



Brussels, 14 November 2018
(OR. en)

14176/18
CRS CRP 36

SUMMARY RECORD

PERMANENT REPRESENTATIVES COMMITTEE

24 October 2018

I. Adoption of the agenda

13399/18 OJ CRP1 36 + COR 1

13409/18 OJ CRP2 36 + 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 1)

Internal Market and Industry

2. Regulation on fertilisers
Presidency debriefing on the outcome of the trilogue

The above-mentioned item was withdrawn.

3. Goods package: Regulation on mutual recognition
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 18 October 2018.

4. Regulation on Brexit type-approval 13099/18
Mandate for negotiations with the European Parliament

The Committee agreed on the mandate (pending the EP's position).

5. Directive on copyright in the Digital Single Market
Information from the Presidency

The Committee took note of the Presidency's intentions on this file.

Telecommunications

6. Regulation on .eu Top Level Domain (TLD) name 13158/18
Preparation for the trilogue

The Committee agreed on the mandate for the forthcoming trilogue (pending the EP's position).

Employment and Social Policy

7. Agencies
a) Regulation on Eurofound
b) Regulation on EU-OSHA
c) Regulation on CEDEFOP
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 16 October 2018.

8. Revision of Directive on carcinogens and mutagens at work 13231/18 + ADD 1
(second batch)
Analysis of the final compromise text with a view to agreement

The Committee endorsed the text of the final compromise and mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading in accordance with this compromise (subject to revision by the legal linguists), the Council would approve the European Parliament's position and the act shall be adopted.

9. Revision of Directive on carcinogens and mutagens at work 13201/18
(third batch) 13220/18
Preparation for the trilogue

The Committee agreed to revert on the mandate.

Transport

10. Regulation on safeguarding competition in air transport
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 17 October 2018.

11. Revision of Regulation on wet-lease 13301/1/18 REV 1
Presidency debriefing on the outcome of the trilogue
Analysis of the final compromise text with a view to agreement

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 17 October 2018.

The Committee also endorsed the text of the final compromise and mandated the Presidency to inform the European Parliament that, should the European Parliament adopt its position at first reading in accordance with this compromise (subject to revision by the legal linguists), the Council would approve the European Parliament's position and the act shall be adopted.

Energy

12. Directive on electricity (recast)
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 18 October 2018.

13. Regulation on electricity (recast)
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 18 October 2018.

14. Regulation on risk preparedness in the electricity sector
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 23 October 2018.

15. Regulation on ACER (recast)
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 23 October 2018.

COREPER (PART 2)

Justice and Home Affairs

27. Meeting of the Council (Justice and Home Affairs) on
11-12 October 2018: Follow-up

The Committee took note of the main outcomes of the Council meeting.

28. Regulation establishing the Asylum, Migration and Integration Fund (AMIF) - recommitments of remaining amounts 13356/18
Information from the Commission

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

Foreign Affairs

29. Meeting of the Council (Foreign Affairs) on 15 October 2018:
Follow-up

The Committee took note of the main outcomes of the Council meeting.

30. Meeting of the Council (Foreign Affairs/Trade) on
9 November 2018: Preparation

- a) World Trade Organization modernization
State of play

The Committee prepared this item for the Council.

- b) Ongoing trade negotiations
State of play

The Committee prepared this item for the Council.

- c) Commission report on the implementation of free trade agreements
Presentation by the Commission

The Committee prepared this item for the Council.

- d) Other items in connection with the Council meeting

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

General Affairs

31. European Council follow-up

The Committee took note of the main outcomes of the European Council.

Foreign Affairs

32. ASEM12 Summit (Brussels, 18-19 October 2018)

Debriefing

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

33. 9th EU-Republic of Korea Summit (Brussels, 19 October 2018)

Debriefing

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

Economic and Financial Affairs

34. Meeting of the Council (Economic and Financial Affairs) on 6 November 2018: Preparation

- a) (poss.) Regulation on minimum loss coverage for non-performing exposures
General approach

13379/1/18 REV 1

The Committee held an exchange of views and will revert to this item at its next meeting.

