

Brussels, 12 April 2019  
(OR. en)

8463/19  
CRS CRP 12

**SUMMARY RECORD**  
PERMANENT REPRESENTATIVES COMMITTEE  
27, 29 March, 1 and 2 April 2019

**I. Adoption of the agenda**

7850/19 OJ CRP1 12 + ADD 1

7861/3/19 REV 3 OJ CRP2 12 COMIX 177 + CM 2387/19 + CM 2457/19

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)**

**WEDNESDAY 27 MARCH 2019**

**Agriculture and Fisheries**

2. Meeting of the Council (Agriculture and Fisheries) on 15 and (poss.) 16 April 2019: Agenda (For the items in the remit of the Permanent Representatives Committee)

The Committee agreed on the provisional agenda for the forthcoming Council meeting. The meeting takes place on 15 April only.

## **Internal Market and Industry**

3. Directive on cross-border conversions, mergers and divisions 7426/19  
*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.

### **Statement by Estonia**

"Estonia welcomes the aim of the directive on cross-border mergers, conversions and divisions to provide a legal and administrative environment, which is both conducive to growth and adapted to face the new economic and social challenges of a globalised and digital world, while ensuring the protection of employees, creditors and minority shareholders. Estonia acknowledges the potential benefit of such a legal framework. It has been a unique opportunity to create the much-needed legal framework to unleash the full potential of the single market and stimulate jobs, growth and investment.

Estonia, however, regrets that the aforementioned aims have not been fully achieved in the outcome of the interinstitutional negotiations. We remain deeply concerned that directive contains unclear and cumbersome obligations, which do not allow for the use of the full potential of the single market and might even have a deterring effect on companies, especially on SMEs. Moreover, the rules laid down in the directive do not take into account neither the rapidly developing business landscape nor the digital economy. In this context, Estonia particularly regrets the unequal treatment of companies established under different legal theories despite their legitimacy and equal status under Article 54 TFEU and settled case law (cases *Polbud*, C-106/06, paras 34 and 62, *National Grid Indus*, C-371/10, paras 26-27, *Daily Mail*, C-81/87, para 21). Taking this into account, it is not comprehensible why one system should be disadvantaged compared with the other. By creating a presumption whereby the absence of abuse or fraudulent behaviour by companies, which have their effective management and economic activity in the Member State of registration, is assumed, we are essentially creating a presumption that contemporary and global digital companies are, in fact, fraudulent or "shell companies". This incentivizes progressive companies to register themselves outside of the single market, in countries with more modern and flexible legal environment. Therefore, we fear that such complex rules will result in companies searching for alternatives, bearing unpredictable consequences to employees, creditors and minority shareholders.

Furthermore, the directive on cross-border mergers has been well-functioning in practice for more than ten years. Thus, it remains unclear why the rules on cross-border mergers were not taken as a basis for cross-border conversions and divisions in the first place. Moreover, it is worrisome that the existing rules on cross-border mergers have been changed beyond what is necessary to solve the few practical problems detected. By making too many changes, we risk making the existing well-functioning rules on cross-border mergers ineffective, cumbersome and less attractive."

## Research

4. Regulation establishing Horizon Europe - Framework Programme 7472/19  
*Presidency briefing on the outcome of the trilogue*  
*Progress report*  
*Confirmation of the common understanding*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 19 March 2019 and confirmed the common understanding contained in the progress report without prejudice to the final outcome of the negotiations on the full text.

### Statement by Germany and Sweden

"Germany and Sweden welcome that the negotiators of the Council, the European Parliament and the European Commission reached a preliminary agreement on Horizon Europe, the next EU framework programme for research and innovation during the sixth trilogue. This is an important step that allows starting the preparation of the programme without delay.

In the sense of an overall compromise, Germany and Sweden accept the (preliminary) agreement but acknowledge that excellence must be retained as the core guiding principle in all the parts of the programme. Only in this way, the ambitious research and innovation goals can be achieved and the programme's high reputation be maintained.

While we strongly support funding lines in the programme area "Widening Participation and Sharing Excellence" as a contribution to reducing the R&I divide, other parts of Horizon Europe must remain without any quotas or special evaluations for individual countries or groups of countries.

Excellence based, competitive calls must not be diluted by a preferential policy or a quota for legal entities from widening-countries. This political agreement must not be a door-opener for introducing cohesion measures within the EU framework programme for research and innovation.

Creating attractive salary systems for researchers, including how salaries are set in the labour market, is and must remain a national responsibility. Regarding remuneration from Horizon Europe, in addition to the criteria set out in Article 186 of the Financial Regulation, for beneficiaries with project-based remuneration, costs of personnel are eligible up to the remuneration that the person would be paid for work in R&I projects funded by national schemes."

### Statement by Slovakia

"Slovak Republic thanks the Bulgarian, Austrian and Romanian Presidencies for the extensive work done during challenging but difficult negotiations on the Horizon Europe proposal.

We acknowledge that a significant progress has been made during negotiations on the Horizon Europe legislative package.

Slovak Republic welcomes the vision and principles of the Horizon Europe programme.

