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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 5-6 October 2009

The meeting was chaired by Mr López Aguilar (S&D, ES).

I. Impact of the Lisbon Treaty in the Area of Freedom, Security and Justice

A representative of the Legal Service of the Parliament presented the changes introduced by the Lisbon Treaty on decision-making in the Area of Freedom, Security and Justice, mentioning inter alia the "communitarisation" of the Third Pillar, even though some specificities remained. He also underlined the importance of the Charter of Fundamental Rights and of the possible accession of the EU to the European Convention on Human Rights.

A representative of the Presidency of the Council stated that the accession of the EU to the European Convention on Human Rights would be one of the main features of the proposal for a Stockholm Programme.

A Commission representative stated that in the Commission, preparations were ongoing on an omnibus proposal intended to accompany the entry into force of the Lisbon Treaty.

Replying to a question by Mr Alvaro (ALDE, DE), the Commission representative stated that all third-pillar-proposals that had not been formally adopted and published at the moment of the entry into force of the Lisbon Treaty would be dropped, so that it would be necessary to make a new proposal.

II. Presentation of the reports to the Council and European Council on the EU Counter-Terrorism Strategy and on the implementation of the strategy and action plan to combat terrorism by the EU Counter-Terrorism Coordinator, Gilles de Kerchove

The follow-up discussion to the presentation by Mr de Kerchove in the LIBE meeting of 2-3 September 2009¹ centred on the sensitivity of profiling (Mr Moraes (S&D, UK) and Ms Ludford (ALDE, UK)), the need for an effective counter-radicalisation policy (Mr Moraes, Ms Jimenez-Becerill (EPP, ES)) and for aid for the victims of terrorism (Ms Jimenez-Becerill, Ms Ludford). Ms In 't Veld considered that Mr de Kerchove's report was excessively focused on Islamist terrorism, Mr Jauregui (S&D, ES) regretted that the ETA was portrayed as a separatist organisation rather than as a terrorist group.

¹ doc. 13181/09

Mr de Kerchove replied that cooperation with the Fundamental Rights Agency could be envisaged in order to avoid discrimination by profiling. Prevention was his top priority, but also a matter falling within Member States' competence. Nevertheless, six Member States were persuaded to take the lead in sharing experiences.

III. Joint debate:

a) Agency for the operational management of large-scale IT systems in the area of freedom, security and justice

2009/0089(COD)

b) Operational management of SIS II and VIS

2009/0090(CNS)

Rapporteur for a) and b): Carlos Coelho (EPP, PT)

The rapporteur strongly advocated the Commission proposal, which had been called for by the Parliament on several occasions. But he expressed doubts as to whether Commission and Parliament should have different powers and responsibilities in the two proposals. He considered that some other points of detail had remained vague, concerning tasks and data protection rules. Mr Coelho was in favour of creating a new agency and expressed the hope that a first-reading agreement would be reached with the Council.

A Commission representative welcomed the report, stating that the impact analysis had shown that no savings could be achieved by giving the tasks to an existing agency because of the level of expertise and the investments necessary.

A representative of the Presidency of the Council expressed his satisfaction at the large degree of consensus between the institutions on this dossier.

During the discussion, several speakers expressed concerns about data protection, in particular concerning a possible linking of the various databases (Mr Alvaro (ALDE, DE) and Mr Albrecht (Greens/EFA, DE)) and suggested limiting the scope and aim of the system (Ms Ernst (GUE/NGL,

DE) and Mr Diaz de Mera (S&D, ES)). Mr Alvaro regretted that Estonia had been chosen as a location for the Agency.

The Commission representative replied that at the moment, no interoperability was foreseen. New pilot projects could not be introduced by the Agency, but only following political input from the Parliament and the Council.

The representative of the Presidency of the Council stated that the location of the Agency had not been defined yet; he did not expect this to happen during the Swedish Presidency.

c) Public access to European Parliament, Council and Commission documents

2008/0090(COD)

Rapporteur: Michael Cashman (S&D, UK)

The rapporteur recalled that the Parliament had already voted amendments to the Commission proposal, but had not yet concluded the first reading. He considered that it was now urgent to move forward, in order to prepare the entry into force of the Lisbon Treaty.

A representative of the Presidency of the Council noted that transparency, and in particular access to documents, was a priority for the Swedish Presidency. He informed that the Council had recently finished a thorough article-by-article examination and had also discussed some of the amendments of the European Parliament. He added that a common position had not been adopted yet, given that it had been decided to postpone discussions until the position of the European Parliament was better known.

A Commission representative stated that the Commission considered that its present proposal was still the right basis for discussions. Concerning the Lisbon Treaty, the preparatory work on legal adjustments was ongoing, with a view to the preparation of an omnibus proposal when the Treaty came into force.

