

Brussels, 14 June 2018
(OR. en)

10125/18
CRS CRP 20

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
29, 30 May and 1 June 2018

I. Adoption of the agenda

9322/2/18 REV 2 OJ CRP2 20 COMIX 278
9368/18 OJ CRP1 20 + COR 1

The Committee adopted the agenda.

II. Approval of the "I" items

The Committee approved the "I" items as set out in the Annex.

III. Discussion items

COREPER (PART 2)

Justice and Home Affairs

2. Meeting of the Council (Justice and Home Affairs) on
4-5 June 2018: Preparation

- a) Migration: State of play¹ 9286/18 + COR 1
Exchange of views

The Committee prepared this item for the Council.

- b) Regulation amending the Community Code on Visas 9043/18
(Visa Code)
Policy debate

The Committee prepared this item for the Council.

¹ Exceptionally, in the presence of the Schengen Associated States

- c) E-evidence 9117/18 + COR 1
i) Regulation on European Production and Preservation Orders for e-evidence
ii) Directive on legal representatives for gathering evidence
Policy debate

The Committee prepared this item for the Council.

- d) Victims of Terrorism 9225/18
Exchange of views 9118/18

The Committee prepared this item for the Council. Furthermore the Committee agreed to add the adoption of conclusions to the Council agenda and agreed to submit the draft conclusions to the Council for adoption.

- e) Reform of the Common European Asylum System and Resettlement 9290/18
i) Dublin Regulation
ii) Reception Conditions Directive
iii) Qualification Regulation
iv) Asylum Procedure Regulation
v) Eurodac Regulation
vi) EU Asylum Agency Regulation
vii) Resettlement Framework Regulation
Policy debate / Progress report

The Committee prepared this item for the Council.

- f) Other items in connection with the Council meeting

The Presidency provided further information regarding the Council meeting.

3. Eu-LISA Regulation 9252/18
Presidency debriefing on the outcome of the trilogue

The above-mentioned item was withdrawn.

4. Freezing and Confiscation Regulation 9284/18
Preparation for the trilogue 9285/18

The Committee agreed on a revised mandate in view of the forthcoming trilogue.

General Affairs

5. Regulation establishing the European Defence Industrial Development Programme (EDIDP) 9262/18 + COR 1
Confirmation of the final compromise text with a view to agreement

The Committee held an exchange of views on the outcome of the last trilogue and agreed to revert to this issue at its next session.

Foreign Affairs

7. EU-Ukraine Summit (Brussels, 9 July 2018) 9295/18
Orientation debate

The Committee held an exchange of views on the preparation of the EU-Ukraine Summit in Brussels on 9 July 2018.

8. Meeting of the Council (Foreign Affairs) on 28 May 2018:
Follow-up

The Committee took note of the main outcomes of the Council meeting and agreed to revert to the Post-Cotonou mandate at its next session.

Economic and Financial Affairs

9. Meeting of the Council (Economic and Financial Affairs) on
22 June 2018: Agenda

The Presidency presented the main points on the agenda.

10. Meeting of the Council (Economic and Financial Affairs) on
25 May 2018: Follow-up

The above-mentioned item was withdrawn.

11. (poss.) Facility for Refugees in Turkey - Financing of the second
tranche
Political endorsement

The above-mentioned item was withdrawn.

General Affairs

6. Cohesion Policy - Presentation of Cohesion Policy Legislative
Package 2021-2027
Presentation by the Commission

The Committee took note of the Commission presentation and held a first exchange of views.

COREPER (PART 1)

WEDNESDAY 30 MAY 2018

Employment, Social Policy and Health

32. Meeting of the Council (Employment, Social Policy, Health and Consumer Affairs) on 21 and 22 June 2018: Agenda

The Committee agreed on the provisional agenda for the forthcoming Council meeting.

Internal Market and Industry

33. Regulation on the Single Digital Gateway
Presidency debriefing on the outcome of the trilogue

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 24 May 2018.

Youth

34. European Solidarity Corps 9169/18 + COR 1
Preparation for the trilogue + ADD 1

The Committee agreed on a revised mandate for the forthcoming trilogue.