Our comments and proposals submitted during the negotiation process have been reflecting the expectations of Slovak research and development community towards the new programme. In this regard, we regret that due to the lack of political will we were not able to reach consensus ensuring fair and flexible remuneration for European scientists working on the same projects.

We are convinced that disparities in remuneration negatively affect motivation of researchers in low performing Member States to participate in the framework programme resulting in brain drain within and outside the Union.

Unfortunately, due to above mentioned outstanding issue we are not able to support the common understanding."

### Statements by the Commission

"- on Article 6(6)

Upon request, the Commission intends to exchange views with the responsible Committee in the European Parliament on:(i) the list of potential partnerships candidates based on the Articles 185 and 187 TFEU which will be covered by (inception) impact assessments; (ii) the list of tentative missions identified by the Mission boards; (iii )the results of the Strategic Plan before its formal adoption, and to present and share with that Committee documents related to work programmes.

- on defence

The Commission takes note of the compromise reached by the co-legislators on the wording of Article 5. In the Commission's understanding the specific programme on defence research mentioned in Article 1(3)(b) is limited only to the research actions under the future European Defence Fund while the development actions are considered outside the scope of this Regulation.

- on support to small- and medium-sized enterprises

The Commission intends to implement the EIC Accelerator budget in a way to ensure that the grant-only support to SMEs, including start-ups, corresponds to the support provided under the SME instrument budget of the Horizon 2020 Programme, in accordance with the terms established in Article 43, paragraph and recital [X] of the Horizon Europe Regulation."

## **Employment and Social Policy**

5. Revision of Regulations on coordination of social security systems (883/04 and 987/09) 7698/19  
*Analysis of the final compromise text with a view to agreement* + ADD 1 REV 1

The Committee agreed to revert to this item.

## **Telecommunications**

6. Regulation establishing the European Cybersecurity Competence Centre and the Network of Coordination Centres 7616/19  
*Presidency debriefing on the outcome of the trilogue*  
*Preparation for the trilogue*

The Committee took note of the information provided by the Presidency on the outcome of the trilogue of 20 March 2019.

**Internal Market and Industry**

7. Directive on the modernisation of EU consumer protection rules 7697/19  
*Presidency debriefing on the outcome of the trilogue* + COR 1 + COR 2  
*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 21 March 2019. The Committee endorsed the text of the final compromise, with the Polish delegation abstaining. The Committee 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.

Statement by Austria

"Austria supports the aim of the proposed Directive as far as it focuses on adapting consumer protection legislation to digital change. Nevertheless, Austria is committed to the principles of subsidiarity as well as Better Regulation and therefore opposes such premature legislative efforts. This particularly applies to new provisions in the area of dual quality of goods. The European Commission has not presented an impact assessment in this respect, nor has the Joint Research Centre made available any test results. Austria therefore considers a legal provision to be premature and expects that the evaluation is without prejudging the outcome. In addition, when deciding on the proposed Directive, Austria assumes that Member States are not required to establish new enforcement systems based on the proposed provisions in the Directive."

Statement by Denmark

"Denmark welcomes the solution found concerning resale of tickets, following the political agreement on a final compromise text aiming at modernising EU consumer protection rules.

In Denmark's view, high consumer protection in connection with resale of tickets is an important priority, as it contributes to protecting and promoting broad access of citizens to cultural and sports events. Ticket resale is often carried out through online digital platforms thus underlining its significant cross border nature. Misleading and unfair practices in this context should therefore be addressed at a European level.

Regarding the final compromise text of point 23a in Annex I of Directive 2005/29/EC and its corresponding recital it is Denmark's understanding that it will be possible for Member States to maintain and develop any further reaching national measures concerning resale of tickets to cultural and sports events with a view to securing high consumer protection at national level."

8. Regulation on general safety of vehicles 7673/19  
*Presidency briefing 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 25 March 2019. 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.

Statement by Germany

"The German side considers it irresponsible that safety systems in motor vehicles will only be required by law 30 months after the present regulation has entered into force. Every day, vulnerable road users die on European roads, above all cyclists and pedestrians. These casualties can be significantly reduced if such systems are implemented earlier. Earlier implementation of blind spot information systems and reversing detection systems as well as emergency stop signals is possible and can be delivered. The basic technical requirements for these systems have already been or are about to be harmonised at international level."

Statement by the Commission

"The Commission is of the opinion that, in view of road safety, consumer protection, reduction of waste and the circular economy, it is important that tyres are not only tested in new, but also in worn condition. To this effect, the Commission will support the development of appropriate testing protocols in the context of the United Nations world forum for the harmonization of vehicle regulations. If this process is however not finalised by July 2023, the Commission intends to propose EU legislation that specifically covers testing of tyres in worn condition."

**Employment and Social Policy**

9. Regulation on European Social Statistics 6618/19 + ADD 1  
*Presidency briefing 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 26 March 2019. 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.

Statement by the Commission

"To ensure coherence and comparability of European social statistics, the Commission will reinforce cooperation with Union Agencies in line with article 13(2) and the related recitals (6aa and 20a). This will include reinforced cooperation on statistical techniques, methodology, quality, new instruments and data sources."

