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## DRAFT MINUTES

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Subject: **3544th** meeting of the Council of the European Union  
**(Competitiveness (Internal Market, Research and Space))**,  
held in Brussels on 29 and 30 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).

## **LEGISLATIVE DELIBERATIONS**

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

### **"A" ITEMS**

#### **1. Directive of the European Parliament and of the Council relating to certain aspects of company law (codification) [First reading]**

= Adoption of the legislative act

PE-CONS 57/16 CODIF 43 DRS 51 ETS 50 MI 791 CODEC 1864

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Austrian delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union.

(Legal basis: Article 50(1) ad point (g) of Art. 50(2) TFEU).

#### **Statement by Poland**

1. The Polish delegation welcomes the adoption of the *Proposal for a Directive of the European Parliament and of the Council relating to certain aspects of company law* (PE-CONS 57/16 "*Certain aspects of company law (codification)*" (2015/0283 COD)2015/0283 (COD)), which codifies i.a. the provisions of *Directive 2012/30/EU of the European Parliament and of the Council of 25 October 2012 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent* (OJ L 315, 14.11.2012, p. 74).
2. *Directive 2012/30/EU of the European Parliament and of the Council of 25 October 2012 (recast)* has repealed i.a. art. 6 (2) of the *Second Company Law Directive 77/91/EEC* which stated: '2. *If the equivalent of the European unit of account in national currency is altered so that the value of the minimum capital in national currency remains less than 22 500 European units of account for a period of one year, the Commission shall inform the Member State concerned that it must amend its legislation to comply with paragraph 1 within 12 months following the expiry of that period. However, the Member State may provide that the amended legislation shall not apply to companies already in existence until 18 months after its entry into force*.'
3. For that reason, at the time of adoption of *Directive 2012/30/EU*, a joint statement by the Commission and the Council was made on 28 September 2012 (Council document No. 14263/12) and included in the minutes of the COREPER and the Council. That joint statement reads as follows: '*Article 6(2) of Directive 77/91/EEC addressed i.a. the short-term volatility of national currencies against the ECU and the time necessary for legislative adaptation where needed. When compliance with Article 6(1) is examined due account will be taken of those conditions.*'

4. Considering that according to *Interinstitutional Agreement of 20 December 1994 on an accelerated working method for official codification of legislative texts (96/C 102/02)*, in the codification procedure no substantive changes are introduced to the acts to be codified, the Polish delegation wishes to underline that the joint statement by the Commission and the Council made on 28 September 2012 is not affected by the codification and should therefore continue to guide the interpretation and application, in relation to the calculation of minimum capital requirements for companies in those Member States, whose currency is other than the euro, of Article 45(1) of *Directive of the European Parliament and of the Council relating to certain aspects of company law (codification)*, which is to replace Article 6(1) of *Directive 2012/30/EU*."

**2. Council Directive amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries**

= Adoption

8788/17 FISC 89 ECOFIN 328

6661/17 FISC 56 ECOFIN 151

+ REV 2 (bg,de,nl,pt,sv)

approved by Coreper, Part 2, on 24.05.2017

The Council adopted the Council Directive amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries as finalised by the legal/linguistic experts and set out in 6661/17.

"B" ITEMS (9523/17 OJ CONS 31 COMPET 434 IND 133 RECH 204 ESPACE 27)

INTERNAL MARKET AND INDUSTRY

**5. Proposal for a Regulation of the European Parliament and the Council on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles [First reading]**

*Interinstitutional file: 2016/0014 (COD)*

= General approach

9271/17 ENT 128 MI 425 CODEC 830

9272/17 ENT 129 MI 426 CODEC 831

5712/16 ENT 20 MI 45 CODEC 103

+ ADD 1

+ ADD 1 REV 1 (en)

+ REV 1 ADD 1 (sl)

+ REV 1 (sl)

The Council agreed on a general approach on the text of the proposal as set out in 9272/17, which serves as a base to start the negotiation with the European Parliament. LV and DE issued statements to the Council minutes.

