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## REPORT

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From: Permanent Representatives Committee (Part 1)  
To: Council

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No. prev. doc.: 14559/16 SOC 721 EMPL 489 EDUC 385 CODEC 1684  
No. Cion doc.: 11530/16 SOC 477 EMPL 311 CODEC 1111 - COM(2016) 531 final,  
11531/16 SOC 478 EMPL 312 CODEC 1112 - COM(2016) 528 final,  
11532/16 SOC 479 EMPL 313 EDUC 260 CODEC 1113 - COM(2016) 532  
final

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Subject: Proposal for a Regulation of the European Parliament and of the Council  
establishing the European Foundation for the improvement of living and  
working conditions (**Eurofound**), and repealing Council Regulation (EEC)  
No 1365/75

Proposal for a Regulation of the European Parliament and of the Council  
establishing the European Agency for Safety and Health at Work (**EU-  
OSHA**), and repealing Council Regulation (EC) 2062/94

Proposal for a Regulation of the European Parliament and of the Council  
establishing a European Centre for the Development of Vocational Training  
(**CEDEFOP**) and repealing Regulation (EEC) No 337/75  
- General approach

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## I. INTRODUCTION

On 23 August 2016, the Commission presented the above proposals on three decentralised EU Agencies. The common feature of these Agencies is their tripartite nature, reflected both in their governance and functioning: national authorities, trade unions and employer representatives participate in the governing bodies as well as in dedicated advisory committees of the agencies.

The proposals aim at aligning certain provisions of the founding Regulations of the three Agencies with the Common Approach annexed to the Joint Statement on decentralised Agencies, signed on 19 July 2012 by the European Parliament, the Council and the European Commission

The Slovak Presidency intended to respect this Common Approach to the extent possible. The proposals also provide an opportunity to update the Agencies' respective objectives, tasks and activities, in order to better reflect recent societal, institutional and economic developments as well new needs. New items include anti-fraud measures, conflict of interest policies, evaluations and reviews, and the establishment of headquarter agreements. Furthermore, the provisions on programming and reporting are harmonised with the requirements set by the revised Framework Financial Regulation.

The major change is the alignment of the terminology for the governance structure with the 2012 Common Approach, with a Management Board at the top-level (vested with the necessary powers, including the adoption of the budget and the approval of the programming documents laying down the strategic priorities for the activities of the respective Agency, and appointing authority powers). It will be assisted by an Executive Board (preparing the Management Boards' meetings and supporting the decision-making and monitoring processes) and an Executive Director (taking care of the overall management of the respective agency according to the strategic direction set by its Management Board, including day-to-day administrative, financial and human resources management). The appointment procedure of the Executive Director is modified. In the case of Eurofound, the current position of Deputy Director is suppressed, but the advisory committees are to continue their work. For EU-OSHA, the existing network and focal points are maintained.

The European Parliament and the European Economic and Social Committee have not yet delivered their opinions. On 19 September 2016, the Committee of the Regions decided not to issue opinions on the three proposals. Given the limited revision of the founding acts, consisting mainly of "technical" adjustments, the Commission did not carry out any impact assessment.

## II. THE COUNCIL'S WORK

In order to streamline discussions and in the spirit of better law-making, the Slovak Presidency decided to deal with the three proposals in a package under the main responsibility of the Social Question Working Party (SQWP). As far as the Cedefop proposal is concerned, the work was carried out in close cooperation with the Education Committee.

As the three proposals are to a large extent identical in wording, the discussions were based on the Eurofound proposal, with the understanding that changes agreed therein would apply *mutatis mutandis* to the two other proposals in the parts which have identical wording.

### Specific issues

Delegations agreed on the following main changes to the Commission proposals:

#### (a) Horizontal issues:

In the context of the transfer of the appointing authority powers to the Management Board, the Presidency proposed a double safeguard (two "shall"-clauses in the first and second subparagraph of Article 5(2)) in order to avoid that these powers fall back to the entire Management Board: These powers are to be delegated to the Executive Director, and in case of exceptional circumstances requiring the suspension of these delegated powers, these are to be delegated temporarily to one member of the Management Board representing the European Commission or to a staff member. The Agencies' liaison offices in Brussels are maintained, with safeguards to avoid the establishment of further such offices elsewhere. The articles on the multi-annual programming and annual work programmes, on the establishment of the budget and on the presentation of accounts and discharge, as well as the governance levels' tasks were restructured and further fine-tuned.

#### (b) Legal bases:

The legal bases suggested by the Commission (Article 153 for Eurofound and EU-OSHA as well as Articles 166(4), 165(4) and 149 for Cedefop) require the Council to act by qualified majority, in accordance with the ordinary legislative procedure. As far as Cedefop is concerned, the "triple bases" approach suggested by the Commission was changed, now opting for limiting it to a single legal basis (Article 166(4)).

### **Remaining reservations**

DE kept a specific reservation on Article 2(1)(c), (d) and (h), and PL kept its general reservation on Eurofound.

UK maintained its parliamentary scrutiny reservation on all three proposals.

### **III. CONCLUSION**

Taking into account the above, the Permanent Representatives Committee recommends to the Council (EPSCO) to reach a general approach on the package of the three proposals, set out in ADD 1, ADD 2 and ADD3 to this report, at its session on 8 December 2016.

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