5. (continuation) Revision of Regulations on coordination of social security systems (883/04 and 987/09) 7698/19  
*Analysis of the final compromise text with a view to agreement* + ADD 1 REV 1

The Committee did not endorse the text of the final compromise.

## COREPER (PART 2)

WEDNESDAY 27 MARCH 2019

### General Affairs

26. IIA on Better Law-Making – International agreements  
*Debriefing*  
*Guidance for further work*

The Committee took note of the information provided by the Presidency and provided guidance for further work.

27. Meeting of the Council (General Affairs) on 19 March 2019:  
Follow-up

The Committee took note of the main outcomes of the Council meeting. The German delegation recalled that, if the IPA III proposal were to be adopted in the form of the partial general approach agreed at the Council, it would need to abstain.

#### Statement by the Council

"The Council regrets that, despite the efforts of the Presidency, the Council is expected to break with the good practice followed in recent years regarding the examination of draft country specific recommendations, due to the timetable adopted by the Commission.

The practice followed in recent years has allowed the Council and the relevant committees to examine the CSRs thoroughly, while permitting the European Council to knowingly endorse the CSRs.

This practice has allowed for good ownership by governments.

The break with this good practice cannot, in any circumstances, constitute a precedent."

28. European Council follow-up  
*State of play*

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

29. Meeting of the Council (General Affairs) on 9 April 2019:  
Preparation  
Other items in connection with the Council meeting

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

30. Relations with the EP (March I 2019)  
*Debriefing*

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

## **Justice and Home Affairs**

31. Appointment of the European Chief Prosecutor 7754/19  
*State of play*

The Committee took note of the information provided by the trio of ambassadors and agreed to release document 6419/19 to the European Parliament.

32. Asylum Procedure Regulation 7708/19 + ADD 1  
*State of play and guidance for further work*

The Committee took note of the state of play and provided guidance for further work.

## **Foreign Affairs**

35. EU-China Summit (Brussels, 9 April 2019)  
*State of play*

The Committee discussed the state of play and agreed to return to this at its next session.

## **Justice and Home Affairs**

70. Regulation amending the European Border and Coast Guard Regulation  
*Information from the Presidency*

- a) Regulation amending the European Border and Coast Guard and EUROSUR Regulations
- b) Regulation amending the Joint Action 98/700/JHA on the FADO system

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

**MONDAY 1 APRIL 2019**

**Justice and Home Affairs**

70. Regulation amending the European Border and Coast Guard Regulation 7929/19 + COR 1  
*Confirmation of the final compromise text with a view to agreement*

The Committee endorsed the text of the final compromise, including the joint statement by the Council and the European Parliament, 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.

Statement by Poland

"Poland strongly disfavours the removal of provisions expanding the European Border and Coast Guard Agency's (Frontex) mandate regarding the support of return operations from third countries. Keeping in mind the need to reduce irregular migration in line with the comprehensive approach, which includes increased external action, as well as our obligation to prevent the loss of life at sea and to stop migrant smuggling and trafficking in persons, we are of the opinion that denying the Agency the possibility to support returns from third countries goes against our commitments expressed among others in the Council conclusions, adopted of 28 June 2018. This also makes the regulation less suited for tackling the challenges that we face and that we might face in the future.

Furthermore, Poland is concerned about the proposed capacity of the European Border and Coast Guard Standing Corps. We believe that the rapid development of the Corps may significantly impact the Member States capabilities, which can in effect weaken the security of the external borders, still being primarily the responsibility of those Member States. In Poland's opinion, the proposed regulation goes beyond the notion that the Agency's role is to support the Member States. The Standing Corps capacity should be developed gradually allowing for a parallel development of national capabilities."

Statement by Slovenia

"The Republic of Slovenia has always considered the control of external borders to be a part of a comprehensive approach to managing migration in the EU. At the same time, strengthened control of external borders is one of the prerequisites to provide safety for EU citizens.

Therefore, the Republic of Slovenia supports a reinforced mandate of the European Border and Coast Guard Agency - Frontex in order to better complement Member States' efforts and to provide increased operational support when needed. Wider cooperation with third countries and assistance in all areas of border and migration management, including in support of return operations, is considered an integral part of this process.

We regret to note that the final text of the proposal/Regulation does not bring the desired added value.

By omitting the competence of the Agency to assist third countries in return procedures, the Agency loses the opportunity to play a prominent role in the area of migration management outside the EU. This would be of particular importance in view of the challenging migration situation in the Western Balkan region.

While recognising the need to reinforce the Agency's mandate, which will, as a result, require stronger commitments of Member States, Slovenia insists that these commitments should be based on objective criteria and on the principles of shared responsibility and proportionate burden sharing.

Therefore, the Republic of Slovenia calls for these issues to be readdressed in order to remedy the shortcomings identified."

#### Statement of the Commission on the attractiveness of the European and Coast Guard Agency as employer

"Acknowledging the challenges faced by the EBCG Agency in the coming years to fulfil the exceptional needs for recruiting and retaining of qualified staff from the broadest possible geographical basis in the view of building up the Agency's Standing Corps, and considering the substantial mobility of these staff members and the need to ensure equal treatment among them, the Commission proposed concrete arrangements. These proposed arrangements were of a temporary nature and subject to a review clause, in order to assess their contribution to the objectives pursued and to take account of other ongoing processes having an impact on staff remuneration, including the continuous monitoring and improvement of the statistical methodology used to calculate correction coefficients under Annex XI to the Staff Regulations.

