



Brussels, 16 March 2021
(OR. en)

7040/21
CRS CRP 8

SUMMARY RECORD
PERMANENT REPRESENTATIVES COMMITTEE
24 February 2021

I. Adoption of the agenda

6350/21 OJ CRP1 8
6387/21 OJ CRP2 8

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)

Employment, Social Policy, Health and Consumer Affairs

2. Informal videoconference of the Ministers of Health on 16 March 2021: Agenda

The Presidency presented the main items on the agenda of the informal videoconference of Ministers of Health.

3. Informal videoconference of the Ministers of Employment and Social Policy on 15 March 2021: Agenda

The Presidency presented the main items on the agenda of the informal videoconference of Ministers of Employment and Social Policy.

Employment and Social Policy

4. Revision of Regulations on coordination of social security systems (883/04 and 987/09) 6051/21
Preparation for the trilogue

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

Telecommunications

5. Regulation on a temporary derogation from the ePrivacy Directive
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 February 2021.

Environment

6. Informal videoconference of the Ministers of Environment on 18 March 2021: Agenda

The Presidency presented the main items on the agenda of the informal videoconference of Ministers of Environment.

COREPER (PART 2)

Justice and Home Affairs

14. (poss.) Council Recommendation (EU) 2020/912 of 30 June 2020 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction

Approval

Decision to use the written procedure for the adoption

This item was withdrawn.

15. Commission proposals in the context of the Multiannual Financial Framework

Statement by Malta

"We welcome the efforts to reach a provisional agreement with the European Parliament on the Regulation establishing the Asylum and Migration Fund (AMF); the Regulation establishing the Internal Security Fund (ISF) and the Regulation establishing the Border Management and Visa Instrument (BMVI) as part of the Integrated Border Management Fund, as outlined in ST 6111/21, ST 6106/1/21 REV 1 and ST 6105/21 respectively. In view of the need to establish the respective funds for 2021-2027 as soon as possible, Malta can accept the provisional agreements reached. However, Malta recalls the concerns raised on the conditionality of 10% included horizontally in the mid-term review for all three funds. Malta remains of the opinion that such a conditionality raises difficulties in the implementation and may result in the unnecessary loss of funds."

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| c) | Regulation establishing the border management and visa instrument (BMVI) as part of the Integrated Border Management Fund | 6105/21 |
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The Committee endorsed the text of the final compromise and the European Parliament will be informed.

Statement by Slovenia

"The Republic of Slovenia supports the adoption of the multi-annual financial framework as soon as possible and greatly appreciates the efforts and efficiency of previous Presidencies in dealing with these three very difficult dossiers (funds).

The Republic of Slovenia welcomes the inclusion of some of the proposed elements in the existing compromise proposal; however, it still does not adequately address the situation at the external Schengen borders that are not external EU borders, which is something we kept raising throughout the negotiations.

The negotiations laid bare all the difficulties and unwanted consequences the Republic of Slovenia may face because the specific status of this border has never been clearly or adequately defined in different legal instruments.

Over the past years, EU legislation has imposed a lot of additional obligations to be implemented at external borders, which in most cases include the external Schengen borders. It started with the introduction of mandatory systematic checks of all travellers and travel documents and has now moved on to the Entry-Exit system, EUROSUR, as well as the Integrated Border Management Fund and the "screening" regulation.

The Republic of Slovenia is aware of its obligations and intends to fully meet them. That said, it is not reasonable to expect that all the costs of the infrastructure upgrades will be fully borne by the Republic of Slovenia from the national budget.

We find it unacceptable that all this time we have been at a disadvantage compared to the countries at the 'permanent' Schengen border, and we therefore wish to find an appropriate solution.

We have been facing the same problem in the existing Multiannual Financial Framework (2014-2020), which contains the same limitations and which have proved to be very problematic in practice.

With this declaration, therefore, we wish to highlight in particular how important it is to pay due attention to the specific situation at the external Schengen borders that are not external EU borders.

Article 5/4a does not adequately address the specificity of those internal borders at which controls have not yet been lifted. The recital 24, with its current wording, is of little use, as it still does not justify investment in the construction of new/additional infrastructure at the border with the Republic of Croatia.

