



Council of the  
European Union

Brussels, 13 June 2017  
(OR. en)

9547/17  
ADD 1

PV/CONS 29  
EDUC 252  
JEUN 72  
CULT 73  
AUDIO 74  
SPORT 38

## DRAFT MINUTES

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Subject: **3541st** meeting of the Council of the European Union  
**(Education, Youth, Culture and Sport)**,  
held in Brussels on 22 and 23 May 2017

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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).

"A" ITEMS

**LEGISLATIVE DELIBERATIONS**

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

**1. Regulation of the European Parliament and of the Council on the European Union trade mark (codification) [First reading]**

= Adoption of the legislative act

PE-CONS 12/17 CODIF 5 MI 169 PI 24 CODEC 286

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. (Legal basis: Article 118 TFEU).

"B" ITEMS

YOUTH

**NON-LEGISLATIVE ACTIVITIES**

**7. Building Europe's future - listening to and supporting young people**

= Policy debate

*(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure)*

8036/17 JEUN 49

The Council held a policy debate on the above topic on the basis of a discussion paper prepared by the Presidency (8036/17).

Ministers inter alia highlighted the necessity to hear the voices of young people when future youth policies are prepared, and in particular stressed the importance of reaching out to vulnerable young people and those that are difficult to reach.

## EDUCATION

### LEGISLATIVE DELIBERATIONS

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

**8. Proposal for a Decision of the European Parliament and of the Council on a common framework for the provision of better services for skills and qualifications (Europass) and repealing Decision No 2241/2004/EC [First reading]**

*Interinstitutional file: 2016/0304 (COD)*

= Progress report

8867/17 EDUC 168 SOC 311 EMPL 234 MI 380 ECOFIN 332 DIGIT 120  
JEUN 59 SPORT 31 CODEC 734

12947/16 EDUC 316 SOC 601 EMPL 402 MI 619 ECOFIN 874 DIGIT 110  
JEUN 71 SPORT 58 CODEC 1390

The Council took note of the progress report as set out in 8867/17.

### NON-LEGISLATIVE ACTIVITIES

**10. Giving learners a voice: how to improve and modernise our systems to provide high quality education for all**

= Policy debate

*(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure)*

8407/17 EDUC 151 JEUN 54 SOC 280 EMPL 208

The Council held a policy debate on the above topic on the basis of a discussion paper prepared by the Presidency (8407/17). An introduction to the debate was given by Professor John Portelli from the University of Toronto.

Ministers highlighted that education policy plays a key role in promoting inclusion and respect for diversity in the European Union and that ensuring inclusive high quality education should be seen in a life-long perspective covering all aspects of education.

AUDIOVISUAL/CULTURE

**LEGISLATIVE DELIBERATIONS**

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

**12. Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities [First reading]**

*Interinstitutional file: 2016/0151 (COD)*

= General approach

8939/17 AUDIO 61 DIGIT 123 CONSUM 182 TELECOM 108 CODEC 745

9479/16 AUDIO 68 DIGIT 55 MI 382 CONSUM 121 IA 28 CODEC 744

TELECOM 98

+ COR 1

The Council reached a general approach on the text which can be found in 9691/17. The CZ, DK, FI, IE, LU, NL, SE and UK delegations did not support the text, whilst the HU delegation abstained. The Council took note of the statements made by the AT, DE, DK, FI, LU, NL, PL and UK delegations, as well as of the joint statement made by the CZ, IE and SE delegations.

**Statement by Austria**

"Right at the beginning of the Maltese Presidency's text proposal, it is explicitly and correctly stated that the 'recitals will be dealt with at a later stage'. Given the central importance of all recitals for the interpretation of the legal text Austria may emphasize:

1. For the assessment whether the providing of user-generated videos and programs is a '*significant functionality*' recital 3b has to be understood as putting a focus on a **qualitative** assessment about how important audiovisual content on a social network is. In this respect it can also be an indicator of significance whether the service uses algorithms to decide which audiovisual content is run and how prominently it is displayed. The wording '*constitutes a minor part*' in recital 3b must therefore not be understood as just requiring a mere quantitative analysis of the manifold content. A social network therefore does certainly not automatically fall out of the scope of the directive if in a comparison of the entirety of its content the share of audiovisual content is lower than the share of text and images.
2. Austria assumes that the work on the recitals, as announced by the Presidency text, will give an opportunity to dissolve the contradiction between the legal text in Article 30a para 3 point e and the wording of recital 37. ERGA's task as defined in Article 30a para 3 (especially point e) is to provide 'technical expertise' and opinions 'on the technical and factual aspects' but not to issue legal statements."

### **Joint statement by the Czech Republic, Ireland and Sweden**

"The Czech Republic, Ireland and Sweden cannot support the General Approach reached on the compromise text of the above-mentioned Directive as adopted at the EYCS Council on May 23, 2017. In particular, we cannot support the potentially wide reaching extension of the scope of the Directive.

The undersigned countries made significant concessions across a range of issues which are of key concern to us, such as the increase of quotas to 30% for on-demand services, with a view of reaching a compromise at the meeting, however, the final text does not enable us to add our voice to the General Approach.

We fully support the further development of the Digital Single Market and we therefore encourage the Presidency, all Member States and the European Commission to ensure that the primary outcome of the trilogue negotiations is that the provisions in relation to the definitions are legally sound and clear in order to avoid stifling freedom of expression and suppressing innovation in this key area."

### **Statement by Denmark**

"Denmark cannot support a proposal to introduce quotas for European content in on-demand-services.

Denmark believes that Europe will continue to produce European content at such a high quality that it will remain competitive in a global context. European consumers will choose European content because of its high quality. Quotas are not the right mechanism to ensure demand for quality products.