In this context, while taking note of the joint statement by the European Parliament and the Council the Commission strongly regrets that the Co-legislators decided not to retain its proposal to allow the Agency's Management Board to temporarily grant a monthly differential payment to the statutory staff members. The Commission believes that this decision may be detrimental to the attractiveness of the Agency as employer and to create optimal conditions for the timely recruitment of statutory staff as a prerequisite for the swift establishment of the standing corps in coming years.

Moreover, in response to the joint statement by the European Parliament and the Council, the Commission notes that it has neither obligation nor intention at this stage to present any proposal for the revision of the Staff Regulations.

The Commission notes that the co-legislators recently amended the rules for updating remuneration and pensions under Annex XI to the Staff Regulations and included a clear timeline for a possible subsequent review, on the basis of a report to be submitted by the Commission in 2022. The Commission believes that the latter report should provide an opportunity to assess the existing system and notably its impact on the attractiveness of EU institutions and agencies as employers. The Commission also notes that, within the existing legislative framework, Eurostat and national statistical institutes have initiated discussions on the possibility to update the statistical methodology of correction coefficient calculation in order to take into account expenditure incurred outside the place of employment."

**Justice and Home Affairs**

74. (poss.) Amending Regulation 2018/1806 to prepare for Brexit - visa 6114/19  
*Confirmation 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, the Council would approve the European Parliament's position and the act shall be adopted.

Statement by the United Kingdom

On Gibraltar in the context of EU provisions for visa-free travel into the Schengen area

"The United Kingdom (UK):

- welcomes the fact that this measure provides certainty for British nationals, including those in Gibraltar.
- rejects the way it has been presented and any characterisation of Gibraltar as a colony.
- is clear the Constitution of Gibraltar provides for a modern and mature relationship between the UK and Gibraltar. This is a political status which has been freely determined by the people of Gibraltar, and as such the referendum on that Constitution in 2006 represented an exercise of the right of self-determination.
- reiterates its certainty of its sovereignty over the whole of Gibraltar and rejects this instrument's characterisation of there being a 'controversy' over the 'sovereignty of Gibraltar' which is not its position and is inconsistent with statements made in any previous EU instrument.
- disagrees that the language should reference UN decisions in relation to Gibraltar which have nothing to do with the important issue of visa-free travel, while setting an unhelpful precedent for inappropriately 'importing' disagreements that belong in the UN space.
- notes furthermore that the language does not actually properly reflect the annual decisions of the UN General Assembly which are agreed with the consensus of the UK and Spain, the most recent of which is included below for reference\*.
- believes it would have been more appropriate to use language adapted from the draft Withdrawal Agreement's Gibraltar Protocol, which both the UK and EU (including Spain) have agreed to, "This is without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to sovereignty and jurisdiction".
- regrets that its approaches to Spain to develop more appropriate wording were not reciprocated."

\* Annual decision of the UN General Assembly (2018):

The General Assembly, recalling its decision 72/520 of 7 December 2017:

- (a) Urges the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland, while listening to the interests and aspirations of Gibraltar that are legitimate under international law, to reach, in the spirit of the Brussels Declaration of 27 November 1984, a definitive solution to the question of Gibraltar, in the light of the relevant resolutions of the General Assembly and applicable principles, and in the spirit of the Charter of the United Nations;

- (b) Takes note of the desire of the United Kingdom to continue with the trilateral Forum for Dialogue;
- (c) Takes note of the position of Spain that the trilateral Forum for Dialogue does not exist any longer and should be replaced with a new mechanism for local cooperation in which the people of the Campo de Gibraltar and Gibraltar are represented;
- (d) Welcomes the efforts made by all to resolve problems and advance in a spirit of trust and solidarity, in order to find common solutions and move forward in areas of mutual interest towards a relationship based on dialogue and cooperation.

#### **IV. Any other business**

##### **COREPER (PART 1)**

European Semester - updated roadmap  
*Information from the Presidency*

12451/2/18 REV 2

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

##### **COREPER (PART 2)**

Migration ("Caravan of hope")

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

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**"I" items approved****COREPER (PART 1)****WEDNESDAY 27 MARCH 2019****Institutional Affairs****Written questions**

- |     |  |                  |
|-----|--|------------------|
| 10. | Replies to questions for written answer submitted to the Council by Members of the European Parliament<br><i>Adoption by silence procedure</i> | 7774/19<br>PE-QE |
| a)  | Francisco José Millán Mon (PPE)<br>'Withdrawal of US troops from Syria'  | 7031/19          |
| b)  | Andrea Cozzolino (S&D)<br>'Migrants and their human rights'  | 6975/19          |
| c)  | John Stuart Agnew (ENF)<br>'Cross-Border Cooperation (CBC) with Russia'  | 6972/19          |
| d)  | John Stuart Agnew (ENF)<br>'Oversight of security agencies'  | 6970/19          |
| e)  | Matt Carthy (GUE/NGL)<br>'Mandate for a multilateral investment court'   | 6968/19          |
| f)  | Monika Beňová (S&D)<br>'Venezuela's interim president'   | 7030/19          |

