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Subject: Proposal for a Directive of the European Parliament and of the Council on the accessibility of public sector bodies' websites
– *Progress report*

The present report has been drawn up under the responsibility of the Latvian Presidency. It sets out the work done so far in the Council's preparatory bodies and it gives an account of the state of play in the examination of the above-mentioned proposal.

INTRODUCTION

1. The Commission adopted its proposal for a *Directive of the EP and of the Council on the accessibility of public sector bodies' websites*¹ on 3 December 2012 with Article 114 TFEU as a legal basis. The proposal aims to approximate the laws, regulations and administrative practices of the Member States related to the requirements for web-accessibility of public sector bodies' websites, in order to improve the functioning of the internal market.
2. After a first presentation of the proposal and of its impact assessment in January 2013, the Council Working Party on Telecommunications and the Information Society (WP TELE) discussed the proposal under the Irish Presidency. Its progress report² highlighted the main issues raised by delegations, i.e.: the use of standards, scope, legal basis and the costs and benefits of the implementation of the proposal. A report by the Greek Presidency took the status of the file forward to May 2014.³ Discussions on the file continued under the Italian Presidency, as set out in its progress report.⁴
3. The delayed adoption of the European Standard hampered progress on the file, with further discussions suspended until its adoption.
4. In the European Parliament, Mr. Jorgo Chatzimarkakis (IMCO) was appointed as Rapporteur. Prior to the end of its term of office, the outgoing EP adopted its first reading position on 26 February 2014.⁵ In the new EP, Ms. Dita Charanzova (IMCO) has been appointed Rapporteur.

¹ Doc 17344/12

² Doc 10089/13

³ Doc 10016/14

⁴ Doc 15512/14

⁵ Doc 6835/14

STATE OF PLAY IN THE COUNCIL

1. During the Latvian Presidency Semester, several revised texts⁶ proposed by the Presidency were discussed thoroughly during various meetings of WP TELE. On the basis of the discussions of the past months, the Presidency has put together the present progress report in order to inform Ministers about the state of play of the proposal and to draw attention to the issues which will require further discussion. This report should be read together with the reports presented by the Irish, Greek and Italian Presidencies referred to in point 2, since many issues raised in them remain valid.
2. Discussions under the Latvian Presidency concentrated on the scope of the proposal, taking into account that the scope of the initial Commission proposal was limited to website-based online services provided by public sector bodies, whereas discussions in the Council resulted in support for extending the scope to cover a large part of public sector bodies' websites and the content provided by them.
3. As regards monitoring/reporting and transposition requirements, delegations indicated a preference for a prioritised and phased approach to the implementation of web-accessibility requirements. A distinction should be made between new websites that were not published before the transposition date and all other websites, with different dates of application.
4. Furthermore, while delegations generally welcome the objective of increased accessibility of public sector websites, they continued to express concerns about proportionality, highlighting the issue of the costs of applying the Directive, particularly in the light of the extended scope both in relation to the types of public sector bodies and to the types of web content covered by the Directive.

⁶ Docs 5418/15, 7116/15, 7888/15, 8435/15.

MAIN ELEMENTS OF THE PRESIDENCY COMPROMISE

The latest Presidency proposals, under further discussion in WP TELE, introduce the following main changes.

Scope (Articles 1-2 and the Annex)

In order to find a possible compromise on how to approach the scope, the Presidency has proposed to frame the scope firstly by types of content to be covered, and secondly by types of public sector bodies to be covered.

It is suggested to limit the scope of the Directive by excluding several types of content from the scope, such as archived documents that are not embedded in a webpage, non-web format content, and content in video and audio format. However, the exact meaning of those exclusions needs to be further defined to create legal certainty on the types of content that are covered and those that are excluded. The respective definitions would need to be included in Article 2 of the Directive.

When it comes to types of content, additional suggestions were put on the table. For example, it remains to be further examined whether the following types of content should be also excluded from the scope of the Directive: digital collections in the area of culture, social media and other third-party content incorporated in public sector bodies' websites, geographic services and infographics, websites belonging to small organisations or websites with fewer than a certain number of visits per day/year.

To clarify the relationship between this Directive and Directive 2010/13/EU on Audiovisual Media Services (AVMS), a new paragraph has been added to Article 1. It explains that in cases covered by both Directives, the provisions of the AVMS Directive apply. If it is decided to exclude all audiovisual media content including content not covered by the AVMS Directive, an alternative wording will have to be considered.

To further limit the scope of the Directive by reducing the types of public sector bodies to be covered, the definition of "public sector body" has been clarified by deleting the reference to "bodies governed by public law" in Article 2(8) as well as deleting the separate definition of "bodies governed by public law" in Article 2(9).

To accompany the above approach to the scope, a minimum harmonisation clause should be inserted in Article 1. It would clarify that Member States may apply the web-accessibility requirements to content not covered by the Directive.

Requirements for web-accessibility (Article 3)

Article 3(1) has been amended to align the text with European standard EN 301549 which includes web-accessibility requirements in line with the Web Content Accessibility Guidelines 2.0 (WCAG 2.0), which are organised according to general principles of accessibility.

Monitoring, reporting and transposition (Articles 7 and 10)

It has been clarified that for the purpose of the review of the Directive, Member States shall report to the Commission. The report should be issued 54 months after the entry into force of the Directive. The proposed date is linked to the dates of application proposed in Article 10 and to the date of the review in Article 11.

In order to give sufficient time to the Commission to come up with guidelines that also take into account the results of the cooperation between Member States, the Presidency proposes that the Commission guidelines should be issued two years after the entry into force of the Directive. This is reflected in the new wording of Article 7(4).

The overall timeline for the application of the Directive shall be extended in order to give sufficient time to public sector bodies to amend their websites. The concept of a prioritised and phased approach has been introduced in Article 10, proposing to include two application dates, one for new websites that were not published before the transposition date, and another for all other websites.