



**COUNCIL OF THE
EUROPEAN UNION**

Brussels, 26 January 2009

5749/09

**PE 21
ASILE 1
CODEC 81
EURODAC 1
INF 6
API 5
JUR 38
MIGR 5
SOC 37
JAI 41
MI 25
VISA 27
COMIX 72**

NOTE

from :	General Secretariat of the Council
to :	Delegations
Subject:	Summary of the meeting of the European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE) , held in Brussels on 20-21 January 2009

The meeting was chaired by Mr DEPREZ (ALDE, BE).

I. Consideration of reports as leading committee

a) Strengthening security and fundamental freedoms on the Internet

2008/2160(INI)

Rapporteur: Stavros LAMBRINIDIS (PSE, EL)

Mr LAMBRINIDIS presented his draft report and suggested that consideration be given to limiting the possibility of giving away rights by consent. The position of users and companies on the internet was as imbalanced as that of employers and employees under labour law.

The report was welcomed by several speakers, Mr POPA (ALDE, RO) calling for a "bill of rights on the internet" and Mr MORAES (PSE, UK) observing that prosecuting "hatemail", violent and anti-democratic messages should not be considered censorship. Ms GACEK (PPE-DE, PL) mentioned the need to be able to delete the "digital footprint", information published in social networks, etc. This view was shared by Mr LAMBRINIDIS.

Timetable:

Deadline for tabling amendments: 27 January 2009

Vote in committee: 16-17 February 2009

b) The future of the European Common Asylum System

2008/2305(INI)

COM(2008)0360

Rapporteur: Giusto CATANIA (GUE/NGL, IT)

Mr CATANIA commented on the amendments received.

Mr CASTAÑO, draftsman of the European Economic and Social Committee, stressed the importance of guaranteeing fundamental rights and providing access to law for everyone, including third country nationals. He considered it important to get the Support Office in the field of asylum management working.

Mr ROURE (PSE, FR) suggested allowing movement of refugees in Europe, to lighten the burden on certain countries and called for detention to be limited to exceptional cases. Ms HENNIS-PLASSCHAERT (ALDE, NL) called for obligatory solidarity mechanisms. Mr PIRKER criticised several points of the report, inter alia he was concerned that the rapport tended to effectively abrogate the Dublin system. Mr CATANIA regretted that Mr PIRKER had not tabled amendments.

c) A Common Immigration Policy for Europe: Principles, actions and tools

2008/2331(INI)

COM(2008)0359

Rapporteur: Simon BUSUTTIL (PPE-DE, MT)

Mr BUSUTTIL announced that the draft report would be available on 26 January and would be debated during the meeting of 9-10 February. He said that the report would be forward-looking, following the adoption of the European immigration and asylum pact. It would continue to advocate solidarity, not least through burden sharing.

In the debate, Ms BOURSIER (PSE, FR) was concerned about a "Fortress Europe". Mr DIAZ DE MERA (PPE-DE, ES) called for a comprehensive common asylum policy, whereas Mr PIRKER (PPE-DE, AT) suggested limiting the subject to work-related migration.

Timetable:

Deadline for tabling amendments: 16 February 2009

Vote in committee: 5 March 2009

Vote in plenary: April 2009

d) joint debate:

Proposal for a Directive of the European Parliament and of the Council laying down minimum standards for the reception of asylum seekers

16913/1/08 REV 1

2008/0244(COD)

COM(2008)0815

Rapporteur: Antonio MASIP HIDALGO (PSE, ES)

Proposal for a Regulation of the European Parliament and of the Council concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) No [.../...] [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]

16934/08

2008/0242(COD)

COM(2008)0825

Rapporteur: Nicolae Vlad POPA (PPE-DE, RO)

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

16929/08

2008/0243 (COD)

COM(2008) 820

Rapporteur: Jeanine HENNIS-PLASSCHAERT (ALDE, NL)

The designation of the rapporteurs of the three reports was adopted unanimously.

Mr MASIP HIDALGO (PSE, ES) welcomed the proposal, expressing the opinion that asylum was not an absolute right. Asylum seekers should have access to legal assistance and to the labour market.

Ms HENNIS-PLASSCHAERT (ALDE, NL) was in favour of a burden-sharing instrument that was not limited to Dublin transfers.

Mr POPA (ALDE, RO) called for better treatment of multiple asylum applications.