- b) Other items in connection with the Council meeting

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

35. Meeting of the Council (Economic and Financial Affairs/Budget) on 16 November 2018: Agenda

The Presidency presented the main items on the agenda.

General Affairs

36. Meeting of the Council (General Affairs) on 16 October 2018: Follow-up

The Committee took note of the main outcomes of the Council meeting.

37. Meeting of the Council (General Affairs) on 12 November 2018: Agenda

The Presidency presented the main items on the agenda.

IV. Any other business

COREPER (PART 1)

The Presidency recalled the rules regarding public and non-public Council deliberations and strongly called on delegations to ensure that these rules are respected.

COREPER (PART 2)

Trilogues

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

Electoral Law

The Committee took note of the information provided by the Council Legal Service regarding the steps required for the entry into force of the reform of the electoral act.

"I" items approved

COREPER (PART 1)

Institutional Affairs

Appointments

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|-----|---|---|
| 16. | Members of the Scientific and Technical Committee
<i>Adoption</i> | 12722/18
12676/18
RECH |
| 17. | One member (UK) in the Advisory Committee for the
Coordination of Social Security Systems
<i>Adoption</i> | 13251/1/18 REV 1
SOC |
| 18. | One member (ES) and one alternate member (SK) in the
Advisory Committee on Safety and Health at Work
<i>Adoption</i> | 13236/18
13275/18
SOC |
| 19. | Two members (SK, ES) in the Governing Board of the European
Agency for Safety and Health at Work
<i>Adoption</i> | 13248/18
13276/18
SOC |
| 20. | Three members (IE, RO, ES) and two alternate members
(RO, ES) in the Governing Board of the European Foundation
for the Improvement of Living and Working Conditions
<i>Adoption</i> | 12824/18
13083/18
13084/18
13234/18
13235/18
SOC |

Judicial Affairs

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| 21. | Case C-454/18 (Förvaltningsrätten i Linköping on the
application of Baltic Cable AB)
<i>Information note for the Permanent Representatives Committee
(Part I)</i> | 13143/18 + COR 1
JUR |
| 22. | Case C-517/18 (Fédération des fabricants de cigares, juridiction
de renvoi: Conseil d'État, France)
<i>Information note for the Permanent Representatives Committee
(Part I)</i> | 13212/18
JUR |

EU positions for international negotiations

23. ICAO - EU Coordination for the 215th session of the ICAO Council (Montreal, 29 October-16 November 2018) 13262/18
Approval AVIATION

Research

24. Council Decision on the conclusion of the Agreement for scientific and technological cooperation with the Kingdom of Morocco on the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) 12992/18
Adoption 6534/18
RECH

Culture/Audiovisual Matters

25. Review of AVMS Directive 13052/18 + ADD 1
Adoption of the legislative act PE-CONS 33/18
AUDIO

Joint Statement by Finland, Ireland and the Netherlands

"We, the undersigned Member States consider the promotion of the digital single market highly important and acknowledge the need for the review of regulatory framework for audiovisual media services taking into account changes in the market, consumption and technology.

The protection of minors from harmful content and the protection of all citizens against hate is in itself a legitimate aim. However, as stated consistently during the negotiations, the AVMS Directive is not the correct place for regulating video sharing platforms since the rest of the scope of the directive covers only AV media services where the service provider has editorial responsibility for the content of the program. The proposed regulation of video sharing platforms is difficult to control and it can cause undesired side effects and disproportionate administrative burden. Rather than overregulating video sharing platforms, a strong emphasis should be placed on promoting critical media literacy and media education in the Member States.

We consider that this lack of clarity compounded by a lack of impact assessments and a robust evidence base, could undermine the legal certainty needed for regulators and industry to implement the provisions in a clear, consistent and effective way and for industry to innovate. It also may threaten the ability of European citizens to exercise their fundamental rights in particular their freedom of expression.

