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Committee on Civil Liberties, Justice and Home Affairs



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Words by the Chair

At the end of last month the European Parliament held formal hearings for all 27 Commissioners-designate. The Civil Liberties, Justice and Home Affairs Committee chaired and participated in a total of five hearings concerning the below Commissioners-designate:

- Commissioner-designate for Better Regulation, Inter-institutional Relations, Rule of Law and Charter of Fundamental Rights Frans Timmermans
- Commissioner-designate for Justice, Consumers and Gender Equality Věra Jourová
- Commissioner-designate for Digital Single Market Andrus Ansip
- Commissioner-designate for Digital Economy and Society Günther Oettinger
- Commissioner-designate for Migration and Home Affairs Dimitris Avramopoulos

Holding this new look Commission accountable will be more difficult for our Committee due to the fact that multiple commissioners are responsible for the same area of work, for example data protection, technology and the Internet. It is crucial that we adapt to this new structure and put as much pressure on the new Commission to fully uphold fundamental rights in all areas of civil liberties, justice and home affairs.

Claude MORAES

Chair's agenda

⇒ Tampere 15th Anniversary

This month I will attend a high-level conference, as LIBE Chair, hosted by the European Commission Representation in Finland to mark 15 years of EU policy in the area of freedom, security and justice. The two-day conference will include a review of what has been achieved thus far and debates between representatives from each of the EU institutions on how we can strengthen the area of Justice and Home Affairs.

Topics on the agenda include debating the future of Eurojust and the European Public Prosecutor's Office (EPPO), strengthening the EU's common asylum policy as well as its internal security strategy. I look forward to exchanging views on these key issues and presenting the priorities of the LIBE Committee.

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Hearings of the Commissioners-designate

The Members of the LIBE Committee have been extremely busy during weeks 40 and 41 (from 29 September to 7 October) with the hearings of Commissioners-designate. Pursuant to Rule 118 and Annex XVI of the Rules of Procedure of the European Parliament, the Commissioners-designate should be heard by the appropriate Committee in view of his or her portfolio. The wide competences of LIBE and the new structure of the European Commission designed by the President-elect Jean-Claude Juncker have resulted in not less than five Commissioners-designate being heard by the Members of the LIBE Committee.



The hearings started on 29 September, with LIBE being associated Committee in the hearing of Günther Oettinger, Commissioner-designate for Digital Economy and Society, together with the ITRE and CULT Committees.

The next day, Tuesday 30 September in the afternoon, Dimitris Avramopoulos, Commissioner-designate for Migration and Home Affairs appeared before the Members of LIBE.

On Wednesday 1st October, Věra Jourová, Commissioner-designate for Justice, Consumers and Gender Equality was heard by JURI, LIBE, IMCO and FEMM in a joint hearing.

In the second week of hearings, the LIBE Committee was present as an associated Committee at the hearing of Andrus Ansip,

Commissioner-designate for Digital Single Market, held on 6 October, together with IMCO.

The hearing of Frans Timmermans, 1st Vice President-designate of the Commission and responsible for Better Regulation, Inter-Institutional Relations, Rule of Law and the Charter of Fundamental Rights, took place on 7 October in a Conference of Presidents open to all Members. The LIBE Chair and several LIBE Members took the floor and asked Mr Timmermans several questions.



You will find all the information about the hearings, including the video recording of all of them in the

dedicated European Parliament website www.elections2014.eu/en/new-commission

Highlights of the last LIBE Meeting

24 - 25 September 2014, Brussels, PHS 3C50

➤ Exchange of views on the Council of Europe (CoE) Cyber-Crime Convention (ETS 185, 'Budapest Convention')

Mr Planken (Chair of the Council of Europe Cybercrime Convention Committee) addressed the LIBE Committee stressing that access to data stored in computers (Art. 32 Convention) is essential to fight crime due to the fact that mutual legal assistance treaties do not allow for the timely retrieval of information from computers. In this respect he reminded the Members of the work in the Cybercrime Convention Committee regarding the expansion of the current scope of Article 32b. Mr Seger (Executive Secretary of the Cybercrime Convention Committee, Head of Cybercrime Programme Office) insisted on the added value of this instrument and stressed that it respects fundamental rights.

