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THE EUROPEAN UNION**

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CULT 78  
SPORT 34**

**DRAFT MINUTES**

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Subject: **3164th** meeting of the Council of the European Union (**EDUCATION, YOUTH, CULTURE AND SPORT**), held in Brussels on 10 and 11 May 2012

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## **PUBLIC DELIBERATION ITEMS**<sup>1</sup>

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<sup>1</sup> Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

## **LEGISLATIVE DELIBERATIONS**

*(public deliberation in accordance with Article 16(8) of the Treaty on European Union)*

### **"A" ITEMS**

#### **1. Proposal for a Regulation of the European Parliament and of the Council concerning the placing on the market and use of biocidal products [Second reading] (LA + S)**

PE-CONS 3/12 ENV 39 MI 43 AGRI 35 CHIMIE 4 CODEC 178 OC 22

The Council approved the European Parliament's amendments to the Council's position with the Danish delegation voting against and the Czech and Austrian delegations abstaining. The Regulation is deemed to have been adopted in the form of the Council's position at first reading thus amended, pursuant to Article 294(8)(a) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 of the TFEU).

#### **Statement of the Czech Republic**

"The Czech Republic perceives positively the attempts to ensure a closer harmonization in the field of placing of biocidal products on the market through a Regulation, which is aimed at the elimination of differences that have arisen from varied ways of transposition of the Directive 98/8/EC across the Member States of the European Union. It also welcomes some of the newly proposed principles such as the introduction of the unified authorization of biocidal products on the Union level or protection of consumers against the harmful effects of articles and materials treated by biocidal products.

Nevertheless the Czech Republic has serious concerns resulting from the estimated financial impact of this Regulation on small and medium-sized industry. This aspect is for the Czech Republic of the utmost importance particularly in the time of the financial crisis and constraints on European Union growth and competitiveness. The costs of the proposed compromise go, in the opinion of the Czech Republic, against the principle of support to the competitiveness of the small and medium-sized enterprises in Europe, which is the reason why the Czech Republic abstains in the voting on the proposal for the Regulation on the use and placing on the market of biocidal products."

#### **Commission declaration**

##### **concerning the use of implementing acts for the setting of the fees**

"The Commission considers that the setting of the fees to be paid to ECHA cannot be determined via implementing acts. However, in a spirit of compromise, the Commission will not stand against a qualified majority vote in favour of the Presidency text. Nevertheless, on this specific issue, the Commission reserves its right to avail itself of the legal remedies provided by the Treaty with a view to seeking clarification by the Court on the issue of delimitation between Articles 290 and 291."

**Commission declaration**  
**concerning the fee for mutual recognition applications**

"In making its proposal for a Regulation on fees in accordance with Article 80(1), the Commission will seek to ensure that the level of the fee for applications for mutual recognition payable to the European Chemicals Agency takes into account the level of fees charged in the different Member States and does not constitute a disproportionate burden for companies, in particular SMEs."

**Commission declaration**  
**concerning the definition of nanomaterial**

"While the Commission can accept the final text as agreed between the Council and the European Parliament, it continues to believe that a direct reference to the Commission Recommendation 2011/696/EU on the definition of nanomaterial would have been more appropriate in view of the need for a harmonised definition of nanomaterial to apply throughout the EU legislation and the possibility to easily adapt it to technical and scientific developments. To this effect, the Commission will take the necessary steps to ensure that this is reflected in any future proposals."

**Statement of the Slovak Republic**

"The Slovak Republic highly appreciates the efforts by the Council of the EU, the European Parliament and the Commission in reaching agreement on the Regulation of the European Parliament and of the Council concerning the placing on the market and use of biocidal products. Slovak Republic is in favour of its adoption.

Notwithstanding the positive perception of the key elements and the reached compromise, there are in our view some general concerns about substantial administrative and financial burden put on enterprises as well as on the Member states. Member states are responsible for fulfilling duties addressed to the Member State and its Competent Authority by the Regulation itself including creation of appropriate conditions for cooperation with the European Chemicals Agency.

