



Council of the  
European Union

Brussels, 15 June 2016  
(OR. en)

9535/16  
ADD 1

PV/CONS 30  
COMPET 330  
IND 112  
RECH 211  
ESPACE 33

## DRAFT MINUTES

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Subject: **3470th** meeting of the Council of the European Union  
**(COMPETITIVENESS (INTERNAL MARKET, INDUSTRY, RESEARCH  
AND SPACE))**, held in Brussels on 26 and 27 May 2016

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

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## **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 on protective measures against pests of plants [First reading]**

= Political agreement

8338/16 AGRI 209 AGRILEG 56 PHYTOSAN 9 CODEC 533

+ ADD 1

approved by Coreper, Part 1, on 11.05.2016

The Council reached a political agreement on the text of this Regulation proposal as set out in 8338/16 ADD 1 and took note of the following statement.

#### **Statement by the Netherlands**

"The Netherlands abstains on the Regulation on protective measures against pests of plants. The Netherlands believes that the measures regarding the import system, as stated in this regulation, are disproportional (in relation to the actual risks involved)."

**2. Directive of the European Parliament and of the Council on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure [First reading] (LA + S)**

PE-CONS 76/15 PI 107 CODEC 1766

+ COR 3 (fr)

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union and took note of the following statement. (Legal basis: Article 114 of the TFEU)

#### **Statement by Latvia**

"The Republic of Latvia draws attention to the fact that the legal term '*darījumsdarbība*' used in the Latvian language version of the Directive with respect to economic activity differs substantially from the legal meaning of the term 'business' used in the English language version of the Directive. The Republic of Latvia notes that inconsistent or incorrect usage of legal terminology leads to legal ambiguity and therefore creates the risk of disrupting the legal parallelism between all language versions of the Directive. The Republic of Latvia notes that the term 'business' appears in a comparable context in Article 54 of the Treaty on the Functioning of the European Union, where it is translated into Latvian as '*uzņēmējdarbība*'. The latter term '*uzņēmējdarbība*' more accurately describes the economic activity covered by the Directive, which results in the development of trade secrets.

The Republic of Latvia intends to initiate the corrigendum procedure for the Directive in order to ensure consistent and correct use of terminology."

"B" ITEMS

**4. Proposal for a Regulation of the European Parliament and of the Council on ensuring the cross-border portability of online content services in the internal market [First reading]**

*Interinstitutional file: 2015/0284 (COD)*

= General approach

8939/16 PI 57 CODEC 660 RECH 138 EDUC 140 COMPET 236 SAN 185

AUDIO 59 CULT 40 DIGIT 50

15302/15 PI 103 CODEC 1727 RECH 309 EDUC 322 COMPET 565

SAN 438 AUDIO 36 CULT 91 DIGIT 112

+ ADD 2

The Council agreed on a general approach on the proposed Regulation, as set out in 8939/16.

The Council took also note of the statement by the Hungarian delegation.

**Statement by Hungary**

"Copyright does not fall within the exclusive competence of the European Union. Copyright is currently protected by Member States' laws harmonised through a number of Directives. Therefore, it is a matter of concern to Hungary that the proposed legislation would take the form of a Regulation.

In our view, the present Proposal for a Regulation could not, and should not be regarded as a precedent for choosing the type of act for any later EU legislation in the copyright field. Therefore, a case-by-case analysis should continue to be carried out in that regard, in accordance with Article 296 TFEU, and adopting Directives should remain the general approach to EU legislation on copyright (as it is today)".

**5. Proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services [First reading]**

*Interinstitutional file: 2016/0070 (COD)*

= State of play presented by the Presidency

8664/1/16 SOC 224 EMPL 135 MI 298 COMPET 210 CODEC 593

JUSTCIV 86 REV 1

6987/16 SOC 144 EMPL 97 MI 142 COMPET 118 CODEC 279

+ ADD 2

The Council was informed of the state of play on the posting of Workers Directive and

Ministers had an exchange of views regarding the impact on competitiveness of the proposal.

The Presidency mentioned that this issue is dealt with in another Council configuration (employment and social affairs (EPSCO) Council) but that a number of delegations asked to have a discussion at the present Council on how the new proposal could impact on the EU competitiveness. The Presidency also pointed out that the yellow card procedure was triggered on 10 May 2016 (by 11 Member States accounting for 22 votes).

The Commission underlined the importance of this proposal and that a targeted revision of the 1996 Directive will ensure a clear, fair and enforceable regulatory framework. On the yellow card procedure, the Commission is analysing the national Parliaments' reasoned opinions thoroughly before taking a decision in the coming weeks how to proceed.

## **NON-LEGISLATIVE ACTIVITIES**

### **9. e) Current legislative proposal**

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

- **Product safety and market surveillance package [First reading]**
    - = Information from the Presidency and the Commission requested by the Italian, Bulgarian, Cyprus, Greek, Spanish, French, Croatian, Maltese, Portuguese, Romanian and Slovenian delegations
- 8985/16 ENT 90 MI 345 CONSOM 109 COMPET 239 CODEC 673 UD  
100 CHIMIE 32 COMER 61

The Presidency presented the item, in particular the open question on the mandatory marking of the country of origin (the so-called "Made-In" clause) on which no qualified majority could be found so far. On behalf of the delegations who have requested this item to be put on the agenda, Italy introduced the compromise presented in a letter of March 2016, signed by 11 Member States. The Commission supported this compromise.

The Presidency concluded that the compromise presented in the letter of March 2016 had not been supported by a qualified majority of delegations.

## RESEARCH

*(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure for items 12 to 15b)*

**12. Draft Council conclusions on FP7 and the future outlook: Research and innovation investments for growth, jobs and solutions to societal challenges**

= Adoption

8785/16 RECH 132 ATO 33 COMPET 227

5475/16 RECH 8 ATO 3 COMPET 18

+ ADD 1

The Council adopted Council conclusions as set out in 9527/16.

**13. Draft Council conclusions on research and innovation friendly regulation**

= Adoption

8675/16 RECH 127 COMPET 212 MI 300 POLGEN 34

The Council adopted Council conclusions as set out in 9510/16.

**14. Draft Council conclusions on the transition towards an open science system**

= Policy debate

= Adoption

8791/16 RECH 133 TELECOM 74

8507/16 RECH 117 TELECOM 67

The Council held a policy debate based on doc. 8507/16 and adopted Council conclusions as set out in 9526/16.

**15. Any other business**

**a) 2016 ESFRI roadmap update**

= Presentation by the ESFRI Chair

The Council took note of the presentation by the ESFRI Chair.

**b) European Innovation Council**

= Oral information from the Commission

The Council took note of the information provided by the Commission.