



Council of the  
European Union

Brussels, 28 October 2016  
(OR. en)

13240/16  
ADD 1

PV/CONS 49  
JAI 829  
COMIX 666

**DRAFT MINUTES**

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Subject: **3490nd** meeting of the Council of the European Union  
**(Justice and Home Affairs)**,  
held in Luxembourg on 13 and 14 October 2016

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## PUBLIC DELIBERATION ITEMS <sup>1</sup>

Page

### LEGISLATIVE DELIBERATIONS

#### "A" ITEMS (12931/16 PTS A 75)

1. Proposal for a Regulation of the European Parliament and of the Council replacing the lists of insolvency proceedings and insolvency practitioners in Annexes A and B to Regulation (EU) 2015/848 on insolvency proceedings [First reading]..... 4
2. Regulation of the European Parliament and of the Council on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC [First reading]..... 4
3. Regulation of the European Parliament and of the Council on the establishment of a European travel document for the return of illegally staying third-country nationals, and repealing the Council Recommendation of 30 November 1994 [First reading] ..... 4
4. Directive of the European Parliament and of the Council on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings [First reading]..... 5

#### "B" ITEMS (12926/16 OJ CONS 48 JAI 804 COMIX 648)

#### HOME AFFAIRS

3. Reform of the Common European Asylum System ..... 6
  - a) Dublin
  - b) Reception conditions
  - c) Qualification
  - d) Procedure
  - e) Eurodac
  - f) EASO
4. Resettlement Framework: Proposal for a Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council [First reading] ..... 7

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<sup>1</sup> 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).

5.	Information Technology (IT) measures related to border management.....	7
	a) Systematic checks of external borders	
	b) Entry/Exit System (EES)	
6.	Any other business .....	7

JUSTICE

11.	EPPO: Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office.....	8
12.	PIF: Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law [First reading] .....	8
13.	Any other business .....	8

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## **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 replacing the lists of insolvency proceedings and insolvency practitioners in Annexes A and B to Regulation (EU) 2015/848 on insolvency proceedings [First reading]**

- = General approach  
12403/16 JUSTCIV 241 CODEC 1298  
+ COR 1  
+ COR 2  
+ ADD 1  
approved by Coreper, Part 2, on 28.09.2016

The Council confirmed that there was an agreement on the text of the proposed Decision as set out in 12403/16 JUSTCIV 241 CODEC 1298 ADD 1 and took note that the Parliament intends to vote on the text as set out in the same document.

**2. Regulation of the European Parliament and of the Council on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC [First reading]**

- = Adoption of the legislative act  
PE CONS 28/16 STATIS 45 ENER 262 CODEC 942  
+ COR 1 (pt)

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Austrian Delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union.  
(Legal basis: Article 338(1) of the TFEU).

**3. Regulation of the European Parliament and of the Council on the establishment of a European travel document for the return of illegally staying third-country nationals, and repealing the Council Recommendation of 30 November 1994 [First reading]**

- = Adoption of the legislative act  
PE-CONS 30/16 MIGR 126 FRONT 280 COMIX 498 CODEC 1003

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Polish Delegation voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish, Irish and the United Kingdom delegations did not participate in this vote. (Legal basis: Article 79(2)(c) of the TFEU).

### **Statement by France**

"France welcomes the objective of harmonising and providing legal safeguards for the European travel document for the return of illegally staying third-country nationals. As regards the application of Article 4 of the Regulation, France takes note of the assurance it has been given by the Commission that it can continue to send the individual information and the signature and stamp of the competent authority electronically to the authorities responsible for implementing the return measures, to be printed locally on the blank pages in accordance with the new technical security specifications."

#### **4. Directive of the European Parliament and of the Council on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings [First reading]**

= Adoption of the legislative act

PE-CONS 33/16 DROIPEN 124 COPEN 232 CODEC 1009

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish, Irish and the United Kingdom delegations did not participate in this vote. (Legal basis: Article 82(2) of the TFEU).