In practice, for the Republic of Slovenia this means that we cannot finance, for example, the enlargement of border crossing points or the construction of new infrastructure from the EU funds, we can only upgrade (replace or maintain) the existing infrastructure.

The Republic of Slovenia believes that all the problems and undesired consequences that we might face due to the specific situation at our external Schengen borders that are not external EU borders could be avoided if buildings, systems and activities were included in the recital 24 in addition to infrastructure."

a) Regulation establishing the Asylum and Migration Fund
(AMF)

6111/21

The Committee endorsed the text of the final compromise and the European Parliament will be informed.

Statement by Poland

"Equality between women and men is enshrined in the treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the framework of the Polish national legal system in accordance with internationally binding human rights instruments and within the framework of fundamental values and principles of the European Union. For these reasons, in place where the regulation refers to "gender" Poland will interpret it as meaning women and men, in accordance with Article 8 and 10 TFEU."

Statement by Hungary

"In our view, migration will remain one of the main challenges for the European Union in the upcoming period, and appropriate financial instruments need to be provided to address this challenge in a holistic manner. As a result, Hungary prioritises the funding of measures and areas of support related to the effectiveness of activities in the field of return and the prevention of secondary movements, as well as those that provide EU funding for any project to be implemented in the external dimension.

Furthermore, we would like to point out that Hungary has serious concerns about the content of the proposal, as the proposal provides a disproportionate amount of resources for the implementation of the solidarity mechanism that includes the relocation of asylum seekers between Member States. Thus, it jeopardizes the further objectives of the fund and through this encourages to continue the systematic abuse of the EU asylum system.

Finally, through its provisions on legal migration, the proposal presupposes the need for additional migration channels. On the one hand, this is not a real assessment, and on the other hand, it is up to the Member States exclusively to decide how to respond to their labour market needs, having regard to their social and economic situation and their constitutional aspects. We find fundamentally problematic the approach which presents legal migration as a tool that would be a consensual response to the economic and demographic challenges that Member States are currently facing. In light of the epidemic in particular, Hungary is focusing on safeguarding existing jobs and green and digital transition, as well as on family policy, rather than on encouraging migration, which itself does not solve the problems and even creates new challenges. As a result, Hungary cannot accept the Asylum and Migration Fund in its current form, as Hungary believes that the fund places a disproportionate emphasis on encouraging legal migration and financing integration, and will promote the increase of illegal migration by overfunding the relocation of asylum seekers between Member States.

Furthermore, Hungary considers it excessive that for the mid-term review, by 30 June 2024, Member States should account for at least 10% of the fund allocations. In our view, this provision will make it more difficult to implement the Member States' national programs, which is contrary to the objectives pursued by the three funds. However, in the spirit of compromise, Hungary is ready to accept this strict criterion."

b) Regulation establishing the Internal Security Fund (ISF)
Analysis of the final compromise text with a view to agreement

6106/2/21 REV 2

The Committee endorsed the text of the final compromise and the European Parliament will be informed.

Joint statement by the Czech Republic and Slovakia

"The Czech Republic and Slovakia regret the outcome of the negotiations with the European Parliament on the proposed text of the Regulation establishing the Internal Security Fund. Bearing in mind the position of the Council, i.e. 50 % limit and exclusion of ICT equipment, we perceive the current compromise proposal of Article 12 (4) regarding the cap for purchase of equipment as unacceptable. Instead of proposed text of 35 % limit without exclusion of ICT equipment. The Czech Republic and Slovakia could accept either increase of the limit to 50 % OR keeping the percentage at 35 % while excluding the ICT equipment from this cap.

Purchase of highly specialised equipment is essential for work of law enforcing authorities and thus for ensuring the security of the Union. The Czech Republic and Slovakia see no reason for limiting purchase of equipment, which would serve reaching the objectives of the Fund, i.e. above all fighting serious and organised crime as well as improving communication between Member States. Since purchase of standard equipment is prohibited by new recital 16a, the purchased equipment would be highly specialised and would improve the Member States' capabilities in respected areas thus fulfil the objectives of the Fund.

