



**COUNCIL OF  
THE EUROPEAN UNION**

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**PV/CONS 46  
TRANS 524  
TELECOM 259  
ENER 460**

**DRAFT MINUTES**

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Subject: **3261st** meeting of the Council of the European Union  
(**TRANSPORT, TELECOMMUNICATIONS AND ENERGY**) held in  
Luxembourg on 10 October 2013

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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**

#### **Regulation of the European Parliament and of the Council amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union [First reading] (LA + S)**

PE-CONS 60/13 STAT 22 FIN 403 CODEC 1663

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, with the Czech, the Danish, the Netherlands, the Austrian and the United Kingdom delegations voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 336 of the TFEU).

#### **Statement by the United Kingdom, the Netherlands, the Czech Republic, Austria and Denmark**

"As Council votes on the Staff Regulations today, it is a good opportunity to reflect on the negotiations and the next steps. The delegations which voted against the Presidency compromise want to outline why they did so and their hopes for the future of the EU civil service.

The review of the Staff Regulations was an opportunity to modernise the EU civil service, to rein in administrative spend and to ensure that the EU Institutions will be able to afford their future commitments on pensions and salaries. This is an opportunity that only comes every few years.

Unfortunately, after nearly two years of intensive work by all parties, and despite broad agreement for those objectives, our delegations felt that the compromise presented did not match the comprehensive reforms which many Member States are already delivering in their domestic civil services. All of our public services are changing and the EU civil service will be left behind at its peril. A modern, effective and dynamic civil service is vital for the EU to be able to deliver on the important issues which matter to our citizens. We should not under-estimate how strongly the public's support for the EU is linked to their perception of the EU Civil Service. In the next few years, we will continue to work constructively to ensure that EU citizens have the EU civil service they should expect, one that reflects our 21<sup>st</sup> century EU and one that the EU can afford to maintain."

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## "B" ITEMS

### **4. Proposal for a Council Regulation amending Regulation (EC) No 219/2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) as regards the extension of the Joint Undertaking until 2024**

Interinstitutional file: 2013/0237 (NLE)

- Adoption of the Council position  
12392/13 AVIATION 109  
+ REV 1 (fr)  
14302/13 AVIATION 168

The Council adopted its position on a proposal aimed at extending until 31 December 2024 the mandate of the joint undertaking managing the development of the Single European Sky Air Traffic Management Research (SESAR) project.

The Council position is adopted under the special legislative procedure; the European Parliament is consulted. The Council agreed to enter in these minutes the Council declaration below.

#### **Declaration by the Council on the EU contribution to the SESAR JU budget**

"THE COUNCIL

NOTES that SESAR is one of several initiatives due to be extended or established under Articles 187 and 188 of the TFEU and is expected to draw €600m from Horizon 2020.

EMPHASISES in this respect that the Council should, in due course, take the opportunity to examine the budgets proposed for all Article 187 and 188 initiatives in order to ensure effective prioritisation in light of the reduced Horizon 2020 budget."

### **5. Proposal for a Regulation of the European Parliament and of the Council on multiannual funding for the action of the European Maritime Safety Agency in the field of response to pollution caused by ships and to marine pollution caused by oil and gas installations [First reading]**

Interinstitutional file: 2013/0092 (COD)

- General approach  
8219/13 MAR 33 FIN 173 CODEC 753 ENV 280  
14076/13 MAR 142 FIN 568 CODEC 2129 ENV 863

The Council adopted a general approach on a proposal for financing the activities of the European Maritime Safety Agency (EMSA) in the field of response to pollution caused by ships and to marine pollution caused by oil and gas installations in the years 2014 to 2020.

## 6. 4th Railway Package

### **Proposal for a Directive of the European Parliament and of the Council on railway safety (Recast) [First reading]**

Interinstitutional file: 2013/0016 (COD)

- General approach  
6014/13 TRANS 40 CODEC 227  
14258/13 TRANS 499 CODEC 2164

The Council adopted a general approach as set out in doc. 14813/13 on a recast of the 2004 railway safety directive, which is part of the technical pillar of the fourth railway package.

The Council agreed to enter in these minutes statements by Italy, Luxembourg and Sweden as below.

#### **Statement by Italy**

"The Italian delegation supports the introduction of the proposed new Directive on railway safety and its aims. This statement is nevertheless intended to draw attention to a number of critical issues that remain in the text, ahead of the forthcoming negotiations with the European Parliament.

1. It is crucial, when drawing up the new Regulation on the European Railway Agency (ERA), to guarantee the independence of the Board of Appeal, the body tasked with settling any disputes between the ERA and the national safety authorities (NSAs) when it comes to issuing safety certificates to railway undertakings (Article 10(1)(f)). Italy believes that this issue must be reviewed once the new Regulation (amending Regulation (EC) No 881/2004) on the tasks of the ERA has been drawn up.
2. The new Directive provides for the supervisory tasks (Article 16a(1)(c)) of the national safety authorities (NSAs) to be extended to cover entities in charge of maintenance. Italy believes that it must be clear that the NSAs should ensure that railway undertakings and infrastructure managers monitor the entities in charge of maintenance as part of their own safety management systems.

