



Council of the  
European Union

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**LIMITE**

**TRANS 19**  
**COWEB 5**  
**ELARG 4**

### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the Ministerial Council set up under the Treaty establishing the Transport Community as regards the adoption of the Rules of Procedure of the Ministerial Council

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**COUNCIL DECISION (EU) 2018/...**

**of ...**

**on the position to be taken on behalf of the European Union  
within the Ministerial Council set up under the Treaty  
establishing the Transport Community as regards  
the adoption of the Rules of Procedure of the Ministerial Council**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 and Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Treaty establishing the Transport Community<sup>1</sup> ('the TCT') was signed by the Union in accordance with Council Decision (EU) 2017/1937<sup>2</sup>.
- (2) The TCT is applied on a provisional basis in accordance with Article 41(3) thereof, pending its entry into force.
- (3) It is essential for the Ministerial Council to adopt its Rules of Procedure in order to ensure the appropriate execution of its tasks pursuant to Articles 21, 22 and 23 of the TCT.
- (4) It is appropriate to establish the position to be taken on the Union's behalf within the Ministerial Council, as the decision on the Rules of Procedure of the Ministerial Council will be binding on the Union.
- (5) The position of the Union within the Ministerial Council should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

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<sup>1</sup> OJ L 278, 27.10.2017, p. 3.

<sup>2</sup> Council Decision (EU) 2017/1937 of 11 July 2017 on the signing, on behalf of the European Union, and provisional application of the Treaty establishing the Transport Community (OJ L 278, 27.10.2017, p. 1).

*Article 1*

The position to be taken on the Union's behalf within the Ministerial Council set up under the Treaty establishing the Transport Community shall be based on the draft Decision of the Ministerial Council attached to this Decision.

Minor changes to the draft Decision may be agreed to by the representatives of the Union in the Ministerial Council without a further decision of the Council.

*Article 2*

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council*

*The President*

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DRAFT

**DECISION No 1/2018  
OF THE MINISTERIAL COUNCIL OF THE TRANSPORT COMMUNITY**

**of ...**

**adopting its Rules of Procedure**

THE MINISTERIAL COUNCIL OF THE TRANSPORT COMMUNITY,

Having regard to the Treaty establishing the Transport Community<sup>1</sup>, and in particular Articles 21, 22 and 23 thereof,

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<sup>1</sup> OJ EU L 278, 27.10.2017, p. 3.

Whereas:

- (1) The Treaty establishing the Transport Community is applied on a provisional basis in accordance with Article 41(3) thereof, pending its entry into force.
- (2) The Ministerial Council should adopt its Rules of Procedure in order to ensure the appropriate execution of its tasks pursuant to Articles 21, 22 and 23 of the Treaty establishing the Transport Community,

HAS ADOPTED THIS DECISION:

*Sole Article*

The Rules of Procedure of the Ministerial Council, as set out in the Annex to this Decision, are hereby adopted.

Done at ...,

*For the Ministerial Council*

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## ANNEX

### RULES OF PROCEDURE OF THE MINISTERIAL COUNCIL OF THE TRANSPORT COMMUNITY

#### I. GENERAL

1. These Rules of Procedure establish the internal procedures for the operation of the Ministerial Council as an institution under the Treaty establishing the Transport Community ('the Treaty') between the European Union and the South East European Parties (the Republic of Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo<sup>\*</sup>, Montenegro and the Republic of Serbia).
2. In the case of any contradiction between these Rules of Procedure and the Treaty, the provisions of the Treaty shall prevail.

#### II. PARTIES, OBSERVERS AND OTHER PARTICIPANTS

1. Parties should, in principle, be represented in the Ministerial Council at ministerial level or equivalent.
2. Without prejudice to the position of observers in accordance with Article 22 of the Treaty, the Presidency and the Vice-Presidency as referred to in paragraph 2 of Section III may, where appropriate, agree to invite representatives of third States, international organisations or other bodies including representatives of the civil society to attend, on an ad hoc basis, specific meetings of the Ministerial Council or parts thereof.

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\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo declaration of independence.



3. Where the Presidency and the Vice-Presidency agree to invite representatives of third States, international organisations or other bodies, the Presidency shall inform the Parties and the Permanent Secretariat of the Transport Community ('the Secretariat') at least three weeks before the meeting. The Parties and the Secretariat may submit their views to the Presidency within five working days of receipt of that information.

