



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from: General Secretariat of the Council
to: Delegations
Subject: Summary record of the meeting of the European Parliament **Committee on Civil Liberties, Justice and Home Affairs (LIBE)**, held in Brussels on 11 October 2012

The meeting was chaired by Mr LÓPEZ AGUILAR (S&D, ES).

Items 1 and 2 on the agenda
Chair's announcements

The agenda was adopted.

The following items were postponed to the next meeting:

- *Item 4 on the agenda*

Exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles 2020' programme)

- *Item 7 on the agenda (VOTE)*

Multiannual Framework for the EU Agency for Fundamental Rights for 2013-2017
LIBE/7/08223
Rapporteur: Ms ŽDANOKA (Greens/EFA, LV)

- *Item 9 on the agenda (VOTE)*

The situation of fundamental rights in the European Union (2010 - 2011)

LIBE/7/05797

Rapporteur: Ms FLAŠÍKOVÁ BEŇOVÁ (S&D, SK)

Nomination of Rapporteurs

- Mr Marian-Jean MARINESCU (EPP) has been nominated Rapporteur on the report "Agreement between the EU and Moldova on the facilitation of the issuance of visas"
- Mr Claude MORAES (S&D) has been nominated Rapporteur on the report "Agreement between the EU and Ukraine on the facilitation of the issuance of visa"
- Mr LÓPEZ AGUILAR as a Rapporteur for the report on "Fight against fraud to the Union's financial interests by means of criminal law"

Nomination of Draftspersons

- Mr Petru Constantin LUHAN (EPP) has been nominated Draftsperson on the opinion "Key information documents for investment products".

- Item 8 on the agenda

Migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) (recast) (VOTE)

LIBE/7/09446

Mr LÓPEZ AGUILAR announced that the vote needed to be postponed as the Council had sent two texts resulting from its splitting of the proposal into two parts. Mr COELHO (EPP, PT), rapporteur, recalled that since amendments had been tabled to strengthen data protection, they needed to be technically adapted to the two new texts. In order to allow MS to take advantage of the budget line in support of the scheme, he invited the Committee to agree on the simplified procedure provided for in Rule 46 of the EP Rules of Procedure for the adoption of the report. The proposal was accepted by a unanimous vote.

The Council Presidency welcomed the decision to apply the simplified procedure and gave assurance that the proposed amendments would be taken into due account.

Item 5 on the agenda

Frontex - Rescue measures of migrants at sea in Frontex operations

LIBE/7/10799

- Presentation by Mr. LAITINEN, Director

Mr LÓPEZ AGUILAR recalled that on 3 September the LIBE Committee had adopted an amendment to the 2013 budget of Frontex, putting almost EUR 10 million of its operational budget in reserve, until the Frontex Director presented to the EP the practical steps taken by the Agency to guarantee the implementation of measures to rescue migrants at sea in Frontex operations in line with the Agency's obligations included in its new mandate. Although the amendment was not adopted in the BUDG Committee, LIBE considered it important for Mr LAITINEN to present the information to the LIBE Committee.

Mr LAITINEN recalled the dramatic shift of illegal migration from external land to sea borders since August this year and the importance for Frontex to be able to plan its operational activities on the basis of a 2013 budget without reservations on operational expenditure. After providing some data showing that Frontex was very active in the sea rescue operations (247 cases in 2011 involving 33.000 persons), he stressed the fact that 90 % of the accidents involving unsafe boats worldwide occurred when Frontex had planned an operation. Concerning the management of the operation, he mentioned the three phases of its deployment. Firstly, the planning (area, timing, etc.) of the operation had to be determined by applying Risk Analysis methodology, which was a key factor as regards Search and Rescue (SAR) activities; secondly, the operational plan had to include detailed provisions concerning the number and role of the participants in the operation, as well as a standard clause regarding possible Search and Rescue operations; in this context, he mentioned the challenge represented by the fact that in some MS the National Coordination Centres for Search and Rescue are not the same authorities involved in Frontex operations, and that made coordination between the different bodies of utmost importance. Thirdly, he mentioned the screening of the type of equipment (vessels and/or aircraft) to be used in Frontex operations and stressed the importance of the training crews in line with the IMO standards, stating that Frontex had developed a specific training module on Search and Rescue. Mr LAITINEN also stressed the importance of interagency cooperation between, in particular, Frontex, national agencies, the EU Fishery Control Agency and the EU Satellite Centre and mentioned the signature of a working arrangement with EASO on 26 September this year. In this context, he also referred to an EU coastguard function that was being