**Appointments**

- |     |  |                |
|-----|--|----------------|
| 11. | One alternate member (DK) in the Advisory Committee for the Coordination of Social Security Systems<br><i>Adoption</i> | 7503/19<br>SOC |
|-----|--|----------------|

**Space**

- |     |   |                   |
|-----|---|-------------------|
| 12. | EU statement on the occasion of the 58th session of the Legal Subcommittee (LSC) of the United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) (Vienna, 1-12 April 2019)<br><i>Endorsement</i> | 7536/19<br>ESPACE |
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## **Culture/Audiovisual Matters**

13. Conclusions on an EU strategic approach to international cultural relations and a framework for action  
*Adoption* 7749/19  
CULT

## **Transport**

14. Council Decision authorising the opening of negotiations on an agreement between EU and each individual European Neighbourhood Policy South country for the extension of EGNOS  
*Adoption* 7701/19  
7050/19 + ADD 1  
TRANS
15. IMO: MSC 101 - FIRESAFE I and II studies and their results as a Formal Safety Assessment (FSA)  
*Endorsement* 7746/19  
MAR  
OMI

### **Statement by the Commission**

"The Commission considers that the above mentioned "Union submissions" to be submitted to the IMO are 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 IMO and should therefore be sent to the IMO by the Commission.

In the view of the Commission, the procedural arguments against presenting submissions to the IMO by the Commission on behalf of the EU are not convincing as there is no evidence to suggest that the IMO, as a specialized 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 and, consequently, that 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**

16. Regulation amending Regulation (EU) 2019/124 as regards certain fishing opportunities  
*Decision to use the written procedure for the adoption* 7719/19  
7277/19  
PECHE

## **Internal Market and Industry**

17. Regulation to prolong transitional use of means other than the electronic data-processing techniques provided for in the Union Customs Code (Article 278)  
*Adoption of the legislative act*
- 7631/1/19 REV 1  
7631/19 ADD 1-2  
PE-CONS 44/19  
UD

### Joint statement by Germany, Denmark and Spain

"The Federal Republic of Germany, Denmark and Spain attach considerable importance to the further implementation of the Union Customs Code and recognise that exceptionally great efforts had to be made to achieve a compromise. We are only able to agree to the proposal against this background. As regards content, however, we continue to have reservations and these have repeatedly been voiced by other Member States in the course of the negotiations.

The proposal provides for a period up to 31 December 2025 for certain systems to be developed by the EU, while the Member States must already have completed their national systems by 31 December 2022. This distinction will most probably lead to unnecessary costs for economic operators and customs authorities, as numerous adjustments to the national systems are likely on account of the close connection between the EU's and national systems. For the reasons set out above, the fact that different deadlines apply entails the specific risk that the Member States may not be able to carry out the adaptation of the national systems in due time."

18. Regulation on the import of cultural goods  
*Adoption of the legislative act*
- 7630/19  
PE-CONS 82/18  
UD

### Statement by the Commission

"The Commission's proposal allowed for the possibility to set up an electronic system for the storage and the exchange of information between the authorities of the Member States and for the accomplishment of formalities by operators, in particular regarding importer statements and import licences. Given the necessary time to develop such an IT system, the Commission was of the view that a paper-based system would be a valid approach at least in the short term.

The Commission takes note of the position from the co-legislators to have such an IT system in place before the entry into application of the Regulation and would like to underline that this would defer the date from which the Regulation can become applicable by 6 years. Therefore the Commission welcome the early application of the general prohibition, as provisionally agreed by the co-legislators. That would allow the customs authorities to intervene when they receive intelligence about suspect shipments given the high political priority which the Union has given to the fight against terrorist financing.

The Commission also notes that, without a re-prioritisation of actions that might delay other essential IT developments, there is no sufficient available funding for this IT system in the current Customs 2020 programme.

Subject to the final agreement on the next Multiannual Financial Framework (MFF) and the financial provisions of the future Customs programme, sufficient funding could be made available under the aforementioned programme over the period 2021-2027, provided that the budget authorities give the necessary support. It is to be noted however, that the Commission cannot commit funds of the future MFF until such a final agreement is reached."

## Delegated or Implementing Acts

### **Internal Market and Industry**

19. Commission Regulation (EU) .../... of XXX amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards (3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl) silanetriol and TDFAs  
*Decision not to oppose adoption*
- 7637/19 + COR 1  
5561/19 + ADD 1  
COMPET

#### Statement by Germany

"Germany assumes that the German language version of the recitals will be changed as follows: In the first sentence of recital 3 the expression 'seinem Gutachten' is changed to 'seiner Stellungnahme'. In the last sentence of the same recital the expression 'gewerbliche Anwender' is changed to 'berufsmäßige Verwender'.

