<sup>1</sup> Exceptionally, in the presence of Associated States.

6. **Any other business**

= Information from the Presidency on current legislative proposals

The Presidency informed the Council about the state of play of the negotiations of several legislative proposals.

**NON-LEGISLATIVE ACTIVITIES**

7. **Approval of the list of 'A' items**

12633/15 PTS A 72

The Council adopted the "A" items as listed in doc. 16233/15.

Statements to these items are set out in the Annex.

8. **Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece, adopted on 14 September<sup>1</sup>**

= Implementation report

12750/15 ASIM 106 COMIX 472

The Council took note of the information provided by the Commission as well as by Italy and Greece on the implementation of the relocation mechanisms approved by the Council at its meetings on 14 and 22 September 2015.

9. **The future of the return policy**

= Adoption of conclusions

12420/15 MIGR 46 COMIX 441

+ COR 1

The Council adopted the above conclusions. Sweden made a statement, which is set out in the Annex.

10. **The future of the external border management policy**

= General debate

12616/15 FRONT 208 JAI 713 COMIX 461

The Council took note of the outcome of the debate at the meeting of the Mixed Committee at Ministerial level (see doc. 12956/15).

## 11. **Counter-terrorism**<sup>1</sup>

### (a) **Council Conclusions on strengthening the use of means of fighting trafficking of firearms**

= Adoption

12449/15 COSI 115 ENFOPOL 264 ENFOCUSTOM 96 CYBER 88  
CRIMORG 96

+ COR 1 (it)

The Council adopted conclusions on strengthening the use of means of fighting trafficking of firearms and invited all relevant actors, Member States, the Commission, Europol and Interpol to take the necessary measures to implement the actions foreseen in these conclusions. The agreed text is set out in doc. 12892/15.

### (b) **Monitoring of ongoing operations**

12318/15 JAI 686 CFSP/PESC 554 COSI 114 COPS 286 ENFOPOL 260  
COTER 124 SIRIS 64 FRONT 197 CATS 89 EDUC 255  
12551/15 JAI 706 CFSP/PESC 583 COSI 117 COPS 288 ENFOPOL 269  
COTER 126 SIRIS 68 FRONT 207 CATS 94 EDUC 260

The Council took note of the report from the EU Counter-Terrorism Coordinator (CTC) on the implementation of counter-terrorism measures included in the Statement of the Members of the European Council of 12 February 2015. The Council agreed on five short-term measures, identified by the Presidency and the Counter-Terrorism Coordinator, where progress should be made before the December Council. These short-term measures are set out in doc. 12551/15.

### (c) **Railway safety: information on recent developments**

The Council took note of a presentation by the Presidency of the results of the lunch discussions of the Ministers of Transport on railway security on 8 October 2015. The Council supported the Commission's initiative to launch a study on concrete measures which could be envisaged in the field of railway security.

---

<sup>1</sup> Exceptionally, in the presence of Associated States.

**12. The fight against international organised and serious crime**

**(a) Follow-up on the implementation of the European Union's priorities**

The Council was informed by the Europol Director about the provisional results of operations carried within the framework of the EU Policy cycle on serious and organised crime, notably the Joint Action Days. The final results of the operations would only be available in December 2015. The Standing Committee on Operational Cooperation on Internal Security was mandated to have a strategic debate on the Joint Action Days 2016.

**(b) Cross-border crime linked to criminal motorcycle gangs**

= Information from Belgium  
12041/15 COSI 107 JAI 662 ENFOPOL 250 CRIMORG 91

The Council took note of a presentation by the Belgian delegation on the growing phenomenon of criminal motorcycle gangs in border regions and mandated the Standing Committee on Operational cooperation on Internal Security to discuss appropriate measures at EU level to respond to this crime phenomenon.