developed. He also recalled that a Frontex Fundamental Rights Officer had been appointed and that she would take office on 15 December 2012. He added that the Consultative Forum for Fundamental Rights would hold its first official meeting on 16 October 2012. Finally, Mr LAITINEN highlighted the importance of strengthening cooperation with the Fundamental Rights Agency and with EUROSUR, with a view to enhancing Frontex capacity to rescue human lives. As regards possible further measures to improve Search and Rescue activities in the context of Frontex operations, Mr LAITINEN referred to the harmonisation of the definition of "distress" across MS, to a more precise division of tasks among the different leaders and to better capacity of third countries involved in these activities. Mr LAITINEN replied to Mr BUSUTTIL (EPP, MT), who had inquired about the purchase of new equipment by Frontex, that the issue would be addressed after a bilateral meeting with MS next month. Indeed, it was to be agreed how MS would contribute to Frontex equipment under its new mandate, and he quoted the example of Iceland, which had placed some vessels at the disposal of Frontex. Concerning the ECJ case law annulling the guidelines for Frontex operations at sea, he recalled that they would still be applicable until a new legal instrument was adopted and added that so far no contact had been made with the Commission on the issue, indicating that in the meantime Frontex would not make any changes as regards its maritime operations, as the core principles were already in place. As Ms GUILLAUME (S&D, FR) expressed some doubts on the notion of probability, Mr LAITINEN insisted that Frontex operations regularly came across unsafe boats. He told Ms KELLER (GREENS, DE) that vessels were equipped for rescuing people; the Commission representative told her that a change of mandate of Frontex to focus on rescue was not possible on the basis of the current Treaties. In reply to Mr MULDER (ALDE, NL) who inquired about the ultimate responsibility for rescuing people in distress, Mr LAITINEN stated that responsibility both for border control and for Search and Rescue lay with MS and that therefore it was up to national authorities to decide where rescued people should be taken (KELLER), whereas the role of Frontex was to promote best practices and a positive outcome of the operations. He also agreed with Ms GRIESBECK (ALDE, FR) on the difficult situation following the Arab spring, in particular in Libya, but regretted that Frontex had had to withdraw because of the war. He agreed with Ms SARGENTINI (GREENS, NL) that

Frontex was not yet able to plan with the current state of the 2013 budget. The Commission representative told Mr PAPANIKOLAU (EPP, EL) that EUR 4.5 million was intended for emergencies in the Mediterranean, and most likely to be committed to the Syrian emergency. Finally, Mr LAITINEN gave some details of an accident involving a Turkish and a Greek vessel on 26 September 2012 to Mr PAPANIKOLAU.

Item 6 on the agenda

EU Charter: Standard settings for Media Freedom across the EU

LIBE/7/07291

Rapporteur: Ms WEBER (ALDE, RO)

- Consideration of draft report and of the Media Study

Mr LÓPEZ AGUILAR invited Mr SCHEUER from the Institute of European Media Law to present the findings of the study requested by LIBE and entitled 'The Citizens' Right to Information - Law and Policy in the EU and its Member States. Mr SCHEUER, after recalling that the 610 pages of the report could be found on the Committee website, gave some information on the methodology that had been followed, stating in particular that developments at EU level as from 2004 had been taken into account through questionnaires submitted to national experts.

The survey revealed media concentrations in some MS, both for press and broadcast media. In general, the legal framework in MS provided for media to be independent, although feedback to the supervisory authority needed to be improved. Online activities were also critical and provisions very seldom focused on positive tasks, such as reporting or public value. Further deficiencies emerged in practice. Broadcasters had difficulties in accessing frequencies and distribution of the press was also subject to concentration. The EU public was in general not aware of who owned the media, even if this was key. The media also suffered from commercial pressure. The report considered that the State was the ultimate provider of diversity and that media needed to be independent. Nevertheless, such measures were mainly to be provided at national level, in order to respect subsidiarity. Mr SCHEUER also referred to the need to balance economic and competition provisions at EU level with the freedom and pluralism of the media. Moreover, a *modus vivendi* had to be found with the Council of Europe, in order to ensure that the EU could complement action to ensure freedom of expression and information.