In the debate, Ms LUDFORD (ALDE, UK) expressed her support for Mr Hidalgo's point, while Mr BUSUTTIL (PPE-DE, MT) shared Ms Hennis-Plasschaert's view. A Commission representative stated that there was no legal base for an obligatory burden-sharing instrument.

e) Proposal for a Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents

9200/08+COR1

2008/0090 (COD)

COM(2008)0229

Rapporteur: Michael CASHMAN (PSE, UK)

Mr CASHMAN presented his report noting that he would table more amendments. He preferred the original definition of the term "document" over the one proposed by the Commission and suggested voting on the report at the March plenary.

Mr WEBER was concerned that the draft Regulation could hinder informal work between institutions. Furthermore, subsidiarity could be a problem if Member States were obliged to apply these rules.

A Commission representative defended the new definition of "document" as being more precise, leaving less discretionary power. He as well as Mr CASHMAN agreed with Mr Weber's view on the need for a "space to think", and did not want to impose the system on Member States.

f) The next steps in border management in the European Union and similar experiences in third countries

2008/2181(INI)

COM(2008)0069

Rapporteur: Jeanine HENNIS-PLASSCHAERT (ALDE, NL)

Ms HENNIS-PLASSCHAERT regretted the lack of a master plan and repeated her doubts on the effectiveness of an Electronic System of Travel Authorisation (ESTA). She reported that US Senators had confirmed that their ESTA was not capable of doing what it was supposed to do.

Ms IN 'T VELD (ALDE, NL) and Ms LUDFORD agreed with the call for a master plan and called for an overall evaluation and assessment. Mr MARINESCU (PPE-DE, RO) was in favour of an Entry-Exit-System but expressed doubts as to the effectiveness of an ESTA.

A representative of the Czech Presidency of the Council stated that the Council would focus on Eurodac and the Entry-Exit-System and would launch an evaluation debate on the existing systems.

Timetable:

Deadline for tabling amendments: 22 January 2009

g) Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation

COM(2008) 426

11531/08

2008/0140 (CNS)

Rapporteur: Kathalijne Maria BUITENWEG (Verts, NL)

Ms BUITENWEG admitted that marital status was a difficult issue; she suggested stating that the Directive did not deal with access to marriage.

Mr GAUBERT (PPE-DE, FR) preferred some of the original formulations over the ones suggested by the rapporteur. Ms IN 'T VELD suggested removing the reference to marital status and family law altogether. Other speakers mentioned multiple discrimination, gender mainstreaming, positive discrimination and discrimination in schools. Ms BUITENWEG agreed to address multiple discrimination.

Timetable:

Deadline for tabling amendments: 27 January 2009

Vote in committee: 17 February 2009

Vote in plenary: March 2009

h) Draft proposal for a Regulation of the European Parliament and of the Council establishing a Community Code on Visas

2006/0142(COD)

COM(2006)0403

11752/06

Rapporteur: Henrik Lax (ALDE, FI)

Mr LAX presented the agreement reached with the Council, praising the positive attitude of the French Presidency. He highlighted the reduced fee for children (including a free visa for children under 6) and optionally for other categories such as students and NGOs. He expressed the hope that the remaining questions could be resolved by February.

Mr COELHO (PPE-DE, PT) asked whether service charges could apply for children under 6. Mr CASHMAN underlined the importance of a right of appeal, which was a dealbreaker for the PSE group. Mr LAX considered the right of appeal more as a symbol, because a new visa application was always possible.

i) Proposal for a Regulation of the European Parliament and of the Council amending the Common Consular Instructions on visas for diplomatic and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications

10023/06

2006/0088 (COD)

COM(2006) 269

Rapporteur: Baroness Sarah LUDFORD (ALDE, UK)

Ms LUDFORD presented the compromise agreement reached with the Council. She reported success on the issue of fingerprinting of children and on outsourcing, which was only permitted as a last resort. On the other hand, service fees could not be avoided, but they were limited to 30 €.

Mr COELHO and Mr CASHMAN were concerned about private companies' access to personal data. Ms LUDFORD explained that they would only have access to the data they collected, but not to the VIS. She expressed the opinion that for children under 6 the service fee would not be applicable.

j) Problems and prospects concerning European citizenship

2008/2234(INI)

COM(2008)0085

Rapporteur: Urszula GACEK (PPE-DE, PL)

Ms GACEK regretted how little citizens knew about their rights. She wanted to focus on the least known rights and stressed the citizenship initiative as envisaged by the Lisbon Treaty, which could make citizens more interested in the work of the Parliament.

