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European Union

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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Justice and Home Affairs)
7 and 8 October 2019

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MONDAY 7 OCTOBER 2019

1. Adoption of the agenda

The Council adopted the agenda set out in 12424/1/19 REV 1.

2. Approval of "A" items

a) Non-legislative list

12425/19

The Council adopted the "A" items listed in 12425/19 including COR and REV documents presented for adoption. Statements related to these items are set out in the Addendum.

For the following items the documents should read as follows:

EU positions for international negotiations

10. Council Decision on the EU position to be adopted in the WTO General Council to extend the CBERA waiver
Adoption
approved by Coreper, Part 2, on 02.10.2019
- ☐ 12116/1/19 REV 1
12117/19
+ COR 1 (pt)
WTO
12. Council Decision on the EU position on the extension of the EU-Morocco Action Plan 2013-2018
Adoption
approved by Coreper, Part 2, on 02.10.2019
- ☐ 12505/19 + COR 1
12181/19
+ COR 1 (hr)
MAMA
- b) Legislative list** (Public deliberation in accordance with Article 16(8) of the Treaty on European Union)
- 12427/1/19 REV 1**

Internal Market and Industry

- 1. Regulation on Union action following accession to the Geneva Act (Geographical Indications)**
- Adoption of the legislative act*
approved by Coreper, Part 1, on 02.10.2019
- ☐☐ 12464/19
+ ADD 1
+ ADD 2 REV 1
PE-CONS 74/19
PI

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Croatian and the United Kingdom delegations abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 207 TFEU). Statements related to this item are set out in the Annex.

Justice and Home Affairs

2. **Directive on whistleblowers** 🗳️ 12460/2/19 REV 2
Adoption of the legislative act
approved by Coreper, Part 2, on 02.10.2019 12460/19 ADD 1
REV 1
PE-CONS 78/19
FREMP

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the German and the United Kingdom delegations abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 16, 43(2), 50, 53(1), 91, 100, 114, 168(4), 169, 192(1) and 325(4) of the Treaty on the Functioning of the European Union (TFEU), and Article 31 of the Treaty establishing the European Atomic Energy Community (the Euratom Treaty)). Statements related to this item are set out in the Annex.

Transport

3. **Directive amending Directive 2008/96/EC on road infrastructure safety management** 🗳️ 12463/19 + ADD 1
Adoption of the legislative act
approved by Coreper, Part 1, on 02.10.2019 PE-CONS 69/19
+ REV 1 (lv)
TRANS

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 91(1) TFEU). Statements related to this item are set out in the Annex.

Employment and Social Policy

4. **Regulation on European Social Statistics** 🗳️ 12459/1/19 REV 1
Adoption of the legislative act
approved by Coreper, Part 1, on 02.10.2019 12459/19 ADD 1-2
PE-CONS 63/19
STATIS

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Czech, Hungarian, Slovakian and the United Kingdom delegations abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 338(1) TFEU). Statements related to this item are set out in the Annex.

Non-legislative activities

3. **EU Action against corruption** 12276/19 + COR 1
Exchange of views

The Council debated on the way forward in the area. The Presidency will issue a report on the outcome of the discussions.

4. **Eurojust: Strengthening fight against cross-border crime** 12285/19
a) **Conclusions on Eurojust**
Adoption
b) **Judicial counter-terrorism register**
Presentation by Eurojust

Eurojust gave a presentation on the register, upon which several delegations expressed their support.

5. e-evidence 12318/19 R-UE
a) Negotiations for EU US agreement on cross-border access to e-evidence
b) Negotiations on a second additional Protocol to the Budapest Convention
State of play

6. EPPO: Setting up of the European Public Prosecutors Office 12507/19
State of play

7. EU Accession to the ECHR: supplementary negotiating directives 12585/19 R-UE
Adoption

8. **Fundamental Rights**
a) Conclusions on the EU Charter of Fundamental Rights after 10 Years: State of play and future work 12357/19 + COR 1
Adoption

- b) **Fundamental Rights challenges in 2020 and beyond** 12352/19
Exchange of views with the Director of the Fundamental Rights Agency (FRA)

The Council held an exchange of views with the Director of the Fundamental Rights Agency (FRA) on the topic of fundamental rights challenges in 2020 and beyond on the basis of doc. 12352/19.