For the reasons stated here and during the negotiations on this proposal, we will vote against the directive when it comes up for adoption as an "I" item in Coreper on 24.10.2018 and as an "A" item in the Council on 6.11.2018 (PE-CONS 33/18). Finland, Ireland and the Netherlands ask the Secretariat General of the Council to include this statement to the respective minutes of these two meetings."

Telecommunications

26. Regulation on free flow of data
Adoption of the legislative act

13060/18
PE-CONS 53/18
TELECOM

COREPER (PART 2)

Judicial Affairs

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| 38. | Cases T-550/18 to T-554/18 ("Venezuela cases")
<i>Information note for the Permanent Representatives Committee</i>
<i>(Part 2)</i> | 13151/18
JUR |
| 39. | Judgment of the CJEU - Bank Mellat case
<i>Information note for the Permanent Representatives Committee</i>
<i>(Part 2)</i> | 12896/18
JUR |

Institutional Affairs

Other

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| 40. | Regulation on the European Parliament's right of inquiry
<i>Approval of a letter</i> | 13268/18
PE |
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Transparency

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| 41. | Public access to documents
Confirmatory application No 23/c/01/18
<i>Adoption</i> | 11743/18
INF
API |
| 42. | Public access to documents
Confirmatory application No 24/c/01/18
<i>Adoption</i> | 11812/18
INF
API |
| 43. | Public access to documents
Confirmatory application No 25/c/01/18
<i>Adoption</i> | 12038/18
INF
API |

General Affairs

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| 44. | Delegated acts election recess period in 2019
<i>Approval of a letter</i> | 12301/18
DELECT
INST |
| 45. | Regulation on the funding of European political parties and foundations
<i>Decision to consult an institution or body</i> | 13165/18
INST |

Justice and Home Affairs

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| 46. | Visas for third countries nationals (codification)
<i>Adoption of the legislative act</i> | 13058/18
PE-CONS 50/18
CODIF
VISA |
| 47. | Eurojust Regulation
<i>Adoption of the legislative act</i> | 13059/18 + ADD 1
PE-CONS 37/18
EUROJUST |

Statement by the Commission

"The Commission regrets that on several points, the co-legislators have decided to deviate from the approach agreed in the Joint Statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies of 19 July 2012, without providing the necessary justification. This relates in particular to the number of Commission representatives in the College/Management Board and the procedure for appointing and dismissing the Administrative Director of Eurojust. The Commission will assess the impact of those deviations on the functioning of the Agency at the appropriate opportunity. They should not be considered as a precedent for other agencies."

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| 48. | Freezing and Confiscation Regulation
<i>Adoption of the legislative act</i> | 13061/18
PE-CONS 38/18
JAI |
| 49. | Eu-LISA Regulation
<i>Adoption of the legislative act</i> | 13157/18 + ADD 1
PE-CONS 29/18
DAPIX |

Statement by the Commission

"The Commission regrets that on several points, the co-legislators have decided to deviate from the Joint Statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies, without providing the necessary justification. This relates in particular to deviations from the procedure for appointing and dismissing the Executive Director of EU-LISA, for which no justification was given and which risk affecting the autonomy of the Agency, and for automatically extending the Executive Director's mandate. The Commission also regrets the deviation from the Joint Statement with regard to the process for conducting an overall evaluation of the Agency, which could be a way to interfere with the independence of the Commission in conducting this evaluation. The Commission will consult the Management Board as part of its general stakeholder consultation activities. The Commission will assess the impact of those deviations on the functioning of the Agency at the appropriate opportunity. They should not be considered as a precedent for other agencies."

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| 50. | Conclusions on ECA SR No 13/2018 on tackling radicalisation that leads to terrorism
<i>Adoption</i> | 13112/18
CT |
| 51. | Schengen evaluation Recommendation - Croatia management of the external border
<i>Adoption</i> | 13282/18
13281/18
SCH-EVAL |
| 52. | EPPO: Designation of the interim Administrative Director
<i>Approval</i> | 13221/18
EPPO |
| 53. | EU lines to take on WHOIS policy reform
<i>Approval</i> | 13443/18
CYBER |

Statement by the Commission

"The Commission takes note of the adoption of the Council act establishing the position to be adopted on the Union's behalf in ICANN which is called upon to adopt acts having legal effects.