Mr GUARDANS CAMBÓ (ALDE, ES) stressed the need to implement citizens' rights properly, which was not always the case, as had become visible in Mumbai. Mr DEMETRIOU (PPE-DE, CY) suggested organising a hearing on the issue.

k) Application of Directive 2004/38/EC on the right of EU citizens and their family members to move and reside freely within the territory of the Member States

2008/2184(INI)

COM(2008)0840

Rapporteur: Adina-Ioana VĂLEAN (ALDE, RO)

Ms VĂLEAN regretted that the overall transposition of the Directive was rather disappointing; no Member State had transposed effectively and correctly the whole Directive, and no article had been transposed effectively and correctly by all Member States. Main issues included the notion of "family member" and of "unreasonable burden", abuse of rights and marriages of convenience. An overview of information gathered by a questionnaire from national parliaments would be made available by 2 February.

Timetable:

Presentation of a draft report: 29 January 2009

Deadline for tabling amendments: 12 February 2009

Vote in committee: 5 March 2009

II. Consideration of reports as committee for opinion

joint discussion:

a) 2007 discharge: EU general budget, Section III - Commission

2008/2186(DEC)

SEC(2008)2359[01]

b) 2007 discharge: European Union Fundamental Rights Agency

2008/2257(DEC)

SEC(2008)2359[13]

c) 2007 discharge: European Monitoring Centre for Drugs and Drug Addiction

2008/2258(DEC)

SEC(2008)2359[14]

d) 2007 discharge: Eurojust

2008/2263(DEC)

SEC(2008)2359[19]

e) 2007 discharge: European Police College

2008/2271(DEC)

SEC(2008)2359[27]

f) 2007 discharge: European Agency for the Management of Operational Cooperation at the External Borders (Frontex)

2008/2272(DEC)

SEC(2008)2359[28] –

Draftswoman: Bárbara DÜHRKOP DÜHRKOP (PSE, ES)

Ms DÜHRKOP DÜHRKOP noted concerns about Frontex, which suffered from Member States not supplying the necessary material. Eurojust was not run in an ideal fashion at the moment, but the main concern was about the Police College, where undue use of Cepol money for private purposes had occurred, OLAF was investigating. At the moment, these were small sums which should not hinder discharge, but if OLAF were to detect more serious problems, it would be for the Budget Committee to react.

III. Vote on reports as leading committee

a) Combating the sexual exploitation of children and child pornography

2008/2144(INI)

Rapporteur: Roberta ANGELILLI (UEN, IT)

The draft report was adopted with 44 votes in favour, none against and 7 abstentions, including amendments 1-5, 8, 9, 11, 13, 14, 15, 19, 20, 22, 23, 25, 29-34, oral amendments 1, 2, 6, 8 and amendment 10 of the FEMM Committee.

b) Proposal for a Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals

9871/07

2007/0094 (COD)

COM(2007) 249

Rapporteur: Claudio FAVA (PSE, IT)

The draft report was adopted 45 against 6 votes, one abstention, with the compromise amendment on the consolidated text which reflects the final outcome of negotiations between the institutions.

c) Implementation in the EU of Directive 2003/9/EC on the minimum standards for the reception of asylum seekers: visits by the Committee on Civil Liberties 2005-2008

2008/2235(INI)

Rapporteur: Javier MARTINE ROURE (PSE, FR)

The draft report was adopted 49 against 2 votes with no abstentions, including amendments 1-3, 5, 6, 8, 11-13, 15, 16, 18, 19, 25-27, 29, 30, 31 (first part only), 32-34, 37, 39-43, 45-49, 51, 53, 55-59, 61, 64-66, 68, 72, 73 (with an oral amendment), 77, 80-83, 89, 91-96, 98, 100-102, 105-111, 115, 116, 118, 119, 121, 124, 126, compromise amendments A, B, C as well as an oral amendment by the rapporteur.

d) LIBE delegation to Rome, 18 - 20 September 2008

Rapporteur: Gérard DEPREZ (ALDE, BE)

Mr DEPREZ refused to vote on the annexes, which was demanded by Ms ANGELILLI and Mr BORGHEZIO (UEN, IT). Ms MOHÁCSI (ALDE, HU) asked for the term "nomad" to be replaced by "Roma" (see oral amendment 1). Mr DEPREZ was opposed to this amendment because he had used the official language of the Italian legislation. But he suggested inserting a footnote clarifying that the use of the word "nomad" followed the official Italian wording, but that in reality it concerned Roma. This was agreed by the Committee.

The draft report was then adopted 37 against 12 votes without amendments.

IV. Vote on a report as committee for opinion

The protection of consumers, in particular minors, in respect of the use of video games

2008/2173(INI)

Draftswoman: Roberta ANGELILLI (UEN, IT)

The draft report was adopted unanimously, including amendments 1-5, 9-11, 13-20, 22, 23, 25-27 and an oral compromise amendment covering amendments 6-8.