Mr Buttarelli (Assistant European Data Protection Supervisor) indicated that Article 32 is a very specific provision which derogates from well-established forms of mutual legal assistance. He also stated that no justification of the necessity and proportionality of the extension of Art. 32 has so far been given and that data protection rules are a safeguard and a guarantee of the functioning of the cybercrime convention and not an obstacle: they ensure respect of fundamental rights.

Mr Wiewiórowski (Inspector General for Protection of Personal Data / WP29 - Article 29 Working Party) indicated that WP29 has conveyed to the CoE in December 2013 its views and the problems raised by the works conducted in the CoE and the risk of conflict of laws. He insisted that the adoption of the Data Protection package is a condition for this work as it will provide adequate data protection safeguards.

Several Members expressed their apprehensions regarding the Cybercrime Convention Committee's work and stressed the need to provide a clear and convincing justification regarding the necessity and proportionality of this system of transborder access of data. They also asked if the recent ruling on data retention has been taken into account to assess its impact. The Members questioned the use of direct transborder access instead of having recourse to mutual legal assistance instruments or the European Investigation Order, which provide for a high level of protection of fundamental rights, are based on mutual trust and do not rise extra-territoriality issues.

Members also pointed out that, while several third countries have acceded to the Cybercrime Convention, the fact is that they have not done so with CoE Convention 108 which provides the data protection safeguards. They indicated that accession by third countries to the Cybercrime Convention should be made dependent on the accession to Convention 108.

➤ Debate on EMCDDA's (European Monitoring Centre for Drugs and Drug Addiction) recent reports

The Chair emphasized that this presentation is particularly timely and relevant this year, as the LIBE Committee is responsible for two ongoing co-decision proposals dealing with the anti-drug policy: Regulation on New Psychoactive Substances (rapporteur Mr BONI), and Definition of Drug Directive (rapporteur Ms JIMENEZ-BECERRIL).

Mr Götz, Director of the EMCDDA, presented the two reports:

- The *European Drug Report 2014* - an analysis indicates an overall stable situation, with positive signs in some areas, but with new threats that raise concerns for public health and law enforcement. In particular, there is a downward

trend in the use and availability of heroin, but stimulants, synthetic drugs, cannabis and medicinal products are all becoming more important.

- The *General Report of Activities 2013: Key achievements and governance: a year in review* - over the last two decades, the agency has established strong mechanisms in Europe to carry out regular and sustained monitoring of developments in the drugs field, along with rapid responses to new trends and substances.

Members raised various issues about the anti-drug policy and the work of the EMCDDA.

➤ Amending Regulation (EU) No 604/2013 as regards determining the Member State responsible for examining the application for international protection of unaccompanied minors with no family member, sibling or relative legally present in a Member State

During the negotiations of the recast of the Dublin Regulation which was adopted in June 2013 as part of the Common European Asylum System, the co-legislators could not agree on a final text for Article 8(4): the Parliament was convinced that, in case an unaccompanied minor without family in the Union lodges an application in a Member State, that Member State where the minor is present should be the Member State responsible for examining his/her application for international protection, in order to, in the best interests of the child, avoid unnecessary transfers of this minor. The Council could not accept this position and the final political agreement at that time kept Article 8(4) unchanged. However, as Court case C-648/11 was pending with the Court of Justice and the outcome of that case would contain the guiding principle for shaping the rule to be inserted in Article 8(4), the co-legislators agreed that the rule to be decided by the Court would become the final new rule also in Article 8(4).

This political agreement was reflected in a Declaration made by the three institutions and attached to the legislative act. Following that declaration and commitment of the three Institutions, the Commission issued a proposal to make the content of Article 8(4) consistent with the Court decision.

In the LIBE meeting the Commission presented the proposal. The rapporteur, Cecilia Wikström (ALDE, SV) and the shadow rapporteurs confirmed the commitment of the European Parliament as the Commission proposal takes fully into account the ruling of the Court, and reflects the principle of the best interests of the child (Article 24, Charter of Fundamental Rights) which is, in case of unaccompanied minors without family members in the Union, to avoid as much as possible transfers of those minors from one Member State to another.