We are of the view that administrative and financial burden will have negative impact on competitiveness of small and medium-sized enterprises in the EU. Some positive changes were introduced in the final stages of negotiations in the Council whereby consensus was reached on a division of the fees between the European Chemicals Agency and concerned Member States. Thanks to the proposal of Slovakia enterprises are in addition allowed to pay fees in several stages and/or installments.

Determination of fees to be paid to the European Chemicals Agency will indisputably have significant impact on enterprises. The respective fees together with other revenues of the Agency shall cover all associated costs for provided services. In order to protect the competitiveness of the European industry and mainly to support small and medium-sized enterprises, we would like to take this opportunity to call for a high degree of caution and extreme prudence in further process of preparations and by approving a Fees Regulation."

**2. Proposal for a Decision of the European Parliament and of the Council providing further macro-financial assistance to Georgia**

a) Adoption of the position of the Council in first reading

b) Adoption of the statement of the Council reasons

5682/12 ECOFIN 56 RELEX 51 COEST 16 NIS 3 CODEC 187

+ ADD 1

9154/12 CODEC 1080 ECOFIN 358 RELEX 362 COEST 137 NIS 36

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union (Legal basis: Article 212(2) of the TFEU).

**3. Regulation of the European Parliament and of the Council amending Council Regulation (EC) n° 1083/2006 as regards certain provisions relating to risk sharing instruments for Member States experiencing or threatened with serious difficulties with respect to their financial stability**

PE-CONS 15/12 FSTR 21 FC 14 REGIO 35 SOC 217 CADREFIN 155

FIN 220 CODEC 749 OC 150

The Council approved the amendments set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 177 of the TFEU).

**4. Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004**

PE-CONS 11/12 SOC 154 CODEC 497 OC 91

The Council approved the amendments set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the Irish delegation abstaining pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 48 of the TFEU).

**Statement by Ireland**

"Ireland wishes to underline our commitment to social security coordination as provided for in Regulation 883/2004 and the Implementing Regulation, and emphasises its importance in ensuring that the right to free movement of persons can be exercised effectively, in accordance with the provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union.

Ireland continues to have concerns in relation to Article 14(5) (a) of the proposal which will impact both the social insurance position of citizens as well as institutions and employers.

However Ireland will fulfil our obligations in relation to the implementation of the Regulation while continuing to have fundamental difficulties of principle with the above provision."

#### **Joint statement by the Irish, French, Italian, Maltese, Netherlands and Portuguese delegations**

"We regret the retained wording of Article 65a which represents another breach to the *lex loci laboris* principle and deviates from the framework of Regulation 883/2004 on social security coordination. In that regard, the lack of correspondence between contributions and/or taxation and unemployment benefits could harm, not only from a financial point of view, the complex balance of national social security systems.

We will be particularly vigilant when reviewing and assessing the implementation of Article 65a and the current provisions in the unemployment field, as well as when considering any proposal submitted by the Commission in this context, that these will respect the *lex loci laboris* principle and the framework of Regulation 883/2004 on social security coordination."

#### **Statement from the United Kingdom, the Netherlands and Malta**

"Following a thorough analysis of this particular proposal, the United Kingdom, the Netherlands and Malta are now able to accept that Article 48 is an appropriate legal base. However, we do not believe that Article 48 of the Treaty on the Functioning of the European Union will always automatically constitute the correct legal base for proposals amending Regulation (EC) 883/2004. Therefore, we will carefully scrutinise all future proposals amending Regulation (EC) 883/2004 on a case by case basis in order to ensure the most appropriate legal base is used."

#### **Statement by Malta**

"Malta welcomes the agreement reached on this text and in particular the introduction of the principle of home base in order to determine the applicable legislation for aircrew members. However, Malta would like to emphasise that its agreement to this text should not be understood as its agreement to breaching the *lex loci laboris* principle or its agreement toward the extension of the interpretation on what can be covered by coordination rules. Malta reiterates that the principles outlined in Recital 4 of Regulation 883/2004 should continue to guide future work on this Regulation, that is, that 'it is necessary to respect the special characteristics of national social security legislation and to draw up only a system of coordination."