**13. Renewed EU Internal Security Strategy (2015-2020)**

= Implementation report  
10854/15 COSI 94 CATS 74 JAI 559 ENFOPOL 207 ENFOCUSTOM 73  
DAPIX 125 SIRIS 48 GENVAL 25 CORDROGUE 58 DROIPEN 80  
COPEN 198 FREMP 159

The Council took note of the Presidency's programme for Council activities to be conducted during the second semester of 2015 with a view to implementing the renewed Internal Security Strategy and took note of the progress realised in some areas.

**14. Any other business**

**(a) Valletta Summit, 11-12 November 2015 <sup>1</sup>**

= Information from the Presidency

**(b) High-level Conference on the Eastern Mediterranean - Western Balkans Route<sup>1</sup>**

= Information from the Presidency

12556/15 JAI 708 ASIM 100 RELEX 762 COWEB 93 ELARG 49 MAMA 140

The Council took note of the information provided by the Presidency on the preparations of the High-Level Conference on the Eastern Mediterranean/Western Balkans route. During the ministerial lunch, Ambassador Pierre Vimont informed the Ministers on the state of play of the preparation of the Valletta Summit.

***Meeting on 10 October 2015***

JUSTICE

**LEGISLATIVE DELIBERATIONS**

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

**15. 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]**

= General approach (•)

12555/15 DATAPROTECT 154 JAI 707 DAPIX 163 FREMP 202 COMIX 456  
CODEC 1279

The Council adopted a general approach on the draft Data Protection Directive. Austria could not support the general approach. Slovenia and the Czech Republic as well as Austria made statements as set out in the Addendum to these minutes (page 5).

---

<sup>1</sup> Exceptionally, in the presence of Associated States.

(•) When adopting a general approach after the European Parliament has adopted its position at first reading, the Council is not acting within the meaning of Article 294(4) and (5) TFEU.

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

= Partial general approach

12621/15 EPPO 37 EUROJUST 168 CATS 98 FIN 660 COPEN 256 GAF 39

After substantial progress in July and September, the Council expressed a very large support to the Articles 24-33 plus Article 35 of the EPPO Regulation, as set out in the Presidency document, regarding investigations, prosecutions and procedural safeguards. However, it was made clear that these Articles would be re-visited once the full text was examined in order to ensure coherence. On this basis, the experts were invited to continue examining Articles 17 to 23 related to competencies of EPPO and rules on investigations. Austria made a statement, as set out in the Addendum (page 7).

**17. Any other business**

**(a) Information from the Presidency on current legislative proposals**

The Presidency informed delegations of the state of play of the different on-going legislative files.

**(b) Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime: transposition**

= Information from the Commission

The Commission recalled the upcoming deadline of 16 November 2015 for the transposition of this Directive and briefly outlined the activities it would undertake to support its implementation.

**NON-LEGISLATIVE ACTIVITIES**

**18. Consequences of the Maximilian Schrems v. Data Protection Commissioner judgement of 6 October 2015 (C-362/14)**

= Information from the Commission

The Commission informed the Council about the consequences of the CJEU judgement (C-362/14, 6 October 2015) in the Schrems case. The Commission stressed the need to accelerate discussions on a safer framework for transfers of personal data with the USA and announced it would cooperate closely with national supervisory authorities to avoid fragmentation after the "Safe Harbour" Decision had been declared invalid.

**19. Accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms**

= Progress report  
12528/15 JAI 702 FREMP 199

Ministers took note of the state of play and further steps as regards the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The Commission, in its role as the EU negotiator, was invited to express the strong determination of the European Union to this process towards the partners in the Council of Europe and to come forward with a comprehensive analysis on the ways to address Opinion 2/13 by submitting to the Council technical written contributions on all aspects to be discussed.