Ms WEBER welcomed the report and considered that many of its recommendations would be inserted in her draft report through amendments. She insisted on the need for the EU legislator to ensure the freedom and pluralism of the media, as provided for by Article 11 of the Charter of Fundamental Rights (the Charter). She warned against practices in some MS that abused the independence of the media through financing or through misuse of provisions on national security or even by infiltrating secret agents into the media. Transparency of the owners of the media was also key. In her view, Articles 2 and 7 of the TEU in conjunction with Article 11 of the Charter gave sufficient competence for the EU to act, with some limits. Mr BUSUTTIL inquired about the limits of the EU legislation in this area and doubted in particular that a legal basis was provided in the Treaties to allow the Commission to propose a legislative initiative concerning media freedom, pluralism and concentration, or to institutionalise EU-level cooperation and coordination on the media. Ms GÖNCZ (S&D, HU) considered that an ongoing citizens' initiative on media could be the benchmark to check if the Commission had competence in this area and proposed, moreover, to ask the opinion of the Legal Service. Ms in 't VELD (ALDE, NL) disagreed that a sufficient legal basis was already provided in the Treaties and suggested introducing it in a future reform of the Treaties. Ms SARGENTINI stressed the importance of the media in protecting the financial interests of the EU and referred to a workshop organised by the CONT Committee on the deterrence of fraud with EU funds through investigative journalism and therefore expressed her support for a legislative initiative in favour of the media.

Mr de JONG (GUE, NL) considered that enough competence was conferred by the Treaties to allow the Commission to make a legislative proposal. He criticised the EU competition rules as, in his view, they were not supporting quality media. Public financial support to enhance media pluralism was, moreover, limited by the budgetary crisis. Mr ILCHEV (ALDE, BG) insisted on the concentration of the press that was enhanced by problems in distributing printed products. He considered that minimum, yet binding, requirements should be adopted at EU level.

Ms WEBER announced a hearing on 6 November on the subject.

- Deadline for tabling amendments: 8 November 2012, 12.00

*** *Electronic vote* ***

- Adoption of draft report

Item 10 on the agenda

The EU's mutual defence and solidarity clauses: political and operational dimensions

LIBE/7/10563

Rapporteur for the opinion: Mr BUSUTTIL (EPP, MT)

Rapporteur for the responsible committee (AFET) – Mr PAȘCU (S&D, RO)

- Adoption of draft opinion

The report was adopted, as amended, with 33 votes in favour, 3 against and 4 abstentions.

Item 11 on the agenda

Establishing programme "Europe for Citizens" for the period 2014-2020

LIBE/7/08257

Rapporteur for the opinion: Mr SÓGOR (EPP, RO)

Rapporteur for the responsible committee (CULT): Mr TAKKULA (ALDE, FI)

- Adoption of draft opinion

The report was adopted, as amended, with 40 votes in favour, 2 against and 1 abstention.

***** End of electronic vote *****

Item 12 on the agenda

European statistics on safety from crime

LIBE/7/06255

Rapporteur: Mr KIRKHOPE (ECR, UK)

- Consideration of draft report

Mr ASHWORTH (ECR, UK), replacing Mr KIRKHOPE, rapporteur, stated that in the light of the unconvincing arguments put forward in support of the Commission proposal, after extensive consultations with the shadow rapporteurs and on the basis of the decision of the majority of the political groups, a rejection of the legislative proposal was proposed. He criticised in particular the methodology adopted by the Commission and the expensive and complicated nature of the survey, and added that the Commission had failed to provide a clear justification for the indicated cost of EUR 12 million. All the shadow rapporteurs who took the floor agreed with this approach. The Commission representative stressed the importance of the availability of data concerning crime victims and disagreed with the conclusions reached in the Committee on methodology and costs. Concerning methodology, he emphasised the fact that most surveys adopted the same methodology that was criticised in LIBE and stressed the high qualifications of the experts consulted by the

Commission. Moreover, the methodology adopted was based on a UN manual of 2010. He also recalled that a qualified majority had supported the Commission proposal in the Council. He also put forward arguments to reject assertions of subjectivity and non-coherence of the proposal. Concerning costs, he recalled that the amount had been calculated on the basis of a survey involving a quarter of a million people and insisted that such figures justified the amount. The Council Presidency recalled the compromise reached within the Council on the proposal, albeit not yet at political level. The Presidency would now wait for the outcome in the Committee.