### **Statement by Poland**

"Poland does not support the so-called "compromise" presented for adoption at the Council meeting on 13 October 2016. We feel that an appropriate compromise taking due account of the interests of both Member States and suspected and accused persons was expressed in the general approach text adopted by the Council in February 2015. The present draft is in fact an unwarranted concession to the European Parliament and made by it without regard to the overall impact of this document and its internal consistency. Poland cannot in particular support the extension of the draft directive beyond its intended scope of temporary legal aid, the exclusion of specific provisions relating to less serious offences and the obligation to provide legal aid in the state issuing an EAW."

**3. Reform of the Common European Asylum System**

- a) **Dublin: Proposal for a Regulation of the European Parliament and of the Council 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 (recast) [First reading]**
- b) **Reception conditions: Proposal for a Directive of the European Parliament and of the Council laying down standards for the reception of applicants for international protection (recast) [First reading]**
- c) **Qualification: Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents [First reading]**
- d) **Procedure: Proposal for a Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU [First reading]**
  - = Progress report  
12724/16 ASILE 39 CODEC 1350
- e) **Eurodac: Proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 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], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast) [First reading]**
- f) **EASO: Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 [First reading]**
  - = Policy debate  
12726/16 ASILE 40 EURODAC 10 ENFOPOL 312 CODEC 1351

The Council took note of the state of play of the current examination of the above-mentioned proposals on the Reform of the Common European Asylum System on the basis of the Presidency progress reports and endorsed the three-track approach suggested by the Presidency for the examination of the package during its term.

The Council held a policy debate on the Eurodac Regulation and on the EU Asylum Agency Regulation on the basis of the Presidency's note in 12726/16. A large majority of delegations supported the Presidency suggestions, based on the results of discussions at Working Party level.

**4. Resettlement Framework: Proposal for a Regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council [First reading]**

= Policy debate

12717/16 ASIM 125 RELEX 803 CODEC 1348

The Council held a policy debate on the Resettlement Framework Regulation. Delegations expressed diverging views, with a majority of them having concerns on aspects such as the mandatory nature of the proposal or its legal basis.

**5. Information Technology (IT) measures related to border management**

**a) Systematic checks of external borders**

- **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 as regards the reinforcement of checks against relevant databases at external borders [First reading]**

**b) Entry/Exit System (EES)**

- i) Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes and amending Regulation (EC) No 767/2008 and Regulation (EU) No 1077/2011 [First reading]**
- ii) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/399 as regards the use of the Entry/Exit System (First reading)**

= Progress report

12661/16 FRONT 364 VISA 298 SIRIS 130 CODEC 1331 COMIX 632  
+ COR 1

The Council took note of the outcome of the debate at the meeting of the Mixed Committee at Ministerial level (13772/16 JAI 844 COMIX 671).

**6. Any other business**

= Information from the Presidency on current legislative proposals

The Council took note of the information communicated by the Presidency on the state of play of the examination of the current legislative proposals.

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

= Policy debate/Partial general approach

12774/2/16 REV 2 EPPO 26 EUROJUST 120 CATS 71 FIN 614 COPEN 277  
GAF 57 CSC 270

12775/16 EPPO 27 EUROJUST 121 CATS 72 FIN 615 COPEN 278 GAF 58  
CSC 271

13185/16 EPPO 29 EUROJUST 127 CATS 76 FIN 645 COPEN 289 GAF 62  
CSC 286

The Council found broad conceptual support for the Articles on judicial review, cooperation with third countries and international organizations, cooperation with non participating Member States and cooperation with Eurojust as outlined in 13185/16. Some work on these provisions will continue at expert level. Following an extensive debate on the full text of the draft Regulation and taking into account the Commission's cost/benefit analysis, the Presidency received clear support to finalise the full text for the December Council.

The experts and high level advisors would aim to solve the outstanding issues listed by the Ministers.

**12. PIF: Proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law [First reading]**

= Policy debate/Progress report

12686/1/16 REV 1 DROIPEN 147 JAI 785 GAF 55 FIN 603 CADREFIN 74  
CODEC 1336

The Council held a debate on the EPPO's material competence regarding VAT fraud and on the inclusion of such fraud in the scope of the Directive. There was a rather general acceptance that certain forms of serious VAT fraud would be included in the Directive and a clear mandate was given to the Presidency to work in this sense.

**13. Any other business**

= Information from the Presidency on current legislative proposals

The Presidency informed delegations of the state of play of the different on-going legislative files. The Commission explained that it was still working on a revision of the ECRIS proposal.