9. **Assessment of the Code of Conduct on Hate Speech on line** 12522/19 + COR 1
State of play

The Council took note of the assessment provided by the Commission of the progress achieved in the implementation of the Code of Conduct on countering illegal hate speech online since its signature in 2016 set out in docs. 12522/19 and 12522/19 + COR 1.

10. **Any other business** 12

- a) **Communication on Data Protection rules as a trust-enabler in the EU and beyond** 11535/19
Information from the Commission

The Commission informed Ministers on its recent communication taking stock of the functioning of the General Data Protection Regulation (GDPR) during its first year of application.

- b) **Conference on Advancing LGBTI Equality in the EU (Brussels, 23-24 September 2019)**
Information from the Commission

The Council took note of the information presented by the Commission regarding the conference on Advancing LGBTI Equality in the EU held in Brussels on 23 and 24 September 2019. The information from the Commission can be found in doc. 13238/19.

- c) **Conference on Democracy, Rule of Law and Fundamental Rights (Helsinki, 10-11 September 2019)** 12128/19
Information from the Presidency

The Council took note of the information presented by the Presidency on the conference on Democracy, Rule of Law and Fundamental Rights held in Helsinki on 10 and 11 September 2019. A summary of which can be found in doc. 12128/19.

Non-legislative activities

11. **Conclusions on combating the sexual abuse of children** ☐ 12326/19 + COR 1
Adoption
- The Council adopted the draft conclusions as set out in doc. 12326/19 + COR 1.
12. Counter-terrorism: Right-wing violent extremism and terrorism 12494/19
Policy debate
13. New technologies and Internal Security 12496/19
Policy debate
14. Hybrid threats and Internal Security 12495/19
Policy debate
15. Migration: State of play¹ 11860/1/19 REV 1
Exchange of views
16. Implementation of Interoperability 11847/19
Exchange of views 12429/19
17. Any other business
- a) Implementation of the future Regulation amending the European Border and Coast Guard Regulation
Information from the Presidency and the Commission
 - b) Partnership for Security and Stability in the Sahel (Initiative P3S)
Information by France
 - c) Potential prohibition on the use of metallic lead in ammunition
Information by the Czech Republic
 - d) Eastern Mediterranean Route - Initiative by Bulgaria, Cyprus and Greece
Information by Greece

☐ Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)

R-UE Document classified RESTREINT UE/EU RESTRICTED

¹ Exceptionally, in the presence of the Schengen Associated States.

Statements to the legislative "A" items set out in 12427/1/19 REV 1

Ad "A" item 1: **Regulation on Union action following accession to the Geneva Act (Geographical Indications)**
Adoption of the legislative act

STATEMENT BY THE COMMISSION
on the possible extension of EU geographical indication protection to non-agricultural products

"The Commission takes note of the European Parliament resolution of 6 October 2015 on the possible extension of EU geographical indication protection to non-agricultural products.

The Commission launched a study in November 2018 to get further economic and legal evidence on the protection of non-agricultural GIs within the Single Market, as a complement to a study of 2013, and to obtain further data on issues such as competitiveness, unfair competition, counterfeiting, consumer perceptions, costs/benefits as well as on the effectiveness of non-agricultural GI protection models in light of the proportionality principle.

In accordance with the principles of Better Regulation and to the commitments laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making, the Commission will examine the study as well as the report on the participation of the Union in the Geneva Act as referred to in the Article on monitoring and review of the Regulation on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications and consider any possible next steps."

STATEMENT BY THE COMMISSION
on the procedure set out in Article 11(3) of the Regulation

"The Commission notes that whilst the procedure set out in Article 11(3) of the Regulation is a legal necessity given the exclusive competence of the Union it can nevertheless state that in the context of the current EU acquis any such intervention of the Commission would be exceptional and duly justified. During consultations with a Member State, the Commission will make every effort in order to resolve together with the Member State any concerns in order to avoid the issuing of a negative opinion. The Commission notes that any negative opinion would be notified in writing to the Member State concerned and pursuant to Article 296 TFEU would state the reasons on which it was based. The Commission would further note that a negative opinion would not preclude the submission of a further application concerning the same appellation of origin, if the reasons for the negative opinion have been duly addressed thereafter or are no longer applicable."