### III. PRESIDENCY

1. The Presidency of the Ministerial Council shall be held by the same South East European Party that presides over the Regional Steering Committee in accordance with Article 24(6) of the Treaty and the arrangements laid down in the Rules of Procedure of the Regional Steering Committee.
2. The Presidency shall chair the Ministerial Council. It shall be assisted by one representative of the European Union and one representative of the incoming Presidency, together referred to as the Vice-Presidency.
3. Should the Presidency be unable to perform its duties for a particular meeting, that meeting will be chaired by the representative of the European Union as Vice-Presidency.

#### IV. PREPARATION OF MEETINGS

1. In addition to the meetings held on an annual basis in accordance with Article 23 of the Treaty, the Ministerial Council may hold other meetings in case of need. Meetings for such purposes shall be convened by the Presidency in agreement with the Vice-Presidency.
2. The place of the Ministerial Council meetings shall be decided upon by the Presidency after consultations with the Vice-Presidency and the Secretariat. In principle, that decision shall be made at least two months prior to the relevant meeting. Contribution by the Secretariat to the organisational costs of the meetings outside the seat of the Secretariat shall be subject to its internal budgetary rules.
3. The dates of the meetings shall be agreed between the Presidency, the Vice-Presidency and the Secretariat. In principle, the dates shall be agreed at least two months prior to the relevant meeting.
4. The draft agenda of the meeting shall be agreed by the Presidency and the Vice-Presidency. The draft agenda and any documents related to it shall be distributed to the Parties and the observers at least two months prior to the relevant meeting. The Parties may submit comments and request new items to be added to the agenda. Material of interest to them shall also be distributed to the representatives invited in accordance with paragraph 2 of Section II.
5. The Secretariat shall be responsible for the preparation of the meetings. It shall inform the Presidency and the Vice-Presidency periodically and upon request about the preparation process and follow their requests and guidance in this regard.

## V. MEETINGS OF THE MINISTERIAL COUNCIL - PROCEDURAL RULES

1. The meetings of the Ministerial Council shall not be public unless the Ministerial Council decides otherwise.
2. Any Party, observer or other participant of the meeting may be accompanied by officials who assist them. The names and functions of those officials shall be notified in advance to the Secretariat. In principle, the number of officials shall not exceed three for any Party, and two for any other participant in the meeting. However, the Presidency may further advise on the maximum number of representatives per delegation.
3. The Ministerial Council shall be considered as meeting the required quorum only if four South East European Parties and the European Union are represented.
4. The Ministerial Council shall act by consensus. Abstention by a Party shall not prevent the Ministerial Council from taking action provided that there is quorum as required by paragraph 3 of this Section.
5. The agenda shall be approved at the beginning of each meeting. In urgent circumstances, new items may be added to the agenda during the meeting subject to the agreement of the Presidency and the Vice-Presidency.
6. Observers may participate in the discussions and may make statements upon permission or when invited by the Presidency.

7. Other participants invited in accordance with paragraph 2 of Section II may participate in the discussions upon permission or when invited by the Presidency, but they shall not take part in the taking of action of any kind.
8. The conclusions of each meeting shall be drawn up with the assistance of the Secretariat. They shall be signed by the Presidency and distributed to the Parties and the observers. In the case that it is not possible to finalise the draft conclusions by the end of the relevant meeting, the Presidency shall ensure that they are finalised and distributed within seven calendar days after the meeting. Any Party may request corrections within seven calendar days of receipt of the draft conclusions. The Presidency shall ensure that the final version is distributed within seven calendar days of the expiry of the deadline for comments.
9. Any general policy guidelines or measures adopted at the meeting shall be recorded in the conclusions.
10. The positions of the Parties and any statement by observers regarding actions proposed to be taken by the Ministerial Council shall be recorded in the conclusions.
11. The conclusions of meetings may not in any way restrict the scope or effects of legal acts or the Treaty. No statements or conclusions which contradict binding legal provisions shall be made. The conclusions of meetings shall not form part of legal acts, nor shall they have any normative effect.

## VI. FORMS OF ACTION AND PROCEDURE TO BE FOLLOWED BY THE MINISTERIAL COUNCIL

1. The Ministerial Council acts by adopting, as the case may be:
  - general policy guidelines; and
  - decisions, recommendations or opinions (together referred to as ‘Measures’).