Furthermore, Germany assumes that in the article part under number 2 the expression '(Vernebler, Zerstäuber)' is added after 'Aerosolpackungen'. Number 3 is changed to 'Unbeschadet der Durchführung anderer Unionsvorschriften über die Einstufung, Verpackung und Kennzeichnung von Stoffen und Gemischen ist die Verpackung von Sprühprodukten, die wie in Absatz 1 aufgeführt (3,3,4,4,5,5,6,6,7,7,8,8,8-Tridecafluorooctyl)-silantriol und/oder TDFAs in Verbindung mit organischen Lösungsmitteln enthalten und zur berufsmäßigen Verwendung in Verkehr gebracht werden, deutlich lesbar und dauerhaft wie folgt zu kennzeichnen: 'nur für berufsmäßige Verwender' und 'Lebensgefahr bei Einatmen' mit dem Piktogramm GHS06.' In number 4 the expression 'gewerbliche Anwender geeignet' is changed to 'berufsmäßige Anwender bestimmt'. Under Number 5 'Aerosoltreibgas' is altered to 'Aerosoltreibmittel'."

20. Commission Regulation (EU) .../... of XXX amending, for the purpose of its adaptation to technical progress, the Annex to Regulation (EC) No 440/2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)  
*Decision not to oppose adoption*
- 7635/19  
6800/19 + ADD 1-2  
COMPET

### **Agriculture**

21. Commission Regulation (EU) .../... of XXX amending the Annex to Regulation (EU) No 579/2014 granting derogation from certain provisions of Annex II to Regulation (EC) No 852/2004 of the European Parliament and of the Council as regards the transport of liquid oils and fats by sea  
*Decision not to oppose adoption*
- 7681/19  
6924/19 + ADD 1  
AGRILEG

22. Commission Regulation (EU) .../... of XXX amending Annex I to Regulation (EC) No 1831/2003 of the European Parliament and of the Council as regards the establishment of two new functional groups of feed additives  
*Decision not to oppose adoption*

7682/19  
6860/19  
AGRILEG

### **Health**

23. Commission Regulation (EU) .../... of XXX correcting the French language version of Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food  
*Decision not to oppose adoption*

7667/19  
6952/19  
DENLEG

### **Energy**

24. Commission Regulation (EU) .../... of XXX laying down ecodesign requirements for household dishwashers pursuant to Directive 2009/125/EC of the European Parliament and of the Council amending Commission Regulation (EC) No 1275/2008 and repealing Commission Regulation (EU) No 1016/2010  
*Decision not to oppose adoption*

7625/19  
6376/19 + ADD 1  
ENER

25. Commission Regulation (EU) .../... of XXX laying down ecodesign requirements for external power supplies pursuant to Directive 2009/125/EC of the European Parliament and of the Council and repealing Commission Regulation (EC) No 278/2009  
*Decision not to oppose adoption*

7614/19  
6373/19 + ADD 1  
ENER

## **COREPER (PART 2)**

**WEDNESDAY 27 MARCH 2019**

### **Judicial Affairs**

36. Case C-122/19 P (HAMAS v. Council) 7568/19  
*Information note for the Permanent Representatives Committee* JUR  
*(Part 2)*
37. Cases before the EU General Court: 7776/19  
T-103/19 (Lambert Mende Omalanga v. Council) JUR  
T-110/19 (Jean-Claude Kazembe Musonda v. Council)  
T-111/19 (Évariste Boshab v. Council)  
T-112/19 (Roger Kibelisa Ngambasai v. Council)  
T-113/19 (Ilunga Kampete v. Council)  
T-116/19 (Alex Kande Mupompa v. Council)  
T-117/19 (Delphin Kahimbi Kasagwe v. Council)  
T-118/19 (Gabriel Amisi Kumba v. Council)  
T-119/19 (Kalev Mutondo v. Council)  
T-120/19 (John Numbi v. Council)  
T-121/19 (Éric Ruhorimbere v. Council)  
T-122/19 (Emmanuel Ramazani Shadary v. Council)  
T-123/19 (Célestin Kanyama v. Council)  
T-124/19 (Ferdinand Ilunga Luyoyo v. Council)  
*Information note for the Permanent Representatives Committee*  
*(Part 2)*

### **Economic and Financial Affairs**

33. Proposal for a Regulation of the European Parliament and of the 7781/19  
Council establishing the InvestEU Programme  
*Progress report*  
*Confirmation of the Common Understanding*

Joint Statement by Belgium, Denmark, Germany, Cyprus, Malta, the Netherlands, Austria, Finland and Sweden

"The issue regarding the duration of all MFF Programmes – as with InvestEU in Article 1 paragraph 3 – should be resolved horizontally within the negotiations on the MFF."

38. NPL Prudential backstop - Regulation 7628/19  
*Adoption of the legislative act* PE-CONS 2/19  
EF

39. Non performing loans Directive 7344/19 + ADD 1  
*Mandate for negotiations with the European Parliament* EF

Statement by the Czech Republic

"We appreciate the work done by AT PRES and RO PRES on the file. We understand the need to adopt the proposed file as soon as possible to address existing problems on the market. However, we believe that some amendments might be still needed in the proposal.