**20. Migration crisis: aspects of judicial cooperation and the fight against xenophobia**

= General debate  
12372/15 JAI 692 CATS 91 ASIM 94 COPEN 248 FREMP 191 JAIEX 71

Ministers supported the actions suggested by the Presidency as regards increased facilitation of investigations and prosecutions related to irregular immigrant smuggling, awareness-raising and training of judicial authorities on these matters, better cooperation with third countries, an improved investigation and prosecution of hate crime, the development of a dialogue with Internet providers and the commitment of national authorities to protect vulnerable groups. As a consequence, the Commission was in particular invited to provide the appropriate resources and intensify its dialogue with Internet providers.

**21. Implications of the Taricco judgement of 8 September 2015 (C-105/14) for ongoing files**

= General debate

12549/15 DROIPEN 109 CATS 93 JAI 704 GAP 38 FIN 659 CADREFIN 59  
CODEC 1276

Ministers exchanged views on the implications of Taricco judgement in light of the possible inclusion of VAT fraud in the scope of the proposal for a Directive on the fight against fraud to the Union's financial interests by means of criminal law and the draft Regulation on the European Public Prosecutor's Office. The Presidency concluded that it would explore at the level of experts possible ways to address this question.

**22. Any other business**

No issues were raised under this item.

\*\*\*\*\*

**STATEMENTS FOR THE COUNCIL MINUTES**  
**CONCERNING NON-LEGISLATIVE ACTIVITIES**

**Ad "A" item 7:**        **Draft Council Decision authorising respectively the Kingdom of Belgium and the Republic of Poland to ratify and the Republic of Austria to accede to the Budapest Convention on the Contract for the Carriage of Goods by Inland Waterways (CMNI)**  
                              **=        Adoption**

**STATEMENT BY THE UNITED KINGDOM**

"The United Kingdom supports the Council Decision authorising Austria, Belgium and Poland to ratify, or accede to, the Budapest Convention on the Contract for the Carriage of Goods by Inland Waterways (CMNI).

The Council Decision states that the Union has exclusive external competence in particular with regard to Article 29 of the Budapest Convention and, as such, the provisions of that Article affect the rules laid down in Council Regulation (EC) No. 593/2008 and is, therefore, binding on all Member States.

However, the United Kingdom wishes to draw attention to the fact that the legal base cited for the Council Decision to be adopted is pursuant to Title V Part III of the Treaty on the Functioning of the European Union. Consequently, the Council Decision will only bind the United Kingdom if it opts in to the Council Decision in accordance with Protocol 21 to the Treaties.

Accordingly, the United Kingdom has notified the President of the Council that it wishes to take part in the adoption and application of this Decision, in accordance with Article 3 of Protocol No.21 on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and to the Treaty on the functioning of the European Union."

**Ad "A" item 14:**      **Commission Delegated Regulation (EU) .../... of 28.7.2015  
supplementing Regulation (EU) No 952/2013 of the European  
Parliament and of the Council with regard to detailed rules specifying  
some of the provisions of the Union Customs Code  
=      Intention not to raise objections to a delegated act**

**STATEMENT BY DENMARK**

"Denmark supports the Union Customs Code and the delegated act, which ensures digitalization and streamlining of the custom legislation and processes.

However, ensuring a complete digitalization of national customs procedures and processes imposes a large, comprehensive and utterly expensive and complex task on Member States. An implementation plan where each Member State is to develop their own IT systems involves a significant risk for the implementation of the Union Customs Code as a whole.

Therefore, we strongly encourage the Commission to keep this in mind in its future implementing work, and to do its utmost to ensure that the financial implications at both national and European level are kept at a minimum."

\*

\*      \*

**Ad "B" item 9:**      **The future of the return policy  
=      Adoption of conclusions**

**STATEMENT BY SWEDEN**

"In the context of EUs future return policy, in paragraph 12 of the Council Conclusions, Sweden strongly advocates that conditionality in development cooperation shall only be linked to country programming and countries' development plans. Guidance should be sought from the commitments in the Paris Declaration on Aid Effectiveness, endorsed in 2005, especially by paragraph 45 thereof."

---