In view of the above the Czech Republic and Slovakia vote against the adoption of the proposal of the Regulation establishing the Internal Security Fund."

Statement by Poland

"Poland supports the approach that the discussion on the ISF, BMVI and AMF Regulations should be accelerated so as to ensure the continuity of funding in these areas, therefore we agree to accept the compromise versions. At the same time, we maintain our concerns regarding Article 12 (4): *the limit of the allocation of a Member State programme for the purchase of equipment, means of transport, etc.*

The provisions regarding Art. 12 (4) are, from the very beginning, one of the most important issues for Poland. We strongly supported the compromise version of the Council proposal (7.06.2019) to increase the limit on the allocation for the purchase of equipment, means of transport, etc. to 50%. In a spirit of compromise, we also agreed to reduce this level to 35%, but with the exclusion of information and communication technology (ICT) equipment.

Such provisions would increase the equipment and infrastructure capacity of the Member States', which should definitely improve their internal security. This is particularly important for the Member States that are still improving their equipment, infrastructure, operational capacities of national services and institutions responsible for maintaining internal security, also in collaboration with other Member States.

The EU funded projects should bring long-lasting effects, which will constitute an enhancement of a Member State's security also after a given project has been completed. As the previous experience shows, ISF's undertakings mainly concern the purchase of equipment, infrastructure (including IT infrastructure), because such activities guarantee a permanent increase in security level.

The introduction of a limitation on such activities would indispose the Fund to respond to the key needs of services in this area. "Soft" activities, meetings, exchange of information are important, but without proper facilities and modern technology, they may not be effective enough. Especially, in the current time of the COVID-19 pandemic, the implementation of such activities is difficult or sometimes impossible. Successful actions in the area of EU security require substantial resources and capabilities from the Member States.

The current ISF proposal doesn't contain the exclusion of ICT from this limit which was already agreed in the Council position. It may cause that a significant proportion of the fund dedicated to the purchase of equipment will be spent on ICT equipment, which can be very expensive, and the purchase of other equipment will not be possible. It should be underlined that the purchase of ICT equipment is fully in line with the Fund's objectives and should not be limited in any way. Moreover, the new provision introduces a large administrative burden. This is an important issue for Poland, and the current ISF proposal may cause problems in the implementation of the Fund in the future."

16. Informal videoconference of the Ministers of Justice on
11 March 2021: Preparation
Other items in connection with the informal videoconference

The Presidency provided further information regarding the informal videoconference.

17. Informal videoconference of the Ministers of Home Affairs on 12 March 2021: Agenda

The Presidency presented the main items on the agenda of the informal videoconference.

Foreign Affairs/Justice and Home Affairs

18. Informal videoconference of the Ministers of Foreign Affairs and Ministers of Home Affairs on 15 March 2021: Agenda

The Presidency and the EEAS presented the main items on the agenda of the informal videoconference.

Foreign Affairs

19. Meeting of the Council (Foreign Affairs) on 22 February 2021: Follow up

This item was withdrawn.

General Affairs

20. Informal videoconference of the Ministers of European Affairs on 23 February 2021: Follow up

This item was withdrawn.

Economic and Financial Affairs

21. Informal videoconference of the Ministers of Economic and Financial Affairs on 16 March 2021: Agenda

The Presidency presented the main items on the agenda of the informal videoconference.

IV. Any other business

COREPER (PART 1)

None.

COREPER (PART 2)

None.

"I" items approved**COREPER (PART 1)****Institutional Affairs****Written questions**

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| 7. | Replies to questions for written answer submitted to the Council by Members of the European Parliament
<i>Adoption by silence procedure</i> | 6299/21
PE-QE |
| a) | Antonio López-Istúriz White (PPE)
"Entry to the EU of individuals on whom the Council of the European Union has imposed sanctions" | 5649/21 |
| b) | Jordi Cañas (Renew)
"Infringement by the Spanish Government of Decision (CFSP) 2017/2074 concerning restrictive measures in view of the situation in Venezuela" | 5650/21 |
| c) | Janina Ochojska (PPE)
"Global human rights sanctions regime" | 5663/21 + COR 1 |
| d) | Sandra Pereira (The Left)
"The Multiannual Financial Framework and its instruments" | 5796/21 |

