



Council of the  
European Union

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(OR. en)

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## **DRAFT MINUTES**

COUNCIL OF THE EUROPEAN UNION  
(Competitiveness (Internal Market, Industry, Research and Space))  
23 and 24 May 2024

## MEETING ON THURSDAY 23 MAY 2024

### 1. Adoption of the agenda



The Council adopted the agenda set out in document 9934/24.

### Non-legislative activities


#### SPACE

2. EU Space Law: Safety, resilience and sustainability of the space activities in the EU  
*Exchange of views* 9370/24
3. European Space Policy – preparation of the Space Council 9344/24 + ADD 1
4. Conclusions on ‘Strengthening Europe’s competitiveness through space’  
*Exchange of views* 9318/24

#### RESEARCH

5. **Regulation as regards a EuroHPC initiative for start-ups to boost European leadership in trustworthy Artificial Intelligence (Legal basis proposed by the Commission: Article 188 TFEU)**   9700/24  
*Political agreement* (\*)

The Council reached a political agreement in the document as set out above.


6. **Council Recommendation on enhancing research security (Legal basis proposed by the Commission: Article 292 and Article 182(5) TFEU)**   9831/24  
*Adoption* (\*) **9097/24**  
+ 9097/1/24 REV 1  
(en)

The Council adopted the text of the recommendation as set out in the documents above.

7. **Conclusions on knowledge valorisation**  9330/1/24 REV 1  
*Approval*


The Council approved the text of conclusions as set out in the document above.

**8. Conclusions on the ex-post evaluation of Horizon 2020**  
*Approval*

 9329/1/24 REV 1

The Council approved the text of conclusions as set out in the document above.

**9. Research and innovation for advanced materials**  
*Policy debate*

 9333/24

The Council held a policy debate.

**Any other business**

Space

10. a) Work programme of the incoming Presidency  
*Information from Hungary*

b) Accelerating the use of space in Europe<sup>1</sup>  
*Information*

9485/24

Research

c) Work programme of the incoming Presidency  
*Information from Hungary*

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<sup>1</sup> Presentation by the Director General of the European Space Agency (ESA).

## MEETING ON FRIDAY 24 MAY 2024

### 11. Approval of 'A' items

#### a) Non-legislative list

9937/24

The Council adopted all "A" items listed in the document above, including all linguistic COR and REV documents presented for adoption.

#### b) Legislative list (public deliberation in accordance with Article 16(8) of the Treaty on European Union)

9938/24

### Internal Market and Industry

#### **Directive on Corporate Sustainability Due Diligence**

*Adoption of the legislative act*

approved by Coreper, Part 1, on 15 May 2024



9264/1/24 REV 1  
+ ADD 1  
PE-CONS 9/24  
DRS

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, with Belgium, Bulgaria, Czechia, Germany, Estonia, Lithuania, Hungary, Malta, Austria and Slovakia abstaining (legal basis: Articles 50(1), 50(2), point (g) and 114 TFEU).

Statements to this item are set out in the Annex.

### Justice and Home Affairs

#### **Amendments to Regulation (EU) 2016/399 on the Schengen Borders Code**

*Adoption of the legislative act*

approved by Coreper, Part 2, on 15 May 2024



9743/1/24 REV 1  
+ ADD 1 REV 1  
PE-CONS 40/24  
+ **COR 1 (el)**  
JAI

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, with Spain and Slovenia abstaining (legal basis: Article 77(2), points (b) and (e), and Article 79(2), point (c) TFEU).

Statements to this item are set out in the Annex.

## INTERNAL MARKET AND INDUSTRY

### Non-legislative activities

12. Conclusions on ‘A competitive European industry driving our green, digital and resilient future’ 9893/24 + ADD 1  
*Approval*
13. Conclusions on ‘A Single Market for the benefit of all’ 9715/24  
*Approval* +ADD 1 REV 1
14. Conclusions on Special Report No 28/2023: Public procurement in the EU – Less competition for contracts awarded for works, goods and services in the 10 years up to 2021 9963/24  
*Approval*

### Any other business

15. a) **Communication on Biotechnology** [2] 9163/1/24 REV 1  
*Information from the Commission*

The Council took note of the information provided by the Commission.


- b) **D9+ Ministerial Declaration** [2] 9760/24  
*Information from the Irish delegation*

The Council took note of the information provided by the Irish delegation.

- c) **European sustainable carbon policy package for the chemical industry** [2] 10082/1/24 REV 1  
*Information from the French, Netherlands, Irish, Czech, Spanish, Slovak and Romanian delegations*

The Council took note of the information provided by the French, Netherlands, Irish, Czech, Spanish, Slovak and Romanian delegations.

**d) Reinforcing European industry to boost competitiveness**

 10158/1/24 REV 1

*Information from the Spanish delegation, on behalf of the Portuguese, Greek and Spanish delegations*

The Council took note of the information provided by the Spanish delegation, on behalf of the Portuguese, Greek and Spanish delegations.

This item was taken in public session.