The adoption of rules intended to ensure the functioning of the Ministerial Council as well as the adoption of reports shall be considered as the adoption of decisions.

2. Once general policy guidelines or Measures are adopted or amended, they shall be promptly signed by the Presidency and then circulated by the Secretariat to all Parties.
3. General policy guidelines and Measures shall enter into force on the date of their adoption, unless they provide otherwise.

### General policy guidelines

4. The adoption or amendment of general policy guidelines may be requested by any Party or the Secretariat. The request shall be made in writing and shall contain sufficient information explaining the necessity of adoption or amendment of the proposed guidelines by the Ministerial Council.

5. The written request shall be submitted by the requesting Party or the Secretariat to the Presidency with copy to the Vice-Presidency and, if applicable, the Secretariat. The Presidency shall notify all other Parties within seven calendar days of receipt of the request. Where necessary, the requesting Party or the Secretariat shall ask the Regional Steering Committee for its position.
6. The Presidency, in consultation and agreement with the Vice-Presidency, shall organise the preparation of a draft position of the Ministerial Council, which shall be presented for discussion at the next Ministerial Council meeting. The draft position shall be sent to the Parties at least 30 calendar days before the meeting.
7. In duly justified cases, general policy guidelines may be adopted or amended without the forms and procedures set out in paragraphs 4 to 6 of this Section being respected.

#### Measures

8. Unless otherwise specified in these Rules of Procedures or in rules laid down by the Ministerial Council intended to ensure the functioning of the Ministerial Council, the adoption or amendment of Measures shall follow the same procedure.
9. Any request for the adoption or amendment of a Measure from a Party or the Secretariat shall be made in writing at least 60 calendar days before the meeting of the Ministerial Council at which it shall be discussed.
10. The request shall be sent to the Presidency with copy to all Parties and the Secretariat. It shall be accompanied by relevant explanatory notes. Where necessary, the requesting Party or the Secretariat shall ask the Regional Steering Committee for its position.

11. In duly justified cases, Measures may be adopted or amended without respecting the forms and procedures set out in paragraphs 9 and 10 of this Section.

#### Adoption of general policy guidelines and Measures by correspondence

12. The Ministerial Council may, in the intervals between its meetings, adopt or amend general policy guidelines or Measures by correspondence. The Presidency, upon the request by a Party or the Secretariat for general policy guidelines or a Measure to be taken by correspondence, or on its own initiative, shall decide, in consultation and agreement with the Vice-Presidency, whether the matter warrants that a procedure by correspondence be followed.
13. Where the Presidency has decided that a procedure by correspondence is to be followed, it shall instruct the Secretariat to send the request to each Party together with such information as the Presidency, in consultation and agreement with the Vice-Presidency, considers necessary. The Presidency, in consultation and agreement with the Vice-Presidency, shall also specify whether and, if so, under which conditions, amendments to the request may be made by the Parties.
14. The Presidency shall, in consultation and agreement with the Vice-Presidency, determine the date and hour by which responses must be received, which shall in no case be earlier than 10 calendar days from the date of transmission of the information referred to in paragraph 13 of this Section. In exceptional circumstances, upon request or on its own initiative, the Presidency may, in consultation and agreement with the Vice-Presidency, extend the time limit for the receipt of responses. Any Party which has not replied in writing (including by email) within the given time limit shall be regarded as abstaining.

15. The Ministerial Council shall act by consensus. Consensus shall be considered achieved where at least four South East European Parties and the European Union have responded in favour of the action concerned and no Party has opposed it.

## VII. DISCLOSURE OF INFORMATION

1. Unless otherwise decided, the finalised documents of the meetings (agenda, conclusions etc.) shall be made public on the website of the Secretariat.
2. The right of access to documents held by the Ministerial Council shall be laid down by the Regional Steering Committee in accordance with Article 38(2) and (3) of the Treaty.

## VIII. FINAL PROVISIONS

1. Observers and persons invited in accordance with paragraph 2 of Section II shall follow any requirements for confidentiality which apply to the Parties. Such requirements shall be reflected in the conclusions of the relevant meeting.
2. Persons invited in accordance with paragraph 2 of Section II shall, prior to attending the relevant discussions, be requested to sign a confidentiality statement. Such confidentiality statement shall contain a commitment to respect