The fluent provision of cross-border services is crucial for the proposal. Therefore, the situation when a borrower moves to different Member State should be addressed. It is hardly acceptable that the credit servicer would have to cease the contact with the borrower until the whole procedure according to Art. 11 runs its course – at least 3 months. There is no specific reason to limit the credit servicing activities only on the fact that borrower changes his residence.

We believe that this issue could be easily addressed e.g. in a recital. Such solution could eliminate potential drawbacks of this Directive and clarify necessary procedures for effective functioning of the secondary markets."

Statement by Germany

"Germany abstains from voting for the general approach on the Directive of the European Parliament and of the Council on credit servicers, credit purchasers [and the recovery of collateral] (COM (2018) 0135).

DEU expresses the opinion that the inclusion of performing loans within the scope of the draft directive should be rejected from a consumer protection perspective, irrespective whether the activities concerned are those of a credit servicer or credit purchaser.

In addition, the draft directive should be also rejected because there are no sufficient grounds to justify restricting the possibility of authorization to legal persons with regard to the freedom to choose an occupation in Article 15 of the Charter of Fundamental Rights (Article 5 (1) (a) of the draft Directive). Similar concerns exist with regard to the provision of Article 7 (1) (c) of the draft Directive, which provides that authorization must be withdrawn if a credit service provider has not acted as such for six months. Also, the draft Directive does not take sufficient account of the fact that, in DEU, debt collectors are subject to professional provisions similar to those applicable to lawyers, but that, unlike lawyers, they are not excluded from the scope of the Directive."

Statement by Estonia on Article 13(1)

"Estonia agrees to the adoption of the mandate for negotiations with the European Parliament, but finds it important to stress that the obligation for credit institutions to disclose information about their credit agreements prior to the transfer of non-performing loans could in many cases be disproportionate to the transferor. Therefore, the use of standards for the provision of information to the acquirer should remain optional for the creditors."

40. Regulation on Sustainable Finance - disclosures 7571/19 + ADD 1  
*Confirmation of the final compromise text with a view to agreement* EF

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| 41. | Appointment of a new member of the Single Resolution Board<br><i>Adoption</i>  | 7492/19 + COR 1<br>5580/19<br>+ COR 1 (de)<br>+ COR 2<br>EF |
| 43. | Transfer No DEC 01/2019 (Section III - Commission)<br><i>Approval</i>  | 7592/19<br>FIN  |
| 44. | Transfer No DEC 05/2019 (Section III - Commission)<br><i>Approval</i>  | 7593/19<br>FIN  |
| 45. | Transfer No DEC 07/2019 (Section III - Commission)<br><i>Approval</i>  | 7594/19<br>FIN  |
| 46. | Transfer No DEC 08/2019 (Section III - Commission)<br><i>Approval</i>  | 7595/19<br>FIN  |
| 47. | 'Fiscalis' programme for cooperation in the field of taxation<br><i>Progress report</i><br><i>Confirmation of the Common Understanding</i> | 7825/19<br>FISC   |

Joint Statement by Denmark, Germany, Malta, the Netherlands, Austria and Finland

"The issue regarding the duration of all MFF Programmes – as with FISCALIS in Article 1 paragraph 2 – should be resolved horizontally within the negotiations on the MFF."

**General Affairs**

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| 48. | EP Resolutions and decisions (March I 2019)   | 7338/19<br>PE-RE                   |
| 49. | Reform of the Electoral Act<br><i>Approval of a letter</i>  | 7686/19<br>AG                      |
| 50. | Amendment of Protocol No 3 on the Statute of the Court of Justice of the European Union<br><i>Adoption of the legislative act</i> | 7601/19<br>PE-CONS 1/19<br>JUR     |
| 51. | Draft Amendments to the Rules of Procedure of the Court of Justice<br><i>Approval</i>   | 7599/19 + COR 1<br>+ COR 2<br>COUR |

## Justice and Home Affairs

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|-----|--|---|
| 52. | Status Agreement with Bosnia Herzegovina on actions carried out by EBCG Agency in Bosnia Herzegovina               | 7666/19<br>FRONT                            |
| a)  | Council Decision on the signing<br><i>Adoption</i>   | 7195/19<br>7196/19                          |
| b)  | Council Decision on the conclusion<br><i>Request for the consent of the European Parliament</i>                    | 7197/19                                     |
| 53. | Interoperability between EU information systems  | 7584/19                                     |
| a)  | Interoperability Regulation (borders and visa)   | COSI  |
| b)  | Interoperability Regulation (police and judicial cooperation, asylum and migration)<br><i>Approval of a letter</i> |   |
| 54. | European Parliament Special Committee on Terrorism: Letter to the chairman<br><i>Approval</i>                      | 7773/19<br>CT                               |
| 55. | Union Civil Protection Mechanism Decision<br><i>Decision to consult an institution or body</i>                     | 7611/19<br>PROCIV<br>INST                   |
| 56. | Non cash fraud Directive<br><i>Adoption of the legislative act</i>   | 7633/19 + ADD 1<br>PE-CONS 89/18<br>DROIPEN |

### Statement by the Czech Republic

"The Czech Republic supports the aim of the Directive of the European Parliament and of the Council on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA (hereinafter referred to as "the Directive") to strengthen the fight against criminal activities in the area of non-cash payment instruments. Nevertheless, the Czech Republic would like to highlight its concerns regarding Article 16 of the Directive on assistance and support to victims.