Also discussed:

- *EASO Annual report on the situation of Asylum in the European Union (2013), Annual Activity Report 2013 and EASO multi-annual work programme 2014-2016 'Towards a coherent implementation of the Common European Asylum System'*;
- *European Court of Auditors special report 'Lessons from the European Commission's development of the second generation Schengen Information System (SIS II)'*.

LIBE Meetings: 16 and 20 October 2014

Find the list of available meeting documents [here](#).

Thursday, 16 October 2014, Brussels, JAN 2Q2

➔ 'Smart Borders Package'

The Committee dealt for the first time during this legislative term with the smart borders package. It consists of two main components: 1) the proposal for an Entry/Exit System (Rapporteur: Agustín DÍAZ DE MERA GARCÍA-CONSUEGRA) which would record the time and place of entry and the length of authorised short stays of third-country nationals in an electronic database and 2) the proposal for a Registered Traveller Programme (Rapporteur Tanja FAJON) which would allow certain groups of frequent travellers (i.e. business travellers, family members etc.) from third countries to enter the Union, subject to appropriate pre-screening, using simplified border checks including at automated gates. These two proposals are complemented by a third proposal amending the Schengen Borders Code 'as regards the use of the Entry/Exit System (EES) and the Registered Traveller Programme (RTP)' at the border (Co-rapporteurs: Agustín DÍAZ DE MERA GARCÍA-CONSUEGRA and Tanja FAJON).

Earlier discussions during the last legislative term between the institutions on the project have led to the request for a study on the technical options for the project. The European Commission presented this study report to the Committee.

After this first exchange of views the Chair indicated that the LIBE Committee will dedicate another debate to this matter in November.

➔ Debate on 'Procedural Rights Package'

During this meeting, the Members of the LIBE Committee held a debate on three proposed Directives in the field of the procedural rights of accused and suspected persons in criminal proceedings. The proposals were presented by the Commission in November last year and concern the specific procedural safeguards for children suspected or accused in criminal proceedings, the strengthening of certain aspects of the presumption of innocence and the provisional legal aid for suspects or accused persons deprived of liberty.

The aim of these proposals (informally known as the 'Procedural Rights Package' together with two Commission recommendations on vulnerable persons and legal aid) is to ensure that all Member States uphold a common minimum level of procedural rights, and that these rights can be enforced through EU law. This is an essential element to build and strengthen the mutual trust between the judicial authorities in the different Member States.



This was the first exchange of views on the directives in the LIBE Committee after the election break, two of the rapporteurs have been re-appointed: Caterina Chinnici (S&D, IT) for the Directive on the procedural rights for children and Nathalie Griesbeck (ALDE, FR) for the Directive on the presumption of innocence. Dennis De Jong (GUE/NGL, NL) was the rapporteur for the Directive on legal aid and has been confirmed in the new term.

Also see the [hearing information on page 8](#).

➔ Joint meeting of AFET and LIBE Committees (PHS 3 C 50)

From 11.30 to 12.30, the Committees on Foreign Affairs (AFET) and on Civil Liberties, Justice and Home Affairs (LIBE) held a joint meeting in order to have an exchange of views with Jean-Paul LABORDE, United Nations Executive Director of Counter-Terrorism Committee Executive Directorate (CTED).

The joint Committee meeting underscored the intertwined character between external and internal policies in combatting terrorism, radicalization and the rising phenomenon of 'foreign fighters'.

Monday, 20 October 2014, Strasbourg, WIC200

➔ Hearing of the EDPS and Assistant Supervisor

The LIBE Committee, pursuant to Decision 1247/2002/EC and Regulation 45/2001, will hold hearings of the shortlisted candidates for the post of the European Data Protection Supervisor and Assistant Supervisor on 20 October, 19:00-22:30 in Strasbourg.

The shortlisted candidates are, in alphabetical order:

- Ms Cinzia BIONDI (for both positions)
- Mr Giovanni BUTTARELLI (for both positions)
- Ms Noëlle LENOIR (for the EDPS position)
- Mr Yann PADOVA (for the EDPS position)
- Mr Wojciech Rafał WIEWIÓROWSKI (for both positions)

The hearing will be followed by a vote on Tuesday, 21 October at 5pm.



Italian Presidency of the Council: JHA Council meeting on 9 and 10 October

On 9 and 10 October, the Ministers of Justice and Home Affairs met in Luxembourg under the Presidency of Angelino Alfano and Andrea Orlando Minister of Home Affairs and Minister of Justice of Italy respectively for the JHA Council.

