



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from : Presidency
to : COREPER

no. Initiative: PE-CONS 2/10 + ADD 1 + ADD 2
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Subject: Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Kingdom of Spain, the Republic of Estonia, the French Republic, the Republic of Hungary, the Italian Republic, the Republic of Poland, the Republic of Portugal, Romania, the Republic of Finland and the Kingdom of Sweden for a Directive of the European Parliament and of the Council on the European Protection Order
- Information by the Presidency on state of play

On 7 January 2010, COREPER took note of the presentation by Belgium, Bulgaria, Estonia, Spain, France, Italy, Hungary, Poland, Portugal, Romania, Finland and Sweden of an initiative for a Directive of the European Parliament and of the Council on the European protection order^{*}.

On 29 March 2010, UK notified the Council of its decision to participate in this instrument.

Discussions led throughout the Spanish Presidency have highlighted difficult issues regarding, in particular, the scope and the legal basis of the Directive.

^{*} 17513/09 COPEN 247 + COR 1 + ADD 1 REV 1 + ADD 2 REV 1

The Spanish Presidency proposed a compromise text to the Council on 4 June 2010^{*}. This text was supported by a large majority of delegations. 6 delegations opposed this compromise at the Council. The UK delegation, which had opted in to the instrument under Protocol No 21 to the Lisbon Treaty, indicated at that Council that it was not in a position to support the text. The European Commission objected to the solution proposed. The Spanish Presidency concluded that the text submitted to the Council of 4 June 2010 constituted a sufficient basis to start negotiations with the European Parliament. At the meeting of the Council, the Council Legal Service expressed itself on the position of the UK and on applicable voting rules.

On the side of the European Parliament, the two competent Committees (FEMM and LIBE) have held an orientation vote on 29 September 2010. This orientation vote aims at facilitating discussions with Council with a view to reaching, if possible, a first reading agreement. The Presidency informed the Council of this vote and of its result during its meeting of 8 October 2010.

From an institutional point of view, the Presidency has a duty to start discussions - be they formal or informal - with the European Parliament now that this orientation vote has taken place.

The Presidency intends to use as the starting point for the discussions with European Parliament the text submitted to the Council of 4 June 2010, since the work carried out during Spanish Presidency has shown that it is, at this stage, the only basis for a text which could, at the end of the procedure, be adopted by the Council. Efforts to find a broader support have not been successful.

JHA Counsellors have already met on 11 October to discuss amendments stemming from the orientation vote taken by the LIBE and FEMM committees on 29 October. The Working Party on Cooperation in Criminal Matters will discuss the file on 19 October. A first trilogue will then take place on 25 October.

The Presidency will try to make sufficient progress in view of the plenary meeting of the European Parliament of 13-16 December 2010 and will report continuously on the discussions to Coreper and other working bodies of the Council.

* 10384/10 COPEN 127 CODEC 498

At the end of discussions with the European Parliament the Presidency will assess the result of the discussions and report to Coreper/Council. At that point, delegations will be in a position to take a stance on any possible follow-up to be given, while fully taking account the text of the Treaties.

In that context, it will be necessary to take into account Article 3, paragraph 2 of protocol 21 to the Lisbon Treaty which provides that "*if after a reasonable period of time a measure referred to in paragraph 1 cannot be adopted with the United Kingdom or Ireland taking part, the Council may adopt such measure in accordance with Article 1 without the participation of the United Kingdom or Ireland*", and to assess its possible ramifications.

Coreper is invited to take note of the information provided by the Presidency.