V. Presentation of the up-dated EU counter terrorism strategy by Gilles De Kerchove (EU Counter-terrorism Coordinator)

Mr de Kerchove presented his report on the state of play of the implementation of the "Strategy and Action Plan to Combat Terrorism" (June-November 2008) (doc 15912/08+ADD 1 REV 1) and a discussion paper on the EU counter terrorism strategy (doc. 15983/08) submitted recently. He noted that certain aspects had progressed well, mentioning the improved cooperation between Europol and Eurojust, but admitted that he was not satisfied with the implementation of Decision 2005/671/JHA providing for the systematic transmission of information to Europol and Eurojust, nor with the progress of the "Check the Web" programme. He suggested concentrating on communication strategy, noting the sophisticated communication strategy of Al Qaeda.

Ms LUDFORD regretted the poor implementation of existing legislation. She and Ms IN 'T VELD as well as Ms BUITENWEG asked what the EU could do to help closing down Guantánamo.

Ms IN 'T VELD and Mr LAMBRINIDIS regretted that the Council focused exclusively on Muslim terrorism, while Mr BORGHEZIO was concerned about rising support for Hamas and Mr WEBER warned of possible terrorist attacks.

Mr DE KERCHOVE regretted the poor implementation and expressed the hope that this would be improved by the Lisbon Treaty. On Guantánamo, he called on Member States to help, announcing that he and Vice-President Barrot would visit the US in February.

VI. Recent case-law on data protection by the European Court of Human Rights and European Court of Justice (MARPER and HUBER cases)

Mr CAIOLA from the Legal Service of the Parliament explained that in the judgement *S. and Marper v. the United Kingdom* (application nos. 30562/04 and 30566/04), the European Court of Human Rights had considered the storage of fingerprints and DNA data of persons who were not convicted of any crime to be a violation of Article 8 of the European Convention on Human Rights.

In the *Huber* case (C-524/06), the European Court of Justice had held that a central register of foreign nationals was justified, if it only contained the data necessary to establish the existence of a right of residence.

Ms LUDFORD suggested asking the Legal Service for a written opinion on whether the cases gave guidelines on information sharing within the EU.

VII. Priorities and work programme of the Czech EU Council Presidency - Presentation by Jiří Pospíšil (Czech Minister of Justice)

Mr POSPÍŠIL presented a number of projects that the Czech presidency intended to push through, which all focused on making legal proceedings more efficient and on creating legal certainty. He mentioned a proposal for a Framework Decision on the prevention and the settlement of conflicts of jurisdiction, the use of videoconferencing in the context of legal proceedings, on which the e-justice portal could provide information, and an updated Framework Decision on combating child pornography. Other issues mentioned were the evaluation of the European Arrest Warrant (EAW) and the European Supervision order in pre-trial procedures.

In the subsequent debate, issues mentioned included the proposal for a Council Framework Decision on certain procedural rights in criminal proceedings throughout the European Union (Mr DEMETRIOU and Ms ROURE) as well as problems between Poland and the UK in the application of European Arrest Warrants (Ms LUDFORD and Ms GRABOWSKA (PPE-DE, PL)).

Mr POSPÍŠIL reacted by stating that the EAW system could be fine-tuned in order to address issues such as the ones between Poland and the UK. On the proposal for a Framework Decision on

procedural rights, he expressed the will to make progress, while the next presidency should deal with specific questions.

VIII. Priorities and work programme of the Czech EU Council Presidency - Presentation by Dr. Ivan Langer (Minister of Interior)

Mr LANGER presented the priorities of the Czech Presidency, mentioning in particular the Schengen Information System II (SIS II), the use of modern techniques in stepping up the fight against crime, and the fight against drugs. Concerning SIS II, he admitted that there were still outstanding issues, some delegations having voiced serious concerns about SIS II's ability to see the day. Member States' experts should look at the problems, the June Council would have a look at how to move forward. Other activities included the Blue Card Directive, the Visa issue and sanctions against employers of illegal immigrants.

The subsequent debate concentrated on the issues of SIS and the Visa Information System (VIS), police cooperation, trafficking of Human beings and protection of children. On the issue of Guantánamo, Mr LANGER stated it was firstly the responsibility of the US, and only if they asked for concrete help would the EU see what could be done. Trafficking of human beings would be a focus of the Swedish Presidency. The Czech Presidency would present a plan on how to revive SIS II. He also expressed the hope of getting the VIS going once the legal basis was in place. Replying to a question by Mr BUSUTTIL on illegal immigration, he preferred to give the Member States concerned the necessary support to resolve the problem themselves.

IX. Date and Place of the next meeting

29 January 2009 in Brussels.