On the first day, dedicated to Home Affairs, the Ministers discussed the implementation of the EU priorities in combatting serious and organised international crime and held an in-depth discussion on the issue of foreign fighters, including the finalisation of the work on the EU PNR directive and the controls at external borders of the Schengen Area.

The Council adopted its Conclusions on **Taking action to better manage migratory flows** stressing that the guiding principles for achieving a strategic and operational approach towards better managing migration flows are action in cooperation with third countries; reinforced management of external borders and FRONTEX and action at Member States level - reception and fingerprinting.

The Council was also briefed by the Commission, FRONTEX and EASO on the latest developments concerning the operational actions within the context of the **Task Force Mediterranean**.

The Justice part of the JHA Council took place on 10 October and the Council reached a partial general approach on chapter IV of the draft **regulation setting out a general EU framework for data protection** (controller and processor) and related recitals.

The Council also held a policy debate on the "right to be forgotten" principle following the European Court of Justice Judgment in the Google Spain case.

The Council was briefed by the Presidency on the

state of play on the proposal regarding the setting up of a **European Public Prosecutor's Office (EPPO)** and held a debate on whether the EPPO will be able to operate across the borders of participating Member States as one single office.

The Council held a policy debate on the proposal for a **directive on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings** which was focused on the aspect of the burden of proof.



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For further information:

www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/145033.pdf

Latest news from JHA Agencies



Further to **risk-assessment reports on four new psychoactive substances** by

the extended EMCDDA Scientific Committee in April 2014, and a recommendation from the Commission to the Council on 16 June that these drugs be submitted to control measures across the EU, the EU Ministers adopted on 25 September a decision that the substances MDPV, methoxetamine, AH-7921, and 25I-NBOMe will be subject to control measures and criminal penalties throughout the EU and their manufacturing and marketing will become illegal.

The decision is in line with the three-step legal procedure designed to respond to potentially harmful new psychoactive drugs in the EU (Council Decision 2005/387/JHA).

The decision on subjecting these four substances to control measures will enter into force following its publication in the Official Journal. Member States will then have one year to introduce the controls into national legislation.

The discussion on the [legalisation of cannabis](#) is becoming increasingly important, both internationally and in EU Member States. Recent developments have triggered several requests for visits to the EMCCDA, including visits in September from a group of Californian State Senators and a delegation of members of the Legal Committee of the Danish Parliament. An interactive EMCCDA 'Perspectives on drugs' analysis focuses on '[Models for the legal supply of cannabis: recent developments](#)'.

The revamp of the EMCCDA [Best Practice Portal](#) will be launched on 23 October (www.emccdda.europa.eu/best-practice).



Frontex Budget 2015

The Committee on Budgets in its vote on the budgetary amendments adopted on 30th September the amendment, put forward by LIBE, to create an additional reserve of 20 Mio. € for Frontex. The corresponding budgetary comment voted by LIBE stipulates that 'the appropriations put in reserve or parts of it shall be released in case of unforeseen crisis situations, requiring additional operational expenditure for the Agency'.

As a justification it was brought forward that 'such a reserve would allow Frontex to deal more rapidly and effectively with unforeseen crisis situations, as a reserve can be released quickly, contrary to launching the procedure for an amending budget. It will be released only if the Commission and/or the Agency duly justify the need for additional appropriations'.

The next step in the budgetary procedure is the conciliation procedure in order to reach an agreement on the 2015 budget between Parliament and Council scheduled to take place between 28 October - 17 November.



IPEN (the Internet Privacy Engineering Network), launched in 2014 by the EDPS in collaboration with national

Data Protection Authorities, academics and engineers held its first workshop "Engineering Privacy into Internet Services and Applications" on 26 September 2014 in Berlin. The [purpose of IPEN](#) is to bring together developers and data protection experts with a technical background from different areas in order to launch and support projects that build privacy into everyday tools and develop new tools which can effectively protect and enhance privacy.

The IPEN initiative supports the creation of engineer groups working on (re)-usable building blocks, design patterns and other tools for selected Internet use cases where privacy is at stake. It is designed to serve as a platform for the cooperation and exchange of ideas between Data Protection Authorities (DPAs) and internet engineers.