Transport, Telecommunications and Energy

35. Meeting of the Council (Transport, Telecommunications and Energy) on 7, 8 and 11 June 2018: Preparation

1. Mobility package II 8916/18
Directive amending Directive 2009/33/EC on clean and
energy-efficient vehicles
Progress report

The Committee prepared the item for Council.

2. Directive on port reception facilities 9011/18
Progress report / General approach

The Committee prepared the item for Council.

3. Regulation on ePrivacy 9079/18
Progress report / Policy debate

The Committee prepared the item for Council.

4. Directive on the re-use of public sector information 9090/18
Policy debate

The Committee prepared the item for Council.

Telecommunications

36. Directive on the European Electronic Communications Code 9276/1/18 REV 1
(recast)
Presidency debriefing on the outcome of the trilogue
Preparation for the trilogue

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 22 May 2018.

The Committee agreed on a revised mandate for the forthcoming trilogue.

37. Regulation on the Body of European Regulators for Electronic Communications (BEREC) 9310/1/18 REV 1
+ REV 1 COR 1
Preparation for the trilogue

The Committee agreed on a revised mandate for the forthcoming trilogue.

FRIDAY 1 JUNE 2018

Discussion items (II)

Internal Market and Industry

38. Directive on empowering national competition authorities:
ECN Plus
Presidency debriefing on the outcome of the trilogue

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 30 May 2018.

Agriculture and Fisheries

39. Meeting of the Council (Agriculture and Fisheries) on 18 June 2018: Agenda
(For the items in the remit of the Permanent Representatives Committee)

The Committee agreed on the provisional agenda for the forthcoming Council meeting.

Transport, Telecommunications and Energy

35. (continuation) Meeting of the Council (Transport, Telecommunications and Energy)
on 7, 8 and 11 June 2018: Preparation

5. Regulation on ACER 8699/18
General approach

The Committee reached a provisional agreement and prepared the item for the Council.

IV. Any other business

COREPER (PART 2)

US trade measures

The Committee took note of the information provided. This item was discussed in a restricted session.

COREPER (PART 1)

European Semester: Country - Specific Recommendations 2018
Information from the Presidency and the Commission

The Committee took note of the information provided by the Presidency and the Commission.

"I" items approved**COREPER (PART 2)****Judicial Affairs**

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|-----|--|----------------|
| 12. | Cases T-170/18 and T-177/18 ("Congo cases")
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 9042/18
JUR |
| 13. | Case T-188/18 (Adonis Papaconstantinou and others v. Council of the European Union and others)
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 9080/18
JUR |
| 14. | Case T-208/18 (Nessim Daoud and others v. Council of the European Union and others)
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 9082/18
JUR |

Institutional Affairs**Appointments**

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| 15. | Two members and six alternate members (DK) of the Committee of the Regions
<i>Adoption</i> | 8994/18
8993/18
CDR |
| 16. | Convening of a Conference of the Representatives of the Governments of the Member States - Appointment of Judges to the Court of Justice of the EU
<i>Approval</i> | 8786/18 + COR 1
COUR |

Transparency

- | | | |
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| 17. | Public access to documents
Confirmatory application No 08/c/01/18
<i>Adoption</i> | 8128/18
INF
API |
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Economic and Financial Affairs

18. Commission's intervention on behalf of the Union before US Courts as amicus curiae regarding an Order to Conduct Discovery for Use in Foreign Proceedings ('Discovery Petition', Case 1:18-mc-00085-ER)
Approval
- 9028//18
EF

The above-mentioned item was withdrawn.