STATEMENT BY GERMANY, FRANCE, PORTUGAL AND POLAND

"We support the European Union's planned accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (GIs), in order for it to properly exercise its exclusive competence for appellations of origin and geographical indications in the Lisbon system. Upon accession, the EU will undertake to recognise a protection system which covers non-agricultural products, too. It is therefore essential that designations for non-agricultural products be afforded protection in the EU as soon as possible. We ask the Commission to submit a proposal for a regulation to this effect shortly after the EU's accession to the Geneva Act."

STATEMENT BY DENMARK AND SWEDEN

"Denmark and Sweden support the objective of ensuring a high level of protection and enforcement of intellectual property rights, though the primary focus should be on the fundamental intellectual property rights. We are still not convinced as to the potential of the EU's accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications. Denmark and Sweden can however accept the present compromise proposal, as the proposal does not go beyond the scope of the current protection under EU law."

STATEMENT BY THE NETHERLANDS

"The Netherlands supports the European Union's planned accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (GIs), in order for it to properly exercise its exclusive competence for appellations of origin and geographical indications in the Lisbon system. The Netherlands accepts the present compromise proposal, as the proposal does not go beyond the scope of the current protection under EU law."

Ad "A" item 2: **Directive on whistleblowers *Adoption of the legislative act***

STATEMENT BY IRELAND

"Ireland welcomes the Directive on the protection of persons reporting on breaches of Union law, which will ensure a harmonised, cross-sectoral approach to whistle-blower protection across the EU. However, Ireland considers that any EU legislation in this area should properly reflect the differing legal bases that exist in the Treaties that underpin the material scope of the Directive. In this regard, Ireland agrees with the analysis of the Council Legal Service as set out in document 14620/18."

STATEMENT BY HUNGARY

"Hungary considers that the Directive on the protection of persons reporting on breaches of Union law, with a broad material scope covering several areas with different legal bases in the Treaties, should properly reflect all legal bases in accordance with the applicable rules. In this regard, Hungary fully shares the analysis of the Council Legal Service as set out in doc. 14620/18.

Hungary is of the view that the primary aim of the Directive is to protect reporting persons who acquired information on breaches in a work-related context, and any protection provided by the Directive for third persons other than the reporting person under its personal scope should be interpreted narrowly. Persons providing advice within the meaning of Article 20 are not covered by the personal scope of the Directive as set out in Article 4, and the Directive does not extend to their protection."

STATEMENT BY THE COMMISSION

"At the time of the review to be conducted in accordance with Article 27 of the Directive, the Commission will consider the possibility of proposing to extend its scope of application to certain acts based on Articles 153 TFEU and 157 TFEU, after consulting the social partners, where appropriate, in accordance with Article 154 TFEU."

Ad "A" item 3: **Directive amending Directive 2008/96/EC on road infrastructure safety management**
Adoption of the legislative act

STATEMENT BY THE COMMISSION

"The Commission considers that the procedure envisaged in Article 6c(3) of the final text obliging it to take into account the assessment of the expert group provided under Article 6c(2) when exercising its implementing powers, imposes on the Commission a mechanism of control which is not foreseen in Regulation (EU) n°182/2011. This procedure is also in contradiction with paragraph 30 of the Interinstitutional Agreement on Better Law-Making."

Ad "A" item 4: **Regulation on European Social Statistics**
Adoption of the legislative act

STATEMENT BY THE COMMISSION
with respect to Article 14(2) concerning the cooperation with the Union Agencies

"To ensure coherence and comparability of European social statistics, the Commission will reinforce cooperation with Union Agencies in line with Article 14(2) and the related recitals (12 and 33). This will include reinforced cooperation on statistical techniques, methodology, quality, new instruments and data sources."

STATEMENT BY THE CZECH REPUBLIC

"The Czech Republic supports the general aim of the IESS Regulation to make the data collection process more efficient and to improve the comparability and coherence of the data. But the Czech Republic remains convinced that the proposed addition of Article 6 is non-systematic since it separates two related subjects (the list and the names of variables on one hand and their description on the other hand). This leads to two different, difficult-to-coordinate legislative procedures and doubles the number of needed legislative acts for implementation of this Regulation.

The Czech Republic is convinced that the extension of scope of implementing regulation according to the provision in Article 7 can have a negative impact on capacity burden and costs of data collection.

The Czech Republic is of a strong opinion that the legal architecture should remain as it was concluded in the Council general approach.

Due to these reasons we cannot wholly embrace and support the compromise text and we will abstain from the vote."