Deadline for tabling amendments: 16 October 2012

Item 13 on the agenda
Coordinators' meeting

The item was discussed in camera.

Item 14 on the agenda
Establishment of 'Eurodac' for the comparison of fingerprints (recast version)

LIBE/7/01143

Rapporteur: Ms MACOVEI (EPP, RO)

- Consideration of draft report

Mr VOSS (EPP, DE) presented the draft report on behalf of Ms MACOVEI (absent). He explained that the Commission's current proposal withdrew the 2010 proposal and replaced it with a new one in order to better take into account the Parliament's resolution and the results of negotiations at the Council, as well as to introduce the possibility for Member States' law enforcement authorities and Europol to access the EURODAC database for the purposes of fighting terrorist offences and other serious crimes. He recalled that it was necessary to include law enforcement access to EURODAC as part of the negotiations on the Common European Asylum System package, with a view to completing this package by the end of 2012. Mr VOSS noted that the rapporteur supported the Commission's proposal and had put forward some technical amendments (e.g. alignment to Lisbon Treaty provisions, references to the recast proposal on the Qualification Directive, internal references), as well as amendments aimed at providing clarifications of the text (e.g. more precise

terminology in Article 4, additions to the statistics section and clarification regarding the right to access to data). Mr VOSS also indicated that Ms Macovei had taken into account relevant remarks by the European Data Protection Supervisor.

The Commission representative indicated that the Commission was open to any suggested improvements to the text which could be acceptable to the Council. The Cyprus Presidency stressed the added value of the text and the Presidency's readiness to start trilogues on it in order to finalise the file. He noted that a majority had been reached for a mandate for negotiations.

Mr Peter HUSTINX, the European Data Protection Supervisor (EDPS), presented his - rather critical - opinion delivered in September. He noted that access to EURODAC for law enforcement purposes had a serious impact on personal data protection for the people whose data are stored in the EURODAC system. He insisted that the need for such access must be supported by clear and undeniable evidence, and it must be demonstrated that the processing is proportionate.

Mr HUSTINX considered that the evidence provided so far was not sufficient or up-to-date enough to demonstrate the necessity and proportionality of granting access to EURODAC for law enforcement purposes. The EDPS recommended that the Commission provide a new impact assessment in which all relevant policy options are considered, solid evidence and reliable statistics are provided and an assessment is made from a fundamental rights perspective.

During the debate, all participants supported Mr HUSTINX and expressed criticism of the text. Mr De JONG (GUE, NL) indicated that his political group would vote against the proposal.

Ms KELLER (GREENS, DE) considered that Europol had not provided evidence that asylum seekers were potential terrorists, and Baroness LUDFORD (ALDE, UK) also expressed several doubts, as did Mr AGUILAR on behalf of Mr MORALES (S&D, UK). Mr VOSS indicated the rapporteur's readiness to examine all amendments and proposals.

- Deadline for tabling amendments: 7 November

Item 15 on the agenda

Asylum and Migration Fund

LIBE/7/07977

Rapporteur: Ms GUILLAUME (S&D, FR)

- Consideration of amendments

The rapporteur Ms GUILLAUME (S&D, FR) presented the 120 amendments tabled. She stressed her very favourable approach to the Commission's proposal to establish an Asylum and Migration Fund which would provide improvements to help the Union achieve its strategic objectives and generate enhanced European added value. Therefore, she explained that the amendments she put forward were fully in line with the Commission's proposal to create a new more efficient, more flexible and more comprehensive financial instrument. However, Ms GUILLAUME underlined that, while the quest for simplification and flexibility was a positive step, the proposal had to be improved by amendments aiming *inter alia* to establish a more results-oriented approach, to clarify the link between the various instruments relating to asylum, to guarantee a fair distribution of the funds, to provide a better framework for the external dimension, as well as to promote clearer and more detailed implementation rules for relocation. She noted that she was able to support the majority of amendments tabled, including the addition of Article 80 TFEU as a legal basis.