Denmark fully supports the promotion of the Digital Single Market. Denmark also supports the aim of the proposal to modernize the AMVS Directive to the benefit of the media sector and the consumers."

### **Statement by Finland**

"Finland fully supports the promotion of the Digital Single Market which is an essential element of the competitiveness of the EU. Finland also supports the overall objectives of the Directive to improve the protection of consumers and minors, guarantee a level playing field for all, ensure the integrity of the internal market and enhance legal certainty and simplify legislation.

For Finland, the issue of the scope of the Directive is of utmost importance. The media services provided in the internet, some of which are just emerging, should not be unnecessarily burdened by detailed regulation. It is crucial, that all new regulation concerning video-sharing platforms shall be carried out deliberately and with careful assessment of the possible effects it will have on the Digital Single Market and on the freedom of speech of the EU citizens. Decision taken today on the scope of the directive lacks the necessary impact assessment that is precondition for better regulation."

### **Statement by Germany**

"We are grateful that the quantitative approach has been included in Recital 3b. However, the amendment is not yet worded in an unequivocal manner and should be improved in the trilogue. It is important to have a clearly defined scope of application.

We had filed a request to insert, in Recital 3b, second sentence, the phrase “or minority” after “not merely ancillary”. The aim is to lay down a clearly defined scope of application by defining a ratio x or a minority (less than 50 per cent). The amendment that has been made (“or constitutes a minor part of”) continues to harbour the question of when the requirements associated with a minor part are met.

The trilogue negotiations should be used to improve on this."

### **Statement by Luxembourg**

"Luxembourg cannot support the general approach as adopted.

If Luxembourg agrees to the revision of the AVMS Directive, Luxembourg believes that the principle of the country of origin is a corner stone of the directive and Article 4 as amended could undermine its aim. Legal certainty is of utmost importance and will not be guaranteed under these circumstances.

Furthermore, Luxembourg regrets the introduction of quotas on European content in on-demand-services as well as the possibility to introduce levies. In addition, Luxembourg cannot support the wide reaching extension of the scope as proposed in the general approach. Because of its support to the Digital Single Market, Luxembourg believes that these proposed changes could potentially increase the fragmentation of the EU market."

### **Statement by Poland**

"The aim of the Audiovisual Media Services Directive is to provide for a framework ensuring the freedom to provide audiovisual media services across Europe, thus safeguarding fundamental rights, including the freedom of speech. However, the aim of this Directive is also to ensure a delicate balance between the commercial interests of audiovisual media service providers and the safeguard of the interests of European viewers and consumers, as well as respecting the principle of subsidiarity and cultural diversity. This is why the Directive has provided for a minimum harmonization and has allowed Member States to conduct their audiovisual policies, in full respect of the subsidiarity principle, especially as regards the safeguarding of the general public interest.

However, in many Member States this balance cannot be achieved in practice. While the freedom to provide audiovisual media services across borders, on the basis of the country of origin principle, is respected and ensured, the safeguarding of the general public interest, of the interests of consumers and of a level playing field is not always possible.

Poland, together with other Member States, was advocating for the introduction of changes to the Directive that would ensure a better balance between the country of origin principle and the need to safeguard the general public interest.

Poland has expressed its support to the text as amended during the EYCS Council on 23 May, especially as regards the changes introduced in Article 4. However, our final support to the text, as it will be negotiated during the trilogue, will depend on the introduction of a provision in the operative part or in the preamble that would address more precisely what the “set of corroborating facts” can consist of. In our belief, such provision could be drawn on the basis of recital 42 of the current Directive."

### **Statement by The Netherlands**

"The Netherlands attaches great value to the digital single market and the promotion and distribution of European audiovisual works. It is therefore with regret that The Netherlands is not able to support the General Approach.

One of the corner stones of the Directive is the Country of Origin principle. This principle is considerably weakened by making cross border levies possible and by making it easier to derogate. Furthermore, the lack of an impact analysis for the extension of the scope with regard to video sharing platforms gives reasons for serious concerns on potential effects and impact on legal certainty, fundamental rights, regulatory authorities and the industry. Lastly, we are unsatisfied by the increase of the quota since there is no evidence that this will effectively promote European works, we regret that no alternatives were discussed.

We therefore appeal to the Presidency, the European Parliament, all Member States and the Commission to acknowledge these concerns in the coming trilogue negotiations."

### **Statement by the United Kingdom**

"The UK greatly values the Digital Single Market. It is very important that the Directive is future-proof and fit for the 21st Century, such as by safeguarding minors and protecting society.

We are concerned about the weakening of the country of origin principle, the lack of evidence or impact assessment for the extension of levies to linear television, and the widening in scope of the general approach.

The lack of clarity surrounding the extension of scope to video-sharing platforms, and the possibility of leaving essential elements of the Directive to guidelines, undermines legal certainty.

We therefore encourage the Presidency, all Member States, and the Commission to consider the objective of the revision of the Audiovisual Media Services Directive in coming trilogue negotiations."



**NON-LEGISLATIVE ACTIVITIES**

**16. Sports media and its role in strengthening social inclusion**

= Policy debate

*(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure)*

8668/1/17 SPORT 29 REV 1

The Council held a policy debate on the above topic on the basis of a discussion paper prepared by the Presidency (8668/1/17). An introduction to the debate was given by Mr William Bush, Executive Director of the English Premier League. Mr Bush stressed that without revenues obtained from media rights, the Premier League cannot invest in communities. He also explained that football is one of the key pathways to social inclusion for various groups in society.

Ministers highlighted that the popularity of sport can be used to send positive messages to communities. Sport media and revenues obtained from media rights can play a significant role in increasing social inclusion, cohesion, diversity and equality in society.

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