EU positions for international negotiations

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| 8. | Council Decision on the EU position in ICAO as regards Amendment 177 to Annex 1, Amendment 47 to Annex 2, Amendment 108 to Annex 8, Amendment 90 to Annex 10 and of the new volume VI to Annex 10 the Convention on International Civil Aviation
<i>Decision to use the written procedure for the adoption</i> | 6021/21
6200/21
AVIATION |
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Research

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| 9. | Decision establishing specific programme implementing Horizon Europe
<i>Decision to extend a time-limit</i> | 6163/21
6199/21
RECH |
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Transport

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| 10. | IMO - Joint submission - MSC 103 on a new output for the Revised ECIDIS Performance Standards
<i>Endorsement</i> | 6210/21
MAR
OMI |
| 11. | IMO - Joint submission - MSC 104 on a new output for the comprehensive review of the STCW Convention and Code
<i>Endorsement</i> | 6206/21 + ADD 1
MAR
OMI |

Statement by the Commission

"The Commission considers that the above mentioned 'Union submission' to be submitted to the IMO is covered by EU exclusive competence. Submission of proposals to the IMO on issues of EU competence is an act of external representation and should be made by the Commission on behalf of the EU to the IMO. It should therefore be sent to the IMO by the Commission.

In the Commission's view, the procedural arguments against presenting submissions to the IMO by the Commission on behalf of the EU are not convincing. This is because there is no evidence to suggest that the IMO, as a specialised agency of the United Nations, would be in a position to reject such a submission.

The Commission thus maintains its position that the Treaty provisions on external representation of the Union should be applied. Consequently, the only legally correct way forward is to present the submission in question to the IMO by the European Commission on behalf of the European Union. The Commission reserves all its rights in this regard."

Fisheries

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| 12. | Council Decision authorising the opening of negotiations for a new fisheries agreement between the European Union and the Kingdom of Norway
<i>Decision to use the written procedure for the adoption</i> | 5271/21
5786/21 + ADD 1
PECHE |
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Statement by the Commission

"The Commission considers it legally incorrect that a Council Decision authorising the opening of negotiations indicates a substantive legal basis.

The Decision authorising the opening of negotiations is premised solely on the existence of conferred powers of the Union and not on a determination of a specific competence. Its effect is limited to authorising the Commission or the High Representative, as the case may be, to use its prerogatives under the EU Treaties in order to start negotiations. The scope of these negotiations is therefore determined by the scope of the powers of the Union. Besides, the freedom of the envisaged treaty partner of the Union as regards the determination of the scope of the negotiations cannot be limited by the Council Decision authorising the opening of the negotiations. Thus, the precise legal basis for the future agreement can only be determined after the content of the agreement is known.

The Commission reserves all its rights in this regard."

13. Note Verbale to the Kingdom of Norway regarding the Norwegian legislation on EU quota for Arctic cod and other issues in Svalbard

6073/21

6265/21

PECHE

Approval

Decision to use the written procedure

COREPER (PART 2)

Judicial Affairs

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| 22. | Case - T-714/20 (Dmitry Vladimirovich OVSYANNIKOV v. Council)
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 6276/21
JUR |
| 23. | Judgment in Case T-258/20, Oleksandr Viktorovych Klymenko v Council
<i>Information note for the Permanent Representatives Committee (Part 2)</i> | 6331/21
JUR |

Institutional Affairs

Appointments

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| 24. | An alternate member (DK) of the Committee of the Regions
<i>Adoption by silence procedure</i> | 6219/21
6218/21
CDR |
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Transparency

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| 25. | Public access to documents
Confirmatory application No 03/c/01/21
<i>Decision to use the written procedure for the adoption</i> | 5690/21
5689/21
INF
API |
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Economic and Financial Affairs

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| 26. | Council Decision on the EU position in the EEA Joint Committee as regards the amendment of Chapter IIa and Annexes I and II of Protocol 10 to the EEA Agreement
<i>Decision to use the written procedure for the adoption</i> | 6044/21
5660/21
5661/21
UD |
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Statement by the Commission

"The Commission considers that the Council Decision should be addressed to the Commission, and therefore considers the changes to Article 2 to be inappropriate. The expression of the Union position in a body set up by an agreement is an act of external representation of the Union which, in accordance with Article 17(1) TEU, is the institutional prerogative of the Commission.
The Commission reserves all its rights in this regard."