Furthermore, the German Federal Commissioner for Data Protection and Freedom of Information, Andrea Voßhoff, and the European Data Protection Supervisor, Peter Hustinx, will hold a [joint panel discussion](#) on 'Three years EU data protection reform: state of play and perspectives' on 5 November 2014 in Brussels.



On 1 October 2014 CEPOL officially re-opened for business at its [new headquarters](#) in Budapest. The LIBE Committee was involved in the decision regarding CEPOL's new seat after the

UK Government announced its intention to sell CEPOL's original seat at Bramshill.



In September, Europol coordinated the largest cross-border law enforcement operation in the EU so far.

Operation Archimedes involved law enforcement authorities from 34 countries and targeted organised crime groups and their infrastructures across the EU in a series of actions in hundreds of locations, with the cooperation of Eurojust, Frontex and Interpol.

Over 1000 arrests were made. The Europol Director will give a presentation on Operation Archimedes in the LIBE Committee in November.



The European Union Agency for Fundamental Rights announced the publication of the [vacancy notice for its Director](#).

The vacancy was published in the Official Journal of the European Union on 10 October 2014 ([OJ C 358A, 10.10.2014, p. 1](#)) and the deadline for registration is 7 November 2014.

News from the Council of Europe

The work of the **Committees in the Parliamentary Assembly** very often focus on topics of interest to the LIBE Committee, for example at present the following are under preparation:

- Counteraction to manifestations of neo-Nazism and xenophobia
- The implementation of the Memorandum of Understanding between the Council of Europe and the European Union
- Situation in Hungary following the adoption of Assembly Resolution 1941 (2013)
- Abuse of pre-trial detention in States Parties to the European Convention on Human Rights
- How to prevent inappropriate restrictions on NGO activities in Europe?
- Improving the protection of whistleblowers
- Mass Surveillance
- Resettlement of refugees: promoting greater solidarity
- Immigration detention of children
- Greece under pressure: Europe's front door for irregular migration
- Criminalisation of irregular migrants: a crime without victim
- Equality and non-discrimination in the access to justice

For the full list and further information:

<http://website-pace.net/documents/10643/59254/RepPrepAll-E.pdf/716ad616-261a-46fe-a280-9a530f9ddf28>



On 9 October 2014 the Council of Europe's **European Commission for the Efficiency of Justice (CEPEJ)** published its report on Report on the "European judicial systems – Edition 2014: efficiency and quality of justice", it draws on quantitative and qualitative data to outline the main trends observed in 46 European countries.

Among the findings from this report it is worth underlining the contrasting effects of the economic crisis on the budgets of judicial systems, despite the crisis there is still an upward European trend and the fact that access to justice is improving in Europe: all Member States now have legal aid mechanisms for both criminal and civil procedures.

This is to be welcomed in light of the requirements and the spirit of the European Convention on Human Rights; e-justice and e-courts are gaining ground and more consideration is being given to the needs of court users, in terms of the information provided to them, developing compensation procedures, implementing quality systems and the attention paid to victims.

For further information:

www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Communique_press_pub_rapport_2014_en.asp



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Migrants' and children's rights need better protection in the Netherlands. "The Netherlands has a solid human rights protection system, but in practice there are shortcomings, in particular as concerns migrants and children, that need to be addressed" said the 14 October 2014 Nils Muižnieks, **Council of Europe Commissioner for Human Rights**, while releasing the [report](#) on his visit to the country carried out last May.

Upcoming event- Public hearing 'The roadmap on procedural rights of suspects and accused persons: Achievements and the way forward'

On Tuesday 11 November 2014, from 15.00 to 18.30, LIBE will hold a Public Hearing on judicial cooperation in criminal matters, with the participation of the Rapporteurs of the procedural rights package, Caterina CHINNICI, Dennis DE JONG and Nathalie GRIESBECK.

As suggested by the title, the focus will be on the procedural rights of suspects and accused persons.



More in the next issue of the LIBE newsletter.