During the discussion, Ms Sommer (EPP, DE) expressed doubts about the amendments voted by the Parliament and suggested repeating the first reading; she raised the question of whether the entry into force of the Lisbon Treaty should be awaited before starting the second reading of the proposal.

Other speakers (Ms Hautala (Greens/EFA, FI), Mr De Jong (GUE/NGL, NL) and Ms Alfano (ALDE, IT) disagreed with Ms Sommer and supported the approach taken by the rapporteur.

A representative of the Parliament's Legal Service stated that there was no need to approve again the amendments made; he suggested entering high level dialogues.

The rapporteur agreed with the latter suggestion and proposed tabling an oral question with debate in parallel for the November plenary.

IV. List of third countries whose nationals are subject to or exempt from a visa requirement when crossing the external borders

2009/0104(CNS)

Rapporteur: Tanja Fajon (S&D, SI)

The rapporteur stated that the AFET Committee had by a large majority adopted the opinion of Ms Ludford , suggesting the inclusion of Bosnia and Albania on the white list, to become effective only when the benchmarks were met. This would avoid loss of time in reviewing the legislation. Furthermore, a solution also had to be found for Kosovo.

A Commission representative confirmed that Bosnia and Albania had made significant progress; the Commission was currently evaluating this and would then proceed to verifications on the ground.

During the discussion, Ms Corazza Bildt (EPP, SE) agreed on the need to accelerate the process, but preferred the Commission proposal not to include Bosnia and Albania. Most other speakers, including Ms Göncz (S&D, HU), Ms Ludford (ALDE, UK) and Ms Ernst (GUE/NGL) supported the position of the rapporteur. Ms Ludford recalled that her draft opinion in AFET had received broad support even from the EPP group. Ms Hohlmeier (EPP, DE) agreed with Ms Corazza Bildt, considering that the solution proposed by the rapporteur was legally problematic.

A Commission representative considered that the Commission proposal took account of the needs of the region. Concerning Kosovo, she stated that the Commission intended to present a tailor-made approach on how to move forward.

Timetable:

Deadline for tabling amendments: 6 October 2009

Vote in committee: 12 October 2009

V. Establishment of a European Asylum Support Office

2009/0027(COD)

Rapporteur: Jean Lambert (Greens/EFA, UK)

The rapporteur stated that the first informal trialogue had made clear the points of disagreement with the Council, in particular the role of the Parliament, but also the inclusion of civil society in the work of the Office. Furthermore, she regretted that the Council insisted on the voluntary character of all solidarity mechanisms. Ms Lambert considered that progress was possible.

A Commission representative welcomed the constructive atmosphere and agreed with the rapporteur that there were still essential points to be discussed.

A representative of the Presidency of the Council agreed that the involvement of the European Parliament was a key issue. He also admitted that civil society had an important role to play; for both issues it was necessary to look at ways of materialising this. Concerning solidarity, he stated that it should be seen in a broader context, including the European Refugee Fund and the Dublin Regulation.

During the debate, all speakers supported the creation of the Office. Mr Busuttil (EPP, MT) invited his colleagues to make an effort to reach a compromise in order to accelerate the establishment of the agency, while Mr Tavares (GUE/NGL, PT) preferred not to hurry but to insist on obligatory solidarity, on the role of the Parliament in the appointment of the executive Director and on the possibility of international cooperation. The importance of the latter point was also stressed by Mr Michel (ALDE, BE) and Mr Borghezio (EFD, IT).

VI. Minimum standards for the reception of asylum seekers (recast version)

2008/0244(COD)

Rapporteur: Antonio Masip Hidalgo (S&D, ES)

A representative of the Presidency of the Council reported that the presidency was working hard to make progress. At the moment, the Council was still far from having any common opinion, even for informal negotiations.

VII. Application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast version)

2008/0243(COD)

Rapporteur: Jeanine Hennis-Plasschaert (ALDE, NL)

The rapporteur welcomed the fact that the Commission supported efforts to arrive at a more effective system than the present one, considering the suspension of transfers to be particularly important. She considered that solidarity should be treated in a wider context, throughout the whole asylum package, and doubted that it could be achieved on a voluntary basis.

A representative of the Presidency of the Council stated that the proposal was discussed intensively in the Council, solidarity being one of the main issues. But it was also dealt with in other areas, so that an appropriate balance should be achieved. An excessive application of the suspension of transfers risked jeopardising the integrity of the European asylum system.

A Commission representative welcomed the Parliament's support for the Commission proposal. He said in clarification that the suspension of transfers did not aim at transforming the Dublin Regulation into a solidarity mechanism, but only at correcting certain negative effects on some Member States.