### **Statement by Latvia**

"Latvia agrees with the aims of the proposal for the Regulation regarding free movement of motor vehicles and their trailers by setting out uniform provisions in the Member States and in overall supports the General Approach. Nevertheless, in the context of upcoming interinstitutional discussions, Latvia would like to stress the following.

Though the peer-evaluation of type-approval authorities and the joint assessments of technical services have unpredictable costs, lack of assessment criteria, financial and administrative burden to national authorities and small manufacturers thereof, the General Approach strikes a fragile balance on this issue that should not be undermined in following negotiations.

The need to foster market surveillance is obvious and Latvia strongly stands behind high level of consumer protection. However, the provisions on market surveillance are setting a worrying precedent that go against the principles of effective market surveillance system, which should be based, first of all, on a risk assessment. This is a way how market surveillance authorities set their market surveillance priorities and make the best use of the available financial resources. By tightening hands of the authorities with standardised minimum numbers of checks for one product category, we endanger the safety of consumers in other sectors. Therefore, the benefits of this approach for consumers in a long term are questionable.

Latvia considers that the content of several annexes is essential; therefore, empowerment to introduce any changes shall be conferred by adopting implementing acts, instead of delegated acts.

Latvia stands for the alleviation of the concerns expressed above in the further discussions."

### **Statement by Germany**

"Germany strongly supports the introduction of mandatory, effective and efficient market surveillance by the Member States and therefore accepts the Presidency's proposal on type-approval and market surveillance of motor vehicles.

However, we feel that the Presidency's current proposal on type-approval and market surveillance does not go far enough and requires further improvement. Germany has therefore proposed amendments which go beyond the current proposal and would contribute to its precision, clarity and applicability. Market surveillance by the Member States firstly requires coordination by the Commission (Article 9) to enable fair competition. In addition, the Commission should also be able to intervene in market surveillance, as currently set out in the Presidency compromise.

Germany also calls for the establishment of an expert panel (preparatory dispute settlement body, Article 10) to be able to conduct an informed assessment of the facts where there are diverging views and thus achieve a quick settlement of disputes (Article 54). A specific timetable has been proposed for this, which initially allows a month for the Member States concerned to reach agreement in the event of non-compliance. If this does not lead to rectification or withdrawal of the type-approval, the Member State which has detected the non-compliance requests advice in the preparatory dispute settlement body. Within six weeks, the preparatory dispute settlement body issues a recommendation, which then passes through the Forum and is subsequently forwarded to the Commission, which communicates the measures to be taken to the Member State concerned within four weeks.

In our view, the Commission's findings from the market surveillance must also be assessed by this clearing settlement body.

Germany accepts the Presidency proposal for Article 90 in the version dated 19 May 2017.

We call for the definition of defeat devices to be fleshed out and therefore propose that the following wording amending Article 5(2) of Regulation (EC) No 715/2007 be included in Article 91 of the Presidency proposal:

'(2) The use of defeat devices that reduce the effectiveness of emission control systems shall be prohibited. The prohibition shall not apply where:

a) **even if state of the art technologies are included, no other technology is available** to protect the engine against damage or accident and for safe operation of the vehicle!:"

**6. Proposal for a Directive of the European Parliament and the Council on a proportionality test before adoption of new regulation of professions [First reading]**

*Interinstitutional file: 2016/0404 (COD)*

= General approach

9055/17 COMPET 327 MI 399 ETS 37 DIGIT 131 SOC 328 EMPL 245  
CONSOM 201 CODEC 784

9057/17 COMPET 328 MI 400 ETS 38 DIGIT 132 SOC 329 EMPL 246  
CONSOM 202 CODEC 785

5281/17 COMPET 22 MI 32 ETS 3 DIGIT 6 SOC 16 EMPL 12  
CONSOM 11 CODEC 36 IA 7

+ REV 1 (en)

The Council agreed on a general approach on the text of the proposal as set out in 9057/1/17 REV 1, which serves as a base to start the negotiation with the European Parliament.

