



**COUNCIL OF THE
EUROPEAN UNION**

Brussels, 2 April 2009

8387/09

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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 30-31 March 2009

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

The presentation by the Commission concerning the movement of persons with a long-stay visa (item 6), the exchange of views with Professor Spiros Simitis on data protection and fundamental rights in the EU - national experiences and latest developments (item 11) as well as the joint discussion on short-stay visa waiver agreements (items 13-18) were removed from the agenda.

I. Consideration of reports

a) Proposal for a Council Decision on a Critical Infrastructure Warning Information Network (CIWIN)

15041/08

2008/0200 (CNS)

COM(2008) 676

Rapporteur: Luca ROMAGNOLI (NI, IT)

Mr AUERSPERGER MATIC of the Parliament's Legal Service presented a legal opinion on the question of the legal base of this proposal. According to this opinion, Article 156 of the EC Treaty as a legal basis for Trans-European networks was limited to the objectives referred to in Article 154 and the measures referred to in Article 155. However, the proposal for a Council Decision did not indicate that it contributed to any of these objectives. Furthermore, the draft Decision did not aim at promoting interconnection and interoperability as required in Article 154 (2), but rather set up a new network and it was not limited to the areas referred to in Article 154 (1) (transport, telecommunications and energy infrastructures), but covered 8 other sectors. On the other hand, a possible entry into force of the Lisbon Treaty would provide a specific legal base for civil protection in its Article 196.

b) Initiative of the French Republic with a view to adopting a Council Decision concerning the Convention on the use of information technology for customs purposes (CIS Convention)

17483/08

2009/0803(CNS)

Rapporteur: Alexander ALVARO (ALDE, DE)

Mr ALVARO considered the new text submitted by the Council as a significant step forward. He asked the Council how important it was to finish the Consultation before the end of the legislative period.

For the Presidency of the Council, Mr SKALICKY explained that the reason for the proposal was to bring the third pillar and first pillar legislation into alignment. The new text took into account the Framework Decision on data protection in the third pillar. He replied to Mr Alvaro that the Council was willing to wait for the opinion of the Parliament, even if it was only delivered after the elections.

Mr ALVARO noted that taking account of what the Council Presidency said, it would not be possible to issue the opinion before the end of the legislative period.

c) Proposal for a Decision of the European Parliament and of the Council amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 by removing funding for certain Community actions and altering the limit for funding such actions

6702/09

2009/0026 (COD)

COM(2009) 67

Rapporteur: Bárbara DÜHRKOP DÜHRKOP (PSE, ES)

Mr DEPREZ stated that for the creation of the European Asylum Support Office, an interinstitutional agreement was needed on its financing.

Ms DÜHRKOP considered the proposal useful. She suggested supporting it, but asked the Commission for clarifications on some figures. According to Ms Haug, the agreement of the BUDG committee would not pose problems.

Timetable:

Deadline for tabling amendments: 3 April 2009

Consideration of amendments: 15 April 2009

d) Joint debate:

(1) Proposal for a Council Regulation amending the Convention Implementing the Schengen Agreement as regards long-stay visas and alerts in the Schengen Information System

7094/09

2009/0025 (CNS)

COM(2009) 90

(2) Proposal for a Council Decision on the establishment of an evaluation mechanism to monitor the application of the Schengen acquis

7349/09

2009/0032 (CNS)

COM(2009)105

(3) Proposal for a Council Regulation on the establishment of an evaluation mechanism to verify the application of the Schengen acquis

7348/09

2009/0033 (CNS)

COM(2009)102

Rapporteur for (1) to (3): Carlos COELHO (PPE-DE, PT)

Mr COELHO welcomed the fact that Mr Deprez had consulted the Parliament's Legal Service on the legal base for these proposals, for which he suggested waiting before proceeding.

For the Presidency of the Council, Mr ŠUSTR welcomed the proposals, which had been keenly awaited by the Council. He stated that the key issue was the role of the Member States, who were key players in the current system, whereas in the new system, the Commission should be at the centre of the evaluation, assisted by Member States. Under the Czech Presidency, two days would be dedicated to the discussion of the proposal, which would then continue under the Swedish Presidency.

e) Committee on Civil Liberties delegation visit to Senegal, 25-27 November 2008

Rapporteur: Roselyne LEFRANÇOIS (PSE, FR)

Ms LEFRANÇOIS recalled the difficult situation in Senegal, regretting an over-restrictive visa policy which pushed people to irregular migration.