19. Macro-financial assistance to Ukraine Decision
Confirmation of the final compromise text with a view to agreement
- 9228/18
7055/18
ECOFIN
RELEX

Justice and Home Affairs

20. Conclusions on the Eurojust Annual Report 2017
Adoption
- 9005/18
8589/18 + COR 1
EUROJUST
21. Conclusions on combating domestic violence
Adoption
- 8926/18
8972/18
ENFOPOL
22. Council Decisions on opening negotiations between EU and third countries on the exchange of personal data between Europol and related third countries for fighting serious crime and terrorism
Adoption
- 8956/18
9320/18 + ADD 1
9330/18 + ADD 1
9331/18 + ADD 1
9332/18 + ADD 1
9333/18 + ADD 1
9334/18 + ADD 1
9339/18 + ADD 1
9342/18 + ADD 1
ENFOPOL

Statements by the Commission

"While the Commission maintains its views that Article 218(3) and (4) TFEU provide a sufficient legal basis for the Decisions, without any substantive legal basis being necessary, it also considers that the choice of substantive legal basis does not affect the Council's voting rules."

"With regard to Article 3 of the Council Decision, the Commission notes that the insertion of "subject to any directives which the Council may subsequently issue to the Commission" is not in line with the case law of the Court of Justice in Case C-425/13 Commission v Council (Australia greenhouse gas emissions trading system), at paragraph 90, and should therefore be deleted."

Statement by Cyprus

"This is to express our strong reservations on this politically very sensitive issue. As this is the first time that the EU is about to open such negotiations, based on the new Europol Regulation, we consider it appropriate and useful to allow for a discussion at the political/Council level as well, as these cases will set a precedent for the future.

From the launch of the discussion on the Commission's proposals, we voiced our concerns, not because we do not appreciate the significance of these agreements for the EU and our citizens, but due to the very fact that we have no safeguard that this agreement (as many others) will be, in the case of Turkey, implemented towards all m-s. Any Agreement has to be mutually beneficial for the contracting parties. Turkey maintains a very negative track record of non-implementation of Agreements towards the Republic of Cyprus. To name a few, the Additional Protocol to the EC-Turkey Customs Union (2005), the Readmission Agreement (2012), the Visa Roadmap (2015), etc. In all cases, and after their endorsement, Turkey had issued unilateral declarations that it does not intend to implement its obligations with respect to the Republic of Cyprus. Therefore, how can we consent to the opening of negotiations on the international agreement in question, unless satisfactory explanations and/or safeguards are provided on how the situation is going to be rectified, given the inflexible stance of Turkey?

In the course of the discussions that took place since last January, Cyprus has retained its strong reservation regarding the opening of negotiations with Turkey in the same package with the other seven third countries. We supported detaching the discussion on Turkey from the rest of the package. Obviously, the case of Turkey differs from the rest. As a candidate country, Turkey has to comply with its obligations, stemming from the negotiating framework for its accession to the EU and the Visa Liberalization Roadmap. In the absence of progress in this respect, we consider it paradoxical to decide the opening of negotiations for signing an agreement on the exchange of personal data with Turkey. The 2018 Commission's Report on Turkey reaffirms our strong reservations pertaining to the serious and continued backslidings in the country and the need for Turkey to align its personal data protection legislation and its anti-terror legislation with the EU acquis.

Turkey continues to refuse any cooperation with the Republic of Cyprus across the board of JHA issues, which is also a horizontal obligation included in the Visa Liberalization Road Map. This is evident through Turkey's unilateral declarations (Readmission Agreement, Road Map), as well as from its refusal to cooperate with Cyprus on JHA related fields (Europol, Interpol, judicial cooperation in criminal matters). In addition, Turkey has taken no steps towards fulfilling the relevant benchmarks of the Visa Liberalization Road Map, especially those pertaining to cooperation with EU m-s. Thus, we continue to believe that it is of utmost importance to include all necessary safeguards, including a monitoring mechanism for the implementation of these agreements so as to ensure their full, effective and non-discriminatory implementation.

We have recorded our vote against this file and we request that this statement be attached to the minutes of COREPER and the Council."