The Commission reiterates that the Council can only act on the basis of a competence conferred on it by the Treaties and that, in doing so, the Council must respect the procedural requirements provided for in the Treaties, including the rules on the voting as provided for by the legal basis conferring on the Council the power to act.

If and to the extent that the Council act would contain also other elements of a political nature, that fact cannot justify the use of consensus ("common accord") to adopt the act.

Furthermore, in accordance with standing jurisprudence of the Court of Justice, decision-making rules of the institutions are not at the discretion of Member States or the institutions themselves but are established by the Treaties. A mere practice by the institutions cannot derogate from Treaty rules. (see Case C-687/15 Commission v Council (ITU), ECLI:EU:C:2017:803, paras 41-42 and case law cited)

The Commission reserves its right to make use, if necessary, of all the legal means at its disposal to ensure the respect of the provisions of the Treaties."

Foreign Affairs

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| 54. | Venezuela restrictive measures - review - Decision and Implementing Regulation
<i>Adoption</i> | 13141/18
13014/18
13016/18
CORLX |
| 55. | Democratic People's Republic of Korea restrictive measures - UN transposition - Implementing Decision and Regulation
<i>Adoption</i> | 13145/18
13089/18
13092/18
CORLX |
| 56. | Horizontal Bilateral Safeguard Regulation
<i>Mandate for negotiations with the European Parliament</i> | 13153/18
COMER |

EU positions for international negotiations

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| 57. | Export Credits - Council Decision on an EU position on rail in the Participants to the Arrangement on Officially Supported Export Credits
<i>Adoption</i> | 13104/18
11447/18
CCG |
| 58. | Export Credits - Council Decision on an EU position on Turkey in the Participants to the Arrangement on Officially Supported Export Credits
<i>Adoption</i> | 13105/1/18 REV 1
11957/18
CCG
NT |

Statement by Cyprus

"Cyprus is not in a position to consent to the proposal for a Council Decision on Turkey's request to become a Participant to the [OECD's] Arrangement on Officially Supported Export Credits for the following reasons:

The negotiating framework for Turkey's accession negotiations, which was unanimously adopted by the Council in October 2005, requires Turkey to *inter alia* 'progressively align its policies towards third countries and its positions within international organisations (including in relation to the membership by all EU Members States of those organisations and arrangements) with the policies and positions adopted by the Union and its Member States'.

In blatant violation of this obligation, Turkey has been following a systematic policy of vetoing Cyprus' membership in various international organisations, including the Organization for Economic Co-operation and Development (OECD). Specifically, Cyprus' application for membership to the OECD has been continuously vetoed by Turkey since 1995. Despite repeated calls by the EU, Turkey's stance continues to exclude an EU Member State on political grounds and raises obstacles to the smooth functioning of the OECD.

Furthermore, both the Negotiating Framework and the February 2008 revised Accession Partnership of the EU with Turkey, call on the latter to implement fully and on a non-discriminatory manner the Additional Protocol to the Customs Union, as well as to proceed with the normalisation of relations with all EU Member States, including the Republic of Cyprus.

It is also recalled that Turkey's obligation to recognize all EU Member States, including the Republic of Cyprus, is a necessary component of its accession process, as stipulated in the Declaration of 21 September 2005.

Despite the clear obligations outlined above and the EU's repeated calls to this end, Turkey continues to object to Cyprus' membership to international organisations including the OECD, refuses to implement the Additional Protocol towards the Republic of Cyprus, and has taken no steps towards the normalization of its relations with the Republic.

On these grounds and considering Turkey's persistent flagrant breach of its obligations towards the EU and its Member States, the Republic of Cyprus is compelled to vote against the adoption of this Council Decision."

Other items

59. EU security assessment visit programme
Approval

12756/18
CSC