Mr DIAZ DE MERA (PPE-DE, ES), leader of the delegation, welcomed the report and suggested that a discussion in plenary should be possible.

Asked by Mr CATANIA (GUE/NGL, IT), Ms LEFRANÇOIS pointed out that she had used the term "clandestine immigration" because it corresponded to the terminology used by the Senegalese authorities.

The report was unanimously approved by the Committee.

f) Joint debate:

(1) Proposal for a Council Regulation establishing a procedure for the negotiation and conclusion of bilateral agreements between Member States and third countries concerning sectoral matters and covering jurisdiction, recognition and enforcement of judgments and decisions in matrimonial matters, parental responsibility and maintenance obligations, and applicable law in matters relating to maintenance obligations

5146/09

2008/0266 (CNS)

COM(2008) 894

Rapporteur: Gérard DEPREZ (ALDE, BE)

**(2) Proposal for a Regulation of the European Parliament and of the Council
establishing a procedure for the negotiation and conclusion of bilateral agreements
between Member States and third countries concerning sectoral matters and
covering applicable law in contractual and non-contractual obligations**

5147/09

2008/0259 (COD)

COM(2008) 893

Draftsman: Gérard DEPREZ (ALDE, BE)

Mr DEPREZ explained that the vote initially foreseen in the agenda for the two reports had been postponed because of the opinion issued by the Parliament's Legal Service, which had suggested that no action should be taken until additional information from the Commission was received. He stated that he had written a letter to the Commission and noted that some of the amendments tabled were contrary to the recommendations made by the Legal Service.

Mr BRADLEY of the Parliament's Legal Service stated that, in order to respect the principle of proportionality, the proposal had to include relevant information on the nature and the scope of the problem and the impact of the solution. In this case, the Commission should state which Member States wanted to conclude agreements with third states. He expressed concerns if Member States that had concluded bilateral agreements could block future European legislation in family matters, where unanimity was necessary. Furthermore, he suggested that the Parliament should be involved in the procedure.

Mr DEPREZ stated that the reply by the Commission was bound to be received during the week. He had brought the next meeting of the LIBE Committee forward from 16 April to the morning of the 15 April in order to give its opinion on the codecision file which would then be voted on by the leading JURI Committee immediately afterwards.

g) Report on “Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States” of the European Union Agency for Fundamental Rights (FRA) (requested by the European Parliament in July 2007)

Mr KJAERUM, Director of the FRA presented the report which was based on field research and which had been preceded by a first report on the legal situation, presented in June 2008. He stated that the research confirmed the worrying situation depicted by various Parliament resolutions. The examples given in these resolutions were in no way exceptional or rare. He suggested three main steps, to address cases of discrimination by means of legal measures, to improve the mechanism for recording hate crimes and to look at how politicians addressed the issue of lesbian, gay, bisexual and transgender people, which had an important impact on public attitude. He noted that the research done by the FRA could provide substantial arguments in favour of the draft Directive on equal treatment (2008/0140 (CNS)).

Mr DIMITRAKOPOULOS, Head of the Equality and Citizen's Rights Department at the FRA gave further details, noting inter alia the lack of recognition of same-sex partnerships in many Member States and Eurobarometer findings that discrimination based on sexual orientation was the second most widespread type of discrimination after that based on ethnic origin. In particular, transgender persons were often victims of serious hate crimes.

During the discussion, Ms IN 'T VELD (ALDE, NL) and Ms LUDFORD (ALDE, UK) considered that the Commission was not sufficiently active on the issue. Ms BOZKURT (PSE, NL) and Ms IN 'T VELD addressed the situation of LGBT people in candidate states, in particular in Turkey. Ms BAUER (PPE-DE, SK) and Mr CATANIA (GUE/NGL, IT) noted the divide in Europe on LGBT rights, in particular between East and West.

h) 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)C

OM(2008)0229

Rapporteur: Michael CASHMAN (PSE, UK)

Mr DEPREZ recalled that the Committee had asked the Parliament's Legal Service whether the reservations formulated within the Council were justified or not. This opinion would be debated at the following meeting of the LIBE Committee in April.