It also believes that railway undertakings should be responsible for supervising the safety performance of entities with which they have commercial dealings. Italy therefore continues to be highly critical of Article 16a(4aaa), which provides for the possibility that the national authorities may supervise the safety performance of various entities, referred to in the new Directive, even those which do not operate purely in the railway sector (manufacturers, maintenance suppliers, keepers, service providers, contracting authorities, carriers, consignors, consignees, loaders, unloaders, fillers and unfillers)."

## **Statement by Luxembourg**

"Luxembourg is in principle in favour of the creation of a single certificate and the transfer of the related competences to the European Railway Agency.

It feels however that rushing such a far-reaching reform without even awaiting the evaluation of the legislation, rules, mechanisms and procedures in place is irresponsible (two regulations only just came into force in June 2013).

In this context, Luxembourg regrets in particular the separation of certification and supervision. This division of tasks between the Agency and national authorities is likely to mean that the current level of safety cannot be maintained. The impact assessment accompanying the Commission proposal makes no comment on this issue, moreover. This prospect is not acceptable for Luxembourg because railway safety is an absolute and non-negotiable objective.

On the basis of this reasoning and in a constructive spirit, Luxembourg submitted, during the negotiations, a proposal on an alternative approach revolving around the principles outlined hereafter.

The system as proposed by Luxembourg would rely exclusively on the national safety authorities. According to Luxembourg's approach, the procedure as envisaged by the Commission would nevertheless not be fundamentally overhauled. The European Railway Agency would be replaced by a national authority which would act as lead authority. The designation of the lead authority would be connected to the seat of the railway undertaking concerned.

This alternative approach would provide the following advantages:

- It would avoid the separation of evaluation and supervision tasks.
- It would keep the system less complex by disposing of an entity with no real added value.
- It would prevent a substantial increase in the Agency's staff.

Luxembourg is sorry to have received no guarantee to allay its doubts regarding the availability at the European Railway Agency of the funding and expertise required to fulfil its new tasks.

For these reasons Luxembourg reserves its position and will determine its definitive decision following the negotiations on all three proposals coming under the technical pillar of the fourth railway package."

## **Statement by Sweden**

"Sweden endorses the compromise on the revised Railway Safety Directive as drawn up by the Council. Further harmonisation of safety rules and procedures as regards the issuing of licences provides the basis for the successful development of a European railway area and, accordingly, a more open market for rail transport.

However, Sweden sees some problems with the new arrangements regarding the allocation of responsibility for safety as set out in Article 4. The existing Directive clearly places such responsibility on infrastructure managers and railway undertakings. They are also responsible for the services provided by their suppliers. Under the new system, infrastructure managers and railway undertakings continue to bear responsibility for such matters. At the same time, actors (such as suppliers of material and services, as well as customers) are each accorded their own individual responsibility for safety. They are thereby entrusted with a public law responsibility for which there is no equivalent in other areas of land transport.

This part of the proposal could undermine the incentive for the actors to take on the responsibility thereby imposed and its associated costs. The rail sector's strong safety culture could be undermined as a result. We risk, instead, developing a culture in which the burden of responsibility is shifted between different actors. In addition, we run the risk that this part of the proposal could undermine the competitiveness of rail transport. Service providers which load and unload goods are often customers of railway undertakings and could avoid the new responsibility by leaving the rail industry.

Sweden fears that the Member States will face considerable difficulties in balancing the allocation of responsibility between the actors in question when transposing the Directive in their legislation."

### **7. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 912/2010 setting up the European GNSS Agency [First reading]** Interinstitutional file: 2013/0022 (COD)

– General approach

6347/13 TRANS 60 MAR 17 AVIATION 20 CAB 6 ESPACE 11

FIN 82 CSC 12 CODEC 315

14274/13 TRANS 503 MAR 145 AVIATION 167 CAB 38 ESPACE 74 FIN 583

CSC 111 CODEC 2171

The Council adopted a general approach on a proposal aimed at bringing the regulation on the European GNSS (global navigation satellite system) agency into line with the new governance framework established under the forthcoming regulation on the implementation of European satellite navigation systems, in particular as regards security accreditation activities. This new governance framework will enter into force on 1 January 2014. The Council agreed to enter in these minutes the statement made by Germany and the Netherlands as set out hereafter.

### **Statement by Germany and the Netherlands**

"The Federal Republic of Germany and the Netherlands are not opposed to the adoption of the proposed overall compromise for the Regulation amending Regulation (EU) No 912/2010 setting up the European GNSS Agency, but point out that they reject in principle the European Commission's right to veto the election of the Executive Director of Agencies (Article 5(7)).

There is no provision for any such right of veto in the Common Approach for EU Agencies and it is contrary to the wording of Article 6(4) and the third subparagraph of Article 15b(2) of this Regulation.

The European Commission already has considerable influence in this area, since it draws up the shortlist of candidates for the Executive Director. An additional right to veto the election is therefore inappropriate. The current Agency Regulation (EU) No 912/2010 does not recognise this right of veto either.

The agreement of the Federal Republic and the Netherlands to the proposed overall compromise does not represent any change in Germany's or the Netherlands' position on the Common Approach for EU Agencies and is without prejudice with regard to other agencies."

**8. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air [First reading]**

Interinstitutional file: 2013/0072 (COD)

– Orientation debate

7615/13 AVIATION 47 CONSOM 47 CODEC 616

13830/13 AVIATION 154 CONSOM 167 CODEC 2061

The Council held a policy debate on the basis of the questions set out in doc. 13830/13.

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