**7. Proposal for a Directive of the European Parliament and of the Council on the enforcement of the Directive 2006/123/EC on services in the internal market, laying down a notification procedure for authorisation schemes and requirements related to services, and amending Directive 2006/123/EC and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System [First reading]**

*Interinstitutional file: 2016/0398 (COD)*

= General approach

9506/17 COMPET 430 MI 441 ETS 42 DIGIT 145 SOC 418 EMPL 325  
CONSOM 224 CODEC 886

9507/17 COMPET 431 MI 442 ETS 43 DIGIT 146 SOC 419 EMPL 326  
CONSOM 225 CODEC 887

5278/17 COMPET 21 MI 31 ETS 2 DIGIT 5 SOC 15 EMPL 11  
CONSOM 10 CODEC 34 IA 6

The Council agreed on a general approach on the text of the proposal as set out in 9507/17, which serves as a base to start the negotiation with the European Parliament. HU and PT issued statements to the Council minutes.

**Statement by Portugal**

"Portugal has consistently sustained that the Commission should put forward ambitious initiatives to improve the functioning of the internal market for services, aiming at reducing regulatory fragmentation, and thus promoting trade and investment in the EU.

Portugal has also maintained that this Directive should not have a negative impact on on-going efforts and programmes for regulatory and administrative simplification, as the results of existing measures should not be hampered or delayed.

Taking into account that regulatory and administrative simplification is a common goal shared by Member States, and given its specific impact on SME's, Portugal calls on the Commission to ensure the necessary conditions for a swift adoption and enforcement of simplification measures."

**Statement by Hungary**

"Hungary attaches great importance to the appropriate and effective application of the Service Directive given the economic benefits and gains it brings to the services market. Therefore we are committed to ensure an even more effective implementation of the Directive.

The legislative framework and mechanisms put in place by the Services Directive serve as a good basis for guaranteeing that unjustified obstacles are not introduced to the trade of services. The notification system under the Services Directive is one of these mechanisms ensuring that all requirements which can be evaluated in line with the Directive are notified to the European Commission and to the Member States. Although there can always be an acceptable margin for fine-tuning the notification system this can be adequately addressed on the basis of the existing legislative environment.

Introducing a standstill period for the notification certainly does not provide solution for the challenges arising from the application of the Services Directive. It unnecessary increases administrative burden and causes unjustified delay in the national legislative procedure."

## 12. Any other business

### a) Current legislative proposals:

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

#### i) Implementation of the Marrakesh Treaty [First reading]

a) **Proposal for a Directive of the European Parliament and of the Council on certain permitted uses of works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society**

*Interinstitutional file: 2016/0278 (COD)*

b) **Proposal for a Regulation of the European Parliament and of the Council on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject-matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled**

*Interinstitutional file: 2016/0279 (COD)*

= Information from the Presidency

The Council took note of the information by the Presidency on the political agreement on both files achieved with the European Parliament in the trilogue of 10 May and endorsed by COREPER on 19 May 2017, agreement in view of their adoption in first reading.

#### ii) **Proposal for a Directive of the European Parliament and of the Council to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market**

*Interinstitutional file: 2017/0063 (COD)*

= Information from the Commission

The Council took note of the presentation of the proposal by the Commission.



## RESEARCH

### 16. Any other business

#### b) **Current legislative proposal:**

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

- **Proposal for a Decision of the European Parliament and of the Council on the participation of the Union in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) jointly undertaken by several Member States [First reading]**

*Interinstitutional file: 2016/0325 (COD)*

= Information from the Presidency

The Council took note of the information provided by the Presidency on the political agreement on this file achieved with the European Parliament, in view of its adoption in first reading.

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