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

**i) Regulation on the safety of toys and repealing Directive 2009/48/EC**

12234/23 + ADD 1

**ii) Regulation on combating late payment in commercial transactions**

12976/23  
+ 12976/1/23  
REV 1 (en)

**iii) Regulation on compulsory licensing for crisis management and amending Regulation (EC) 816/2006**

8901/23 + ADD 1


**iv) Package for the reduction of the administrative burden by 25 %**

10157/24

*Information from the Presidency*

The Council took note of the information provided by the Presidency.

**f) Need to eliminate territorial supply constraints on the Single Market**

 9757/24

*Information from the Netherlands delegation, supported by the Belgian, Croatian, Czech, Danish, Luxembourg and Slovak delegations*

The Council took note of the information provided by the Netherlands delegation, supported by the Belgian, Croatian, Czech, Danish, Luxembourg and Slovak delegations.

- g) **Further activities regarding the declaration of the posting of workers (eDeclaration)** [2] 10061/24  
*Information from the German, Czech and Lithuanian delegations* 10336/24

The Council took note of the information provided by the German, Czech, Lithuanian, Irish, Polish, Greek, Slovenian, Hungarian and Portuguese delegations.

- h) **Declaration by European Ministers on the Regulation and Harmonisation of Pyrotechnic Articles in the Single Market** [2] 10160/24  
*Information from the Belgian, Netherlands and Luxembourg delegations*

The Council took note of the information provided by the Belgian, Netherlands and Luxembourg delegations.

- i) Information on the recent decision by the authorities of the United States regarding new customs duties on a list of imports from China 10068/24  
*Information from the French delegation*
- j) Competition Day 10067/24  
*Information from the Presidency*
- k) Work programme of the incoming Presidency  
*Information from Hungary*

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- [1] First reading
- [2] Débat public proposé par la présidence (article 8, paragraphe 2, du règlement intérieur du Conseil)
- [C] Item based on a Commission proposal
- (\*) Item on which a vote may be requested

**Statements to the legislative "A" items set out in 9938/23**

**Ad "A" item 1:**                    **Directive on Corporate Sustainability Due Diligence**  
   *Adoption of the legislative act*

**JOINT STATEMENT BY ESTONIA, LITHUANIA AND SLOVAKIA**

“Estonia, Lithuania and Slovakia have definitely supported and welcomed the general aim of the directive on the protection of human rights and environment. We are certain that companies, especially large enterprises play an important and even crucial role in regards of sustainability, as the means of production of goods and services have significant impact on the environment and human rights principles.

However, we have expressed numerous times during the negotiations that clear and feasible due diligence obligations are a prerequisite for the fulfillment of the objectives of the directive. We continue to have concerns that the application of legally unclear provisions might create excessive administrative burden for both Member States and companies, as well as might diminish their competitiveness. Namely, despite the narrower scope in the final text, the large amount of small and medium-sized enterprises remains indirectly under the obligations of the directive through the chain of activities.

More specifically, the logic of the Annex still creates questions on how to form legally clear and understandable obligations in the national law and at the same time achieve unified obligations across the European Union. Additionally, applying civil liability to the breaches of unclear obligations is another concerning aspect of implementation. Furthermore, we find that the addition of the access to justice measures in the civil liability provision disrupts the national law of the Member States unduly and unnecessarily. Finally, these concerns, including the ambiguities alone could seriously affect the transposition of the directive into domestic law.

To sum up, despite several last-minute improvements, the final text does not address these concerns and thus we remain worried about the disproportionate burden that will be created to the Member States and companies. It is equally important to point out that these last-minute amendments to the text were not properly negotiated. Therefore, the negotiation process of the directive, unfortunately, deviated from the Better Law-Making rules and we are concerned that it could become a precedent for the future.

In the context outlined above, Estonia, Lithuania and Slovakia regrettably cannot endorse the final text and will abstain.”



## **STATEMENT BY HUNGARY**

“Hungary recognises and promotes equality between men and women in accordance with the Fundamental Law of Hungary and the primary law, principles and values of the European Union, as well as commitments and principles stemming from international law. Equality between women and men is enshrined in the Treaties of the European Union as a fundamental value. In line with these and its national legislation, Hungary interprets gender as providing equal chances and opportunities for women and men. In line with these and its national legislation, Hungary interprets the concept of ‘gender’ as reference to ‘sex’ and the concept of ‘gender equality’ as ‘providing equal chances and opportunities for women and men’ in the Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859.”

**Ad "A" item 2:**                      **Amendments to Regulation (EU) 2016/399 on the Schengen Borders Code**  
*Adoption of the legislative act*

## **STATEMENT BY SPAIN**

“Schengen is one of the most tangible results of the European Union integration process and thus, one of the most visible and fundamental assets of the Union recognised as such by our citizens. Hence, Spain deems that every amendment to the Schengen Borders Code needs to be proportionate in order to preserve the essence of the Schengen space and to maintain the integrity of the Schengen acquis.

The reform of the Schengen Borders Code remains of key importance to provide the common area without internal borders with the necessary measures and tools to preserve the freedom of movement, while ensuring that the common area is secure.

In this regard, Spain has repeatedly expressed its concern and opposition to some of the key provisions of the proposal.