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| 27. | Regulation establishing the 'Customs' programme for cooperation in the field of customs
<i>Decision to use the written procedure for the adoption of the Council's position at first reading and of the statement of the Council's reason</i> | 6263/21
5265/21 + ADD 1
UD |
| 28. | EU Terms of reference for the G20 FMCBG Meeting on 26 February 2021
<i>Approval</i>
<i>Decision to use the written procedure for the adoption</i> | 6084/21
6082/21
UEM |

Justice and Home Affairs

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| 29. | Council Decision authorising the opening of negotiations for Agreements between the European Union and Algeria, Argentina, Armenia, Bosnia and Herzegovina, Brazil, Colombia, Egypt, Israel, Jordan, Lebanon, Morocco, Tunisia and Turkey on cooperation between the European Union Agency for Criminal Justice Cooperation (Eurojust) and the competent authorities for judicial cooperation in criminal matters of those third States
<i>Decision to use the written procedure for the adoption</i> | 6278/21
+ ADD1 - 2
6153/21 + ADD 1
EUROJUST |
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Statement by Cyprus

"Cyprus strongly disagrees with the inclusion of Turkey in the list of third States with which negotiations will be conducted. Despite the EU's repeated calls to abide by its obligations, Turkey continues its discriminatory policy towards the Republic of Cyprus and refuse to cooperate with the latter's authorities in all areas.

The Council, more recently in its June 2019 Enlargement Conclusions (General Affairs Council), has confirmed once again that Turkey's cooperation in the area of justice and home affairs with all EU Member States remains essential. In particular as regards cooperation in criminal matters, Turkey's refusal to cooperate with Cyprus has also been identified by the European Court of Human Rights in the Guzulyurtlu and others v. Cyprus and Turkey (decision of 29/1/2019, application number 36925/07) where the Court held that "Turkey had not made the minimum effort required to comply with its obligations to cooperate with Cyprus for an effective investigation into the Murder of the applicants relatives."

Furthermore, it is recalled that Turkey's obligation to effectively cooperate with all Member States in judicial matters remains one of the unfulfilled benchmarks in the country's visa liberalization roadmap.

For all the aforementioned reasons and taking into account Turkey's persistent flagrant breach of its obligations towards the EU and its Member States, Cyprus strongly disagrees with the inclusion of Turkey in the list of third States. Cyprus expects that all of the above will be duly taken into consideration during the course of negotiations, so as to ensure that Turkey's attitude will not in any way negatively affect the Republic of Cyprus' prerogatives as an EU Member State."

Statement by the Commission

"The Commission considers it legally incorrect that a Council Decision authorising the opening of negotiations indicates a substantive legal basis (in this case Articles 16(2) and 85 TFUE).

The Decision authorising the opening of negotiations is premised solely on the existence of conferred powers of the Union and not on a determination of a specific competence. Its effect is limited to authorising the Commission or the High Representative, as the case may be, to use its prerogatives under the EU Treaties in order to start negotiations.

The scope of these negotiations is therefore determined by the scope of the powers of the Union. Besides, the freedom of the envisaged treaty partner of the Union as regards the determination of the scope of the negotiations cannot be limited by the Council Decision authorising the opening of the negotiations. Thus, the precise legal basis for the future agreement can only be determined after the content of the agreement is known. The Commission reserves all its rights in this regard."

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| 30. | Schengen evaluation Recommendation – Sweden external border
<i>Decision to use the written procedure for the adoption</i> | 6267/21
6266/21
SCH-EVAL |
| 31. | Schengen evaluation Recommendation – Slovakia return
<i>Decision to use the written procedure for the adoption</i> | 6270/21
6269/21
SCH-EVAL |
| 32. | Schengen evaluation Recommendation - Integrated Border Management (IBM) strategies
<i>Decision to use the written procedure for the adoption</i> | 6272/21
6271/21
SCH-EVAL |