



Council of the
European Union

Brussels, 27 January 2016
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15257/15
ADD 1

PV/CONS 73
TRANS 409
TELECOM 233
ENER 427

DRAFT MINUTES

Subject: **3436th** meeting of the Council of the European Union (**TRANSPORT, TELECOMMUNICATIONS AND ENERGY**), held in Brussels on 10 and 11 December 2015

PUBLIC DELIBERATION ITEMS¹

Page

"A" ITEMS (doc. 14962/15 PTS A 99)

LEGISLATIVE DELIBERATIONS

1. Draft Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 [First reading] (LA+S)..... 3
2. Draft Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (Recast) [First reading] (LA+S) 4
3. Draft Directive of the European Parliament and of the Council on railway safety (Recast) [First reading] (LA+S) 5

"B" ITEMS (doc. 14924/15 OJ CONS 73 TRANS 400 TELECOM 228 ENER 415)

NON-LEGISLATIVE ACTIVITIES - PUBLIC DEBATES

4. Social aspects in road transport 6

LEGISLATIVE DELIBERATIONS

6. Proposal for a Directive of the European Parliament and of the Council on the accessibility of public sector bodies' websites [First reading]..... 7
7. Proposal for a Directive of the European Parliament and of the Council concerning measures to ensure a high common level of network and information security across the Union [First reading] 7

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¹ 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)

1. Draft Regulation of the European Parliament and of the Council on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 [First reading] (LA+S)

= Adoption

(a) of the Council's position at first reading

(b) of the statement of the Council's reasons

14524/1/15 REV 1 CODEC 1579 TRANS 382

+ REV 1 ADD 1

10578/15 TRANS 229 CODEC 986

+ ADD 1

approved by Coreper, Part 1, on 2.12.2015

The Council approved its position at first reading, with the Polish delegation abstaining, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union.

(Legal basis: Article 91(1) of the TFEU)

Statement by the Commission

on the ERA management board and the selection and dismissal procedure of the executive director

"The Commission regrets the fact that compared to the original proposal presented by the Commission, the agreed text on the new ERA Regulation deviates from the key provisions agreed under the Common Approach on EU decentralised agencies, by the European Parliament, the Council and the Commission in 2012. This concerns the number of representatives of the Commission within the Management Board and the selection and dismissal procedure of the executive director. The Commission emphasises in particular that the appointment of an observer among the members of the Management board to follow the selection procedure applied by the Commission for the appointment of the executive director should not result in a duplication of roles in the selection and appointment procedures (Article 51(1))."

Statement by the Commission

on necessary budget resources

"The 4th Railway Package gives ERA new competences, in particular the power to issue vehicle authorisations and safety certificates directly to the sector. It cannot be excluded that in the transition period fees and charges are not yet available to ERA while the staff needs to be recruited and trained. In order to avoid disruption to the railway market, the Commission will endeavour to reserve the necessary budget in order to cover the costs of relevant staff."

Statement by the Federal Republic of Germany

"With regard to Article 71(2) of the proposal for a Regulation of the European Parliament and of the Council on the European Agency for Railways and repealing Regulation (EC) No 881/2004, Germany recalls paragraph 8 of the Joint Statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies, according to which the host State should commit itself to [continue to] respond to the agency's needs and provide the necessary conditions for the smooth operation of the agency [also after the latter has been set up]. Germany considers itself bound by this, so that its agreement to the current wording should not be seen as a precedent for the future foundation of (new) agencies, and it requests the Commission to take this into account in the future when preparing comparable proposals.

Furthermore, Germany regrets very much that it has not received sufficient support for a term of office of the Executive Director of five plus four years."

2. Draft Directive of the European Parliament and of the Council on the interoperability of the rail system within the European Union (Recast) [First reading] (LA+S)

= Adoption

(a) of the Council's position at first reading

(b) of the statement of the Council's reasons

14525/1/15 REV 1 CODEC 1580 TRANS 383

+ REV 1 ADD 1

+ REV 1 ADD 2

10579/15 TRANS 230 CODEC 987

+ ADD 1

approved by Coreper, Part 1, on 2.12.2015

The Council approved its position at first reading, with the Polish delegation abstaining, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union.

(Legal basis: Article 91(1), Article 170 and Article 171 of the TFEU)

Statement by the Commission **on explanatory documents**

"The Commission recalls that the European Parliament, the Council and the Commission acknowledged in their Joint Political Declaration of 27 October 2011 on explanatory documents that the information Member States supply to the Commission as regards the transposition of directives in national law 'must be clear and precise' in order to facilitate the achievement by the Commission of its task overseeing the application of Union law. In the present case, explanatory documents could have been useful to this end. The Commission regrets that the final text does not contain provisions to this effect."

Statement by the Commission **on non-opinion clause**

The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5, paragraph 4, second subparagraph, point (b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5, paragraph 4, recourse to second subparagraph, point (b) cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.

3. Draft Directive of the European Parliament and of the Council on railway safety (Recast) [First reading] (LA+S)

= Adoption

(a) of the Council's position at first reading

(b) of the statement of the Council's reasons

14526/2/15 REV 2 CODEC 1581 TRANS 384

14526/1/15 REV 1 ADD 1 CODEC 1581 TRANS 384

+ REV 1 ADD 2 REV 1

10580/15 TRANS 231 CODEC 988

+ ADD 1

approved by Coreper, Part 1, on 2.12.2015

The Council approved its position at first reading, with the United Kingdom delegation voting against and the Polish delegation abstaining, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. (Legal basis: Article 91(1) of the TFEU)

Statement by the Commission **on explanatory documents**

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Statement by the United Kingdom

"The United Kingdom fully supports the aims and objectives of the Fourth Railway Package Technical Pillar and believes that significant progress has been made in agreeing a cohesive and coherent set of texts.

However, the United Kingdom regrets that the final adoption by delegated act of technical content in relation to Common Safety Methods and Common Safety Targets in the recast of the Railway Safety Directive sets an unwelcome legal precedent and unnecessarily politicises key technical matters. Consequently, the UK is voting against the recast Railway Safety Directive."

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"B" ITEMS

TRANSPORT

NON-LEGISLATIVE ACTIVITIES

(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure [proposed by the Presidency])

4. Social aspects in road transport

- Policy debate

14217/2/15 TRANS 365 EMPL 440 REV 2

The Council held a policy debate on the basis of the questions set out in doc. 14217/2/15 REV 2.

LEGISLATIVE DELIBERATIONS

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

6. Proposal for a Directive of the European Parliament and of the Council on the accessibility of public sector bodies' websites [First reading]

(Legal basis proposed by the Commission: Article 114(1) of the TFEU)

Interinstitutional File: 2012/0340 (COD)

– Presidency progress report

14164/15 TELECOM 212 CONSOM 192 MI 725 CODEC 1522

+ COR 1

The Council took note of the Presidency progress report on the above proposal, as set out in doc. 14164/15 + COR 1.

7. Proposal for a Directive of the European Parliament and of the Council concerning measures to ensure a high common level of network and information security across the Union [First reading]

(Legal basis proposed by the Commission: Article 114(1) of the TFEU)

Interinstitutional File: 2013/0027 (COD)

– Presidency report on the state of play of the trilogues

14673/15 TELECOM 225 DATAPROTECT 219 CYBER 114 MI 767

CSC 295 CODEC 1609

The Council took note of the Presidency report on the state of play of the trilogues on the above proposal, as set out in doc. 14673/15 + COR 1.