For the Czech Presidency of the Council, Mr PRIBORSKY stated that in a standard procedure, the Council would react only to a formal position of the Parliament, after the vote of the legislative resolution. But in a spirit of good cooperation, the Council had exceptionally already started discussions about the amendments voted by the Parliament, without waiting for the vote on the final resolution. He remarked that a number of these amendments went beyond the Commission proposal and informed the Committee that the Czech Presidency intended to intensify discussions in order to adopt a general approach as soon as possible.

For the Commission, Mr NYMAND-CHRISTENSEN expressed the hope of finding a common ground for the adoption of a regulation in the following months.

Ms CEDERSCHIÖLD (PPE-DE, SE) considered the vote in plenary to be a working victory, but also reported worries within the PPE-DE group concerning some amendments, suggesting that no decision be taken before the legal opinion was issued.

Mr CASHMAN deplored that he had been accused of hypocrisy by the Commission side. He expressed the hope that the Commission could refer a new text to the next Parliament, which would continue the work on the proposal.

II. Vote on reports

a) Proposal for a Council Decision on a Critical Infrastructure Warning Information Network (CIWIN)

15041/08

2008/0200 (CNS)

COM(2008) 676

Rapporteur: Luca ROMAGNOLI (NI, IT)

The draft report was adopted with 32 votes in favour, one against and one abstention, including amendments 1-3, 5 (with an oral amendment), 6, 8-11, 15-23, 26, 27, 31, 32, 34-36, 41-43, 45 (first part only) and 46, as well as both compromise amendments (1-2).

b) Problem of profiling, notably on the basis of ethnicity and race, in counterterrorism, law enforcement, immigration, customs and border control

2008/2020(INI)

Rapporteur: Baroness Sarah LUDFORD (ALDE, UK)

The draft report was adopted with 34 votes in favour, none against and one abstention, including amendments 2 (first part only), 3, 4, 6-9, 21, 25 and 26 (with an oral amendment by the PPE-DE group), the amendments 3 (second part only) and 4 of the AFET Committee as well as all compromise amendments (1-9), compromise amendment 8 with an oral amendment by the rapporteur.

c) A common immigration policy for Europe: principles, actions and tools

2008/2331(INI)

COM(2008)0359

Rapporteur: Simon BUSUTIL (PPE-DE, MT)

The draft report was adopted with 23 votes in favour, 4 against and 11 abstentions, including amendments 1-10, 12-14, 17, 18 (first part only), 19 (with an oral amendment by Ms Boursier), 20-22, 27, 28, 32 (first part only), 33, 41, 42, 45, 49, 50, 56, 60, 61, 63, 65 (first part only), 68, 71, 76, 84, 85, 88, 90-93, 95 (first part only), 102, 104, 105, 108-110, 113-116, 117, 119, 121, 122, 124,

125, 127, 131, 133, 139, 141-148, 152, 157, 158, 161, 167, 168, 170-176, 178, 182, 183, 185, 186, 188, 190 and 192-198, recitals A-C and paragraphs 3, 4, 6-8, 10, 12 and 13 of the EMPL Committee, recitals A and B and paragraphs 2, 5 and 8 of the FEMM Committee, paragraphs 2-5 of the CULT Committee, and all compromise amendments (1-9) as well as an oral amendment by the rapporteur replacing "illegal" by "irregular" throughout the text.

d) Council Decision amending Decision 2002/956/JHA setting up a European Network for the Protection of Public Figures

16437/08

2009/0801(CNS)

Rapporteur: Gérard DEPREZ (ALDE, BE)

The draft report was adopted unanimously, no amendments were tabled.

e) Wind-up resolution on the annual debate on the area of freedom, security and justice (FSJA)

Rapporteur: Gérard DEPREZ (ALDE, BE)

The draft resolution was adopted with 33 votes in favour, 2 against and one abstention, including amendments 2-12 and an oral amendment by the rapporteur to indent 2.

f) Development of an EU criminal justice area

2009/2012(INI)

Rapporteur: Maria Grazia PAGANO (PSE, IT)

The draft report was adopted with 34 votes in favour, one against and no abstentions, including amendments 1-3, 5-9, 11, 13, 14, 16, 18, 21, 22, 24, 25, 29-32 and 38-42 as well as all compromise amendments (1-13).

III. Date and Place of the next meeting

15 April 2009 in Brussels.