The Commission representative analysed the amendments tabled in detail and indicated several amendments which would be not acceptable for the Commission at this stage, e.g. on Article 80, on relocation etc. The Cyprus Presidency informed the meeting that it would ask for a negotiation mandate in November in order to make progress on the dossier.

The shadow rapporteur Mr PAPANIKOLAU (EPP, EL) informed the meeting that all political groups were in favour of the rapporteur's approach.

- Orientation vote LIBE: 26 November

Item 16 on the agenda

Establishing the European Border Surveillance System (EUROSUR)

LIBE/7/08227

Rapporteur: Mr MULDER (ALDE, NL)

- Consideration of amendments

Mr MULDER (ALDE, NL) informed the meeting that 280 amendments had been tabled and indicated that he could support the majority of them. He insisted on the issue of personal data protection and considered that such data should be exchanged and processed through EUROSUR only when necessary, in duly justified cases and with the appropriate safeguards. He also considered that no personal data should be exchanged with third countries. Mr MULDER also supported the possibility of the UK and Ireland participating in EUROSUR, on the basis of bilateral or multilateral agreements between these countries and one or several neighbouring Member States.

The Commission representative underlined that all three EUROSUR objectives - to protect migrants' lives, to prevent irregular migration and to fight cross-border crime - should be achieved, with no preference for one over the others. The Cyprus Presidency informed the meeting that efforts were being made to advance the file and that the Presidency would be able to receive a negotiation mandate from COREPER in the next few weeks.

During the exchange of views, all speakers mentioned the issue of personal data protection and supported the rapporteur's proposal that these data should not be exchanged with third countries (Mr SCURRIA (EPP, IT), Mr ENCIU (S&D, RO), Ms KELLER (GREENS, DE), Ms ERNST (GUE, DE)). On the other hand, different views of EUROSUR's main aim were expressed: Mr ENCIU (S&D, RO) insisted that the most important objective was the protection of migrants' lives, while Mr SCURRIA (EPP, IT) stressed that all three objectives should be supported. Ms KELLER (GREENS, DE) and Ms ERNST (GUE, DE) considered that more attention should be paid to the issue of rescue operations and its articulation with Frontex, and also expressed doubts on the surveillance system. The rapporteur Mr MULDER confirmed his readiness to engage in further discussions.

- Orientation vote LIBE: 26-27 November

Item 17 on the agenda

General provisions - Asylum and Migration Fund and Internal Security Fund

LIBE/7/07982

Rapporteur: Mr FONTANA (EFD, IT)

- Consideration of amendments

The rapporteur Mr FONTANA (EFD, IT) informed the meeting that more than 150 amendments had been tabled and indicated that he could take most of them into account, especially amendments which sought simplification, and those which mentioned the role of local authorities. He said that he was ready to seek compromises on amendments concerning co-funding and would ask for a Legal Service opinion concerning the amendments on delegated and implementing acts.

The Commission representative analysed the amendments tabled in detail and indicated that some of them would be not acceptable for the Commission at this stage, e.g. on coherence with the external instruments. The Cyprus Presidency said that the ad hoc working party would finalise its work the following week.

During the exchange of views, Mr VOSS (EPP, DE) presented the amendments tabled by the shadow rapporteur Mr PIRKER on third country funding, EU added value, the need for flexibility concerning the partnership and political dialogue, etc. Ms FAJON (S&D, SI) indicated that transparency was important for her political group, and was supported on this point by Ms KELLER (GREENS, DE) who insisted that transparency and added value were the most important elements according to her political group. The rapporteur Mr FONTANA confirmed his readiness to engage in further discussions.

- Orientation vote LIBE: 26-27 November

Item 19 on the agenda

Next meeting(s)

- 5 November 2012, 15.00 – 18.30 (Brussels)
- 6 November 2012, 9.00 – 12.30 and 15.00 – 18.30 (Brussels)