23. Conclusions on European integrated border management
(EUIBM)
Adoption

9000/18
FRONT

- | | | |
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| 24. | Schengen evaluation Recommendation - France management of the external border
<i>Adoption</i> | 9280/18
9279/18
SCH-EVAL |
| 25. | Civil Protection Presidency report | 8995/18
PROCIV |

Foreign Affairs

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| 26. | Ukraine undermining sovereignty: pre-notifications
<i>Adoption</i> | 9053/18
CORLX |
| 27. | European Union Rule of Law Mission in Kosovo (EULEX KOSOVO) - extension - Decision
<i>Adoption</i> | 9243/18
8575/18
CORLX |
| 28. | Ukraine restrictive measures (Crimea and Sevastopol) - extension of measures - Decision
<i>Adoption</i> | 9109/18
8971/18
CORLX |
| 29. | Common Position 2001/931/CFSP - authorisation to produce Council documents before Belgian court
<i>Authorisation to produce a copy of or an extract from a Council document for use in legal proceedings</i> | 9224/18 |

Delegated or Implementing Acts

Economic and Financial Affairs

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| 30. | Commission Delegated Regulation (EU) .../... of 7.5.2018 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council with regulatory technical standards on the criteria for the appointment of central contact points for electronic money issuers and payment service providers and with rules on their functions
<i>Delegated act - Intention not to raise objections</i> | 9260/1/18 REV 1
8720/18
EF |
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Other items

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| 31. | Interim approval of a cryptographic product
<i>Approval</i> | 9086/18 R-UE
CSCI
CSC |
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COREPER (PART 1)

Judicial Affairs

40. Case C-600/14 ((Federal Republic of Germany v Council of the European Union) Council Decision establishing EU position (Art. 218(9) TFEU) 9008/18
JUR
Information note for the Permanent Representatives Committee (Part 1)

Statement by Germany

"In point 22 of its information note, the Legal Service of the Council rightly states that, given the large number of decisions adopted on the basis of Article 218(9) TFEU, the Member States must always bear in mind that each of these decisions can constitute an initial exercise of Union competence. They observe that this could prove problematic where the division of competences is unclear and with Council decisions which have a very broad scope of application. Germany agrees with this conclusion and would point out that this finding has crucial implications for the division of competences between the Union and the Member States, which is based on the principle of conferral. In view of the above, any future proposal for a Council decision on the legal basis of Article 218(9) TFEU should be examined carefully with regard to the competences of the Union and the Member States. Germany requests that this statement be included in the minutes of Coreper 1."

Agriculture

41. Setting up of an ad-hoc Working Party on General Food Law 9164/18
Decision to be taken by the Permanent Representatives Committee (Part 1) AGRI

The Committee took note of the request from Spain for interpretation from/into Spanish.

Fisheries

42. High Level Conference on Black Sea fisheries and aquaculture 9125/1/18 REV 1
(Sofia, 6-7 June 2018): Sofia Declaration + ADD 1
Approval of signature on behalf of the EU PECHE
43. Council Decision on opening negotiations for the conclusion of 9175/18 + ADD 1
a Sustainable Fisheries Partnership Agreement and a Protocol 8710/18 + ADD 1
with Madagascar PECHE
Adoption
44. Council Decision on opening negotiations for the renewal of the 9020/18 + ADD 1
Protocol to the Fisheries Partnership Agreement with Cabo Verde 9007/18
Adoption + ADD 1 REV 1
PECHE

EU positions for international negotiations

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| 45. Council Decision on an EU position on UNECE (June 2018)
<i>Adoption</i> | 9219/18
9187/18
ECO |
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Delegated or Implementing Acts

Transport

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| 46. Commission Regulation (EU) .../... of XXX amending Regulation (EU) No 1178/2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council
<i>Decision not to oppose adoption</i> | 9181/18
7883/18 + ADD 1
TRANS |
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The above-mentioned item was withdrawn.

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| 47. Commission Regulation (EU) No .../.. of XXX amending Regulation (EU) No 965/2012, as regards technical requirements and administrative procedures related to introducing support programmes, psychological assessment of flight crew, as well as systematic and random testing of psychoactive substances to ensure medical fitness of flight and cabin crew members, and as regards equipping newly manufactured turbine-powered aeroplanes with a maximum certified take-off mass of 5 700 kg or less and approved to carry six to nine passengers with a terrain awareness warning system
<i>Decision not to oppose adoption</i> | 8734/18
7555/18 + ADD 1
TRANS |
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