A chat with... Iliana Iotova, 2nd Vice-Chair

Every issue of the LIBE Newsletter will have an informal chat with one of our Members, to allow our readers to get to know them better. For this issue we chatted to Ms Iliana Iotova (S&D, BG), who has been a Member of Parliament since 2007, right after Bulgaria's accession to the European Union, and has spent five years in Parliament as a substitute Member of LIBE. On 7 July 2014, Ms Iotova was elected by acclamation as LIBE Second Vice-Chair.



Q: Why did you choose to become a member of the LIBE Committee?

A: I have been a substitute Member in the LIBE Committee for five years and I have always wanted to become a full Member. I used to work in the field of journalism. My personal interests are in the field of fundamental rights and especially issues related to people searching for asylum in the EU. When I was Vice-Chair of the CRIM Committee we worked over the creation of

common European legislation for fighting corruption, organised crime and money laundering - a priority for my current/future work.

Q: In your opinion, what are the main challenges that the Union is facing in the field of Justice and Civil Liberties?

A: A serious problem is that European governments treat the EU Charter for Fundamental Rights as a recommendation. What we must strive for is that it will become part of the national legislation. The freedom of media and their independence is becoming a serious issue in the EU.

Q: Half of the Members of the newly elected LIBE Committee are new. Do you have any advice for new LIBE Members?

A: The scope and activities in the LIBE Committee are very broad. I would recommend that every new Member focuses on a certain area and build expertise in it. This will allow them to put objective and in-depth legislation in place that is fair for all the European citizens. Political passions have their impact on work in the EP, but when it comes to work in the LIBE Committee they should be left aside.

Q: What is the part of your work as LIBE Vice-Chair that you enjoy the most? Is there something that you like less about being a Vice-Chair?

A: I was elected as Vice-Chair in the LIBE Committee fairly recently. One of the parts I enjoy is that as a Vice-Chair I can attend Coordinators' meetings. This allows me to work closer with my colleagues and thus strengthen teamwork, which for me is a guarantee for success.

Q: In the last parliamentary term you were the Rapporteur for the Annual Report on the European Ombudsman's activities in 2010. Do you think that citizens are becoming more aware of their rights?

A: No. There are still many things to be done in this area, especially as regards the relations between the European and the national ombudsmen. The EU citizens often feel disappointed, due to the lack of information about their rights provided by the EU legislation. They are often not aware about the limited rights of the European ombudsman as well.

On a more personal note...

Q: Do your obligations as MEP and LIBE Vice-Chair leave you some free time for reading? What book would we find on your bedside table these days?

A: I love reading and whenever time allows I would gladly enjoy a good book. Currently I am reading "Turning back the clock" by Umberto Eco.

Q: Have you got the time to enjoy the city of Brussels from time to time, would you share with us your favourite corner of the town (or your favourite restaurant in Strasbourg)?

A: With regards to the time - almost none. My responsibilities as Head of the Bulgarian S&D delegation and as Vice-Chair of Delegation to the EU-Montenegro Stabilisation and Association Parliamentary Committee leave me with no free time at all. Of course, I am not complaining, on the contrary I love my work, its dynamic and I cannot imagine a single day without commitments. My favourite restaurant in Strasbourg is Gavroche.

LIBE MEMBERS

(as of 15.10.2014 - updates available [here](#))

Full Members

BECKER Heinz K. (AT)
 BONI Michał (PL)
 DATI Rachida (FR)
 DÍAZ DE MERA GARCÍA CONSUEGRA Agustín (ES)
 ENGEL Frank (LU)
 GABRIEL Mariya (BG)
 GÁL Kinga (HU) (1st Vice-Chair)
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 MACOVEI Monica Luisa (RO)
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 CORRAO Ignazio (IT)
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 THUN UND HOHENSTEIN Róza Gräfin von (PL)
 VOSS Axel (DE)
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BAYET Hugues (BE)
 BLINKEVIČIŪTĖ Vilija (LT)
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 DALLI Miriam (MT)
 DRĂGHICI Damian (RO)
 GUTIÉRREZ PRIETO Sergio (ES)
 HEDH Anna (SE)
 KAMMEREVERT Petra (DE)
 KYRKOS Miltiadis (GR)
 MAMIKINS Andrejs (LV)
 MORGANO Luigi (IT)
 PIRI Kati (NL)
 REVAULT D'ALLONNES BONNEFOY Christine (FR)
 SCHLEIN Elly (IT)
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JUREK Marek (PL)
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