During the Discussion, Mr Busuttil and Mr Diaz de Mera supported the position of the rapporteur, Mr Busuttil strongly expressing his disbelief in voluntary solidarity.

The rapporteur agreed on the latter point, considering that there had been a situation of over promise and under deliver ever since the Tampere Programme 1999.

VIII. Joint debate:

a) Establishment of 'Eurodac' for the comparison of fingerprints (recast version)

2008/0242(COD)

b) Requests for comparisons with EURODAC data by Member States' law enforcement authorities and Europol for law enforcement purposes

2009/0130(CNS)

Rapporteur for a) and b): Monica Luisa Macovei (PPE, RO)

The rapporteur recalled that the Parliament had adopted a legislative resolution on the Co-decision proposal in May, endorsing it with a number of amendments. Subsequently, a new text concerning access by law enforcement authorities to Eurodac databases had been submitted, with the result that the Commission and the Parliament's Legal Service considered a new first reading to be necessary.

The Commission representative agreed on the need for a re-examination.

During the debate, Ms Ludford and Mr Moraes expressed sceptical views and stressed the need to look at the detailed conditions for access; Ms In 't Veld and Mr Albrecht (Greens/EFA, DE) were more critical and recalled that at the time of the collection of the data, no such access had been intended. Furthermore, Ms In 't Veld suspected a link to the negotiations on a visa waiver with the US.

A representative of the Presidency of the Council stated that the Council had taken on board the bulk of the amendments made by the Parliament in May, but agreed that the access by law enforcement agencies shed a new light on the proposal. The Presidency was eager to make sure that personal data and privacy were respected.

IX. Joint debate:

(1) Communication from the Commission to the European Parliament and the Council on the establishment of a joint EU resettlement programme

COM(2009)0447

(2) European Refugee Fund for the period 2008 to 2013 (amendment of Decision No 573/2007/EC).

2009/0127(COD)

Rapporteur: Rui TAVARES (GUE/NGL, PT)

The rapporteur welcomed the proposal for a resettlement programme, but considered that it was not sufficiently ambitious, as other countries were more advanced on the issue, e.g. Canada, the US and even Brazil. He suggested a follow-up of the situation of the resettled persons in the Member States.

A Commission representative explained the motivation of the proposal as being firstly to express solidarity with those third countries who accommodated most refugees and secondly to establish a legal way for the most vulnerable refugees to reach Europe without resorting to illegal methods.

A representative of the Presidency of the Council agreed that the EU was far behind various countries with regard to resettlement programmes and expressed the willingness of the Presidency to proceed quickly.

During the debate, all speakers welcomed the proposal. Ms Ernst (GUE/NGL, DE) doubted whether the amount of EUR 4000 would be sufficient to incite Member States to participate and expressed concerns that the money would be taken away from the other objectives of the European Refugee Fund; Ms Keller (Greens/EFA, DE) suggested an obligatory programme.

The Commission representative replied that previous experiences showed that a bonus could be effective in inciting Member States to accept refugees. The existing budget of the European Refugee Fund would be sufficient to cover its costs.

X. Convention on the use of information technology for customs purposes (CIS Convention)

2009/0803(CNS)

Rapporteur: Alexander Alvaro (ALDE, DE)

The rapporteur presented the amendments tabled, most of which corresponded to changes made by the Council. The other amendments focused on purpose limitation, notification of the European Parliament and limitations on the transfer of data. Concerning the supervisory authority, he preferred option 2 of the proposal, supervision by the European Data Protection Supervisor instead of a special supervision authority.

A representative of the Presidency of the Council stated that the Council also focused on data protection.

Timetable:

Deadline for tabling amendments: 16 October 2009

Vote in committee: 4 November 2009

Vote in plenary: 23 November 2009

XI. Adjustment of basic salaries and allowances applicable to Europol staff

2009/0805(CNS)

Rapporteur: Claude Moraes (S&D, UK)

The rapporteur described the proposal as a straightforward measure - in previous years, adjustments of salaries applicable to Europol staff had been used to obtain more transparency on Europol. As this was no longer necessary, no further problems were to be expected.

Timetable:

Deadline for tabling amendments: 7 October 2009

XII. VOTES

- a) Establishment of an evaluation mechanism to verify the application of the Schengen acquis**

2009/0033(CNS)

- b) Evaluation mechanism to monitor the application of the Schengen acquis**

2009/0032(CNS)

Rapporteur for a) and b): Carlos Coelho (PPE, PT)

Following the presentation by the rapporteur, the LIBE Committee rejected both proposals by a large majority.

XIII. Date and venue of the next meeting

8 October 2009 (joint committee meeting of LIBE, JURI and AFCO committees on the Stockholm programme) and 15 October 2009 in Brussels.