



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 3 January 2012

Inte rinstitutional Files:
2010/0312 (COD)
2011/0242 (COD)

18931/11

SCHENGEN 67
FRONT 205
SCH-EVAL 222
COMIX 863
CODEC 2512

OUTCOME OF PROCEEDINGS

of: Working Party for Schengen Matters (Acquis) / Mixed Committee (EU-Iceland/Norway and Switzerland/Liechtenstein)

on: 18 November 2011

Subject: Summary of discussions

1. Adoption of the agenda

The agenda was adopted as set out in CM 5405/11.

2. Report from the Presidency

The Presidency informed the delegations that a document¹ with an horizontal approach on both (i) the amended proposal for a Regulation of the European Parliament and of the Council on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis and (ii) the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances would be submitted to COREPER on 29 November-2 December 2011 and the Council (Justice and Home Affairs) on 13-14 December 2011.

¹ See 17280/1/11 REV 1 SCHENGEN 56 SCH-EVAL 202 FRONT 174 COMIX 744 CODEC 2131 + COR 1 and 18196/1/11 REV 1 SCHENGEN 61 SCH-EVAL 217 FRONT 195 COMIX 810 CODEC 2331.

The Working Party meeting scheduled for 8 December 2011 would be exclusively dedicated to the analysis of a consolidated version¹ of the amended proposal for a Regulation of the European Parliament and of the Council on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, taking into account the outcome of the discussions at the previous meeting and the present meeting.

The Presidency also reported on an informal meeting with Mrs Renate Weber (ALDE, RO), EP rapporteur for the draft proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances (14358/11 SCH-EVAL 152 SCHENGEN 27 FRONT 116 COMIX 582 CODEC 1465). The report of the EP was not to be expected before January 2012.

3. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances
– **Analysis of Articles 1(2) to 2 (Articles 27 to 33a of the Schengen Borders Code).**

The meeting discussed Articles 27 to 33a.

DE and IT entered a general reservation on 14359/11 FRONT 117 SCH-EVAL 153 SCHENGEN 28 COMIX 583 CODEC 1466. ES entered a reservation specifically on Articles 29 and 30; ES and NL entered a reservation specifically on Article 30; AT and DE entered a reservation specifically on Article 33a.

NL reported that the Dutch Parliament had a reservation on comitology. Also PT announced that the Portuguese Parliament had issued a negative opinion on the proposal, arguing that it violated the principle of subsidiarity².

¹ See 16381/11 SCHENGEN 43 SCH-EVAL 177 FRONT 149 COMIX 684 CODEC 1892.

² See 16679/1/11 SCHENGEN 45 FRONT 153 SCH-EVAL 185 INST 535 PARLNAT 256 COMIX 711 CODEC 1972.

The concerns expressed by the delegations referred essentially to the role of the Member States in the processes of decision-making and -taking in relation to the reintroduction of border controls at internal borders with respect to public policy and internal security and the balance of competences between the Member States and the Commission. Several were opposed to making comitology applicable to the matters covered by Articles 23 to 26.

The associated States expressed their opposition to Article 33a, as they would not have the right to vote in comitology.

COM and the Council Legal Service (CLS) gave some explanations on the committee procedures referred to in Article 33a. CLS referred to the clarifications given in its opinion of 11 April 2011 as set out in 8970/11 JUR 172 INST 203.

4. Amended proposal for a Regulation of the European Parliament and of the Council on the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis

– Analysis of Articles 12 to 23

The meeting discussed Articles 12 to 23.

During the meeting the following specific reservations were entered by delegations:

<i>Provision</i>	<i>Member State(s)</i>
Article 12	BG, EL, ES, IS, IT, NL, RO
Article 13	CH, ES, PT
Article 13 (5) and (6)	NL (reservation on comitology)
Article 14	BE, CH, IT, NL, NO, SI
Article 15	AT, BE, CH, ES, IT, NL, NO, PT, SI, SK
Article 17	ES

The concerns expressed by delegations concern in particular Articles 12, 14 and 15 and relate essentially to deadlines, the balance of competences between Member States and the Commission, the scope of the proposals and the appropriateness of some provisions in this instrument.

The outcome of the discussion is reflected in 16381/11 SCHENGEN 43 SCH-EVAL 177 FRONT 149 COMIX 684 CODEC 1892 and 17280/1/11 + COR 1.

5. Any other business

None.