**5. Directive of the European Parliament and of the Council amending Directives 89/666/EEC, 2005/56/EC and 2009/101/EC as regards the interconnection of central, commercial and companies registers**

PE-CONS 5/12 DRS 13 EJUSTICE 11 CODEC 252 OC 39

The Council approved the amendments set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 50 of the TFEU).

**Statement by the Council**

"This Directive and the financing arrangements required for it are without prejudice to the ongoing negotiations for the next multiannual financial framework. Moreover, any financing required for this Directive within the current financial framework should be found wholly from within existing budget appropriations."

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**AGENDA ITEMS**

**5. Proposal for a Council Regulation establishing for the period 2014-2020 the programme "Europe for Citizens"**

– Partial general approach

9095/1/12 CULT 67 FREMP 64 JAI 279 EDUC 95 SOC 302

CADREFIN 209 **REV 1**

REV 1 COR 1 (es)

RRV 1 COR 2 (da)

REV 3 (lv)

Subject to parliamentary scrutiny reservations from the German and Czech delegations, the Council reached a partial general approach on the proposed regulation on the basis of the text set out in doc. 9095/1/12 REV 1.

The United Kingdom delegation made a statement for inclusion in these minutes which can be found in the Annex.

The Commission reserved its position pending the outcome of the negotiations on the multiannual financial framework.

**7. Proposal for a Regulation of the European Parliament and of the Council on establishing the Creative Europe Programme (First reading)**

– Partial general approach

9097/12 AUDIO 42 CULT 68 CADREFIN 210 RELEX 259 CODEC 1063

+ REV 1 (da)

+ COR 2 (lv)

9291/12 AUDIO 45 CULT 70 CADREFIN 221 RELEX 379

+ COR 1 (da)

The Council noted the agreement of all delegations with the exception of the Austrian, German and United Kingdom delegations to the text set out in doc. 9097/12, and thereby reached a partial general approach pending the opinion of the European Parliament. The French delegation maintained a parliamentary scrutiny reservation.

The Commission reserved its position pending the opinion of the European Parliament and the outcome of the negotiations on the multiannual financial framework.

The Council also held an exchange of views on the basis of the issues paper prepared by the Presidency (see doc. 9291/12).

**9. Proposal for a Regulation of the European Parliament and of the Council establishing 'ERASMUS FOR ALL': the Union Programme for Education, Training, Youth and Sport (First reading)**

– Partial general approach

9098/12 EDUC 96 JEUN 35 SPORT 29 SOC 303 RELEX 360 RECH 122

CADREFIN 211 CODEC 1064

+ REV 1 (da)

The Council noted the agreement of all delegations to the text set out in doc. 9873/12 and thereby reached a partial general approach on the proposed regulation pending the opinion of the European Parliament.

The Italian and Maltese delegations made statements for inclusion in these minutes which can be found in the Annex.

The Commission reserved its position pending the opinion of the European Parliament and the outcome of the negotiations on the multiannual financial framework.

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**NON LEGISLATIVE ACTIVITIES - PUBLIC DEBATES**

*[in accordance with Article 8(2) of the Council's Rules of Procedure (proposed by the Presidency)]*

**8. Anti-doping**

**(b) Future challenges in the fight against doping including in recreational sport**

– Policy debate

8837/12 SPORT 26 DOPAGE 9 SAN 82 JAI 259

+ COR 1 (cs)

The Council held a policy debate on the basis of the question paper prepared by the Presidency (see doc. 8837/12).

**12. Engaging with young people to release their potential**

– Policy debate

8833/12 JEUN 31 EDUC 91 SOC 283

+ REV 1 (el)

The Council held a policy debate on the basis of the question paper prepared by the Presidency (see doc. 8833/12)

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