In our view, rights, support and protection of victims of crime are sufficiently and comprehensively covered by the Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime (hereinafter referred to as "Victims Directive"). The Victims Directive defines the term "*victim*" as a natural person.

However, under Article 16 of the Directive Member States shall provide assistance and support not only to natural persons but also to legal persons who have suffered harm as a result of any of the offences referred to in Articles 3 to 8 of the Directive, therefore requesting the Member States to ensure that legal persons aggrieved by criminal offences pursuant to this Directive are awarded the same level of protection as the natural persons.

It shall be noted that unlike natural persons who might also be regarded as particularly vulnerable (e.g. elderly people), legal persons have at least a minimum extent of proficiency, knowledge, experience and they are also supposed to be acquainted with possible risks related to their business activities. Therefore the Czech Republic considers that there is no need to provide legal persons with specific advice and information going beyond criminal proceedings, e.g. how to protect themselves against the negative consequences of the offences, such as reputational damage as this is typically the subject of civil proceedings.

Similarly, the obligation to provide legal persons with specific information without undue delay after their first contact with a competent authority seems unjustified and disproportionate. The Czech Republic considers that it would be sufficient to inform legal persons about their procedural rights in criminal proceedings, such as the right to receive information about the case, in accordance with national law.

The Czech Republic also considers an approach introduced by this Directive as a non-systematic and partial broadening of legal persons' rights and protection as it only applies to the criminal activity in the area of non-cash means of payment. If there is a need at EU level to regulate rights of legal persons who have suffered harm as a result of criminal offences, these rights should be regulated in a systematic way within a single general legal instrument. Moreover, the approach introduced by the Directive causes a terminological problem. The Czech Republic is of a view that the term "*victim*" should be used consistently within all EU legal instruments."

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| 57. | Council Decision on the ratification of amended Convention 108 on data protection<br><i>Adoption</i> | 7772/19<br>10923/18<br>DATAPROTECT |
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### **Foreign Affairs**

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| 58. | Council Decision on the conclusion of a Protocol to the Euro-Mediterranean agreement with Egypt to take account of the accession of the Republic of Croatia to the EU<br><i>Adoption</i> | 7748/19<br>10219/16<br>MAMA                      |
| 59. | Council Decision on the conclusion of the Third Protocol of the EU-Mexico Agreement to take account of the accession of Croatia to the EU<br><i>Adoption</i>                             | 7576/19<br>15383/17<br>COLAC                     |
| 60. | Council Decision on the conclusion of the Agreement establishing the EU-LAC International Foundation<br><i>Adoption</i>  | 7618/19 + COR 1<br>11342/16<br>11356/16<br>COLAC |
| 61. | Conclusions on EU Trust Fund for Africa (CoA SR No 32/2018)<br><i>Adoption</i>   | 7437/19<br>DEVGEN                                |

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| 62. | Authorisation for signing an Agreement between EFTA States and the United Kingdom following the withdrawal of the United Kingdom from the European Union<br><i>Decision to use the written procedure for the adoption</i>  | 7871/19<br>EEE                      |
| 63. | Council Decision concerning restrictive measures in view of the situation in Libya - review<br><i>Decision to use the written procedure for the adoption</i>   | 7381/19 + COR 1<br>7346/19<br>CORLX |
| 64. | Council Decision in support of activities of the Organisation for the Prohibition of Chemical Weapons (OPCW) in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction<br><i>Decision to use the written procedure for the adoption</i> | 7382/19<br>7032/19<br>CORLX         |
| 65. | EU action in support of UNVIM in Yemen - review<br><i>Approval</i>   | 7810/19<br>+ COR 1 REV 1<br>CORLX   |
| 71. | Council Decision on the extension of EU military operation in the Southern Central Mediterranean (EUNAVFOR MED operation SOPHIA)<br><i>Decision to use the written procedure for the adoption</i>  | 7902/19<br>7696/19<br>CORLX         |

**Other items**

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| 66. | Electronic distribution of C-UE/EU-C documents from DG HOME by Cortesy/CDM | 7329/19<br>CIS |
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## **MONDAY 1 APRIL 2019**

### **Economic and Financial Affairs**

42. Review of the European System of Financial Supervision (ESFS) 7940/19  
+ ADD 1 - ADD 3  
EF
- a) Regulation amending ESAs
  - b) Directive amending MiFID / Solvency II
  - c) Regulation amending ESRB
- Confirmation of the final compromise text with a view to agreement*

### **General Affairs**

72. Multiannual Financial Framework 2021-2027 7946/19  
CADREFIN  
Consolidation of progress achieved with the European Parliament  
*Approval of a letter*

### **Foreign Affairs**

73. European Union's position for the 16th EU-Azerbaijan Cooperation Council (Brussels, 4 April 2019) 7858/19 + COR 1  
COEST  
*Decision to use the written procedure for the adoption*
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