



Brussels, 19 May 2017  
(OR. en)

9055/17

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**Interinstitutional File:**  
**2016/0404 (COD)**

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**COMPET 327**  
**MI 399**  
**ETS 37**  
**DIGIT 131**  
**SOC 328**  
**EMPL 245**  
**CONSOM 201**  
**CODEC 784**

## REPORT

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From: Presidency/General Secretariat of the Council  
To: Council

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No. prev. doc.: 8710/17 COMPET 281 MI 364 ETS 32 DIGIT 110 SOC 298 EMPL 224  
CONSOM 167 CODEC 700

No. Cion doc.: 5281/1/17 REV 1 COMPET 22 MI 32 ETS 3 DIGIT 6 SOC 16 EMPL 12  
CONSOM 11 CODEC 36 IA 7

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Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL on a proportionality test before adoption of new regulation  
of professions  
- General approach

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## I. INTRODUCTION

1. The Commission presented the above proposal on 10 January 2017.<sup>1</sup> Its main objective is to introduce a common framework for conducting proportionality assessments when regulating professions through the use of proportionality criteria based upon established jurisprudence of the European Court of Justice.

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<sup>1</sup> doc. 5281/17 + ADD1, ADD2 - COM (2016) 822 final.

The Council Working Party on Competitiveness and Growth (Internal Market) has examined the proposal at eight meetings since its presentation. The Impact Assessment accompanying the proposal was examined on 1 February 2017. At that occasion a number of delegations expressed concerns regarding the way the Commission handled the subsidiarity aspect, the current case law and justified the legal basis for the proposal.<sup>2</sup>

2. The European Parliament Internal Market and Consumer Protection Committee (IMCO) has not yet voted its report on the proposal and consequently, the European Parliament has not given its opinion at first reading.
3. The European Economic and Social Committee has not yet given its opinion. An opinion from the Committee of the Regions has not been requested by the Council.

## II. STATE OF PLAY

4. During the course of negotiations at Working Party level, the Presidency compromise has evolved considerably from the Commission's original proposal in light of the feedback given and concerns raised by Member States. Overall, the Presidency believes that the proposal has been made simpler and more flexible to implement for national administrations while increasing legal certainty.
5. A Presidency compromise text (doc. 8713/17) was presented to the Permanent Representatives Committee on 10 May 2017. During the Committee meeting, Germany had proposed an amendment to recital 20, and the recital was eventually amended on that basis by the Presidency.. The text of the Presidency compromise following the meeting of the Permanent Representatives Committee is set out in doc. 9057/17.

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<sup>2</sup> The Parliaments of Austria, France and Germany have issued subsidiarity warnings concerning this proposal, docs. 7282/17, 7351/17, 7443/17 and 7459/17.

6. In the meeting on 10 May, the Austrian, French, German and Romanian delegations expressed scrutiny reservations, whilst the Hungarian delegation raised its concerns on the text of the proposal. The Danish delegation maintain a parliamentary scrutiny reservation, however expressed support for the text.
7. In view of this overall situation and the progress achieved, the Permanent Representatives Committee agreed to forward the text (doc. 9057/17) for agreement on a General Approach to the Competitiveness Council on 29 May 2017.

### III. CONCLUSION

The Council is invited to

- confirm an agreement in the form of a General Approach.
- authorize the Presidency to start informal discussions with the representatives of the European Parliament in order to explore the possibilities for an agreement at first reading.