Firstly, because of the increased possibilities for reintroducing internal border controls and the duration of this measure. Respecting the principle of necessity and proportionality is not just a matter of setting a precise date for the abolition of internal border controls. It is above all, as the Court of Justice of the EU has repeatedly pointed out, about ensuring that the principle of the free movement of persons is not jeopardised and about providing a common response to situations that seriously affect public order or internal security. Spain considers the time limits for the prolongation of the internal border controls provided for in the amendments are disproportionate in terms of the extension and will have a negative impact in the normal functioning of the Schengen area as well as in the mutual trust between the Member States.

Secondly, Spain considers that the procedure for transferring persons apprehended in border areas (article 23a) is meant to avoid the need to resort to the reintroduction of internal border controls. Therefore, concerning paragraph 5 of article 23a Spain considers that the transfer procedure shall only be possible in cases where internal border controls have not been reintroduced. The nature of this procedure as an alternative, not a complementary measure, to the reintroduction of internal border controls should not be decided on a bilateral basis. It should instead be part of a common understanding and harmonised implementation across the EU based on the principle that the temporary reintroduction of internal border controls should be exceptional and used only as a last resort. Against this backdrop, Spain will not be in a position to agree to use such procedure in a bilateral cooperation framework in cases where internal border controls have been reintroduced. Moreover, this transfer procedure is to be regarded as one of various alternative measures at the disposal of Member States to improve mutual cooperation. Thus, it shall by no means be a pre-condition for lifting internal border controls by a Member State and shall always be based on the mutual acceptance by both concerned Member States. Finally, Spain considers the amendments do not provide for the necessary safeguards to apply the transfer procedure to unaccompanied minors.

Spain recalls the application and interpretation of the Regulation must be in accordance with the Treaties and the settled CJEU case law, particularly clear in recent judgments in 2022 and 2023. Spain is therefore abstaining on the confirmation of the agreement regarding the Regulation of the European Parliament and the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders.”

#### **STATEMENT BY SLOVENIA**

“The Republic of Slovenia acknowledges the need of amending the Regulation (EU) 2016/399 with the aim to boost the resilience of the Schengen Area and to adapt the existing rules to new and developing challenges. We appreciate the efforts made by the Spanish and Belgian Presidencies in reaching a political agreement with the European Parliament, particularly as regards the foreseen measures at EU’s external borders. However, we consider that the final compromise text (doc. ST 6331/24) does not provide the necessary or sufficient assurances that the rules on the temporary reintroduction of border controls would in fact contribute to remedying the current state of Schengen and ultimately improve the integrity of our common area.

Slovenia welcomes that the provisional agreement on the general framework for the (unilateral) temporary reintroduction and prolongation of internal border controls contains certain important safeguards to ensure that this truly remains an exceptional measure, proportionate to the identified serious threat and used as a last resort. In the spirit of compromise, we also did not oppose to the inclusion of a serious threat to public policy or internal security arising from large-scale unauthorised movements of third country nationals as possible grounds for the reintroduction of internal border controls. However, Slovenia is of the opinion that the framework could be more ambitious and ensure a more robust governance of the Schengen area through the involvement of the Council of the EU in the procedure, as this could contribute to mutual trust between the Member States.

At the same time, while it is positive that the maximum time limits are set for unilateral reintroductions of internal border controls (in foreseeable events), Slovenia maintains that the maximum possible duration of three years is too long. In our belief, two years is a sufficiently long period to efficiently address the serious threat that has led to the reintroduction of controls in the first place by using alternative measures, including those introduced or improved within this new regulation, and by enhancing police cooperation between the neighbouring Member States. Furthermore, while the provisional agreement does take into the consideration the CJEU judgement of 26 April 2022 in joined cases C-368/20 and C-369/20, whereby the same serious threat could not present the grounds for prolongation of the measure beyond three years, we retain our main concern that there are no sufficient guarantees that the long-lasting internal border controls – the situation we are facing today – would be completely phased out or prevented in the future (but could rather continue, albeit with a possible short-term lifting of the measure).

With a view of the above, the Republic of Slovenia is therefore abstaining on the final compromise text for an agreement on the *Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders.*”

### **STATEMENT BY THE COMMISSION**

“Article 23a and Annex XII of the Schengen Borders Code establish a transfer procedure between Member States concerning irregularly staying third country nationals apprehended in border areas. These provisions also establish the modalities for such a transfer procedure which can be applied by Member States on a voluntary basis within a bilateral cooperation framework.

While respecting the principles and conditions set out in Article 23a, Member States could, within this bilateral cooperation framework, envisage that in certain situations the transfer procedure could be used at the time of the reintroduction of internal border controls if justified in view of the local circumstances and on the basis of risk analysis.

The bilateral cooperation framework could also contain arrangements as to the form of involvement of competent national authorities in the checks carried out in the border areas for the purposes of the transfer procedure. It could also include arrangements for information sharing between the competent national authorities so that all the relevant national authorities are kept up to date on the checks being conducted in this framework, in particular when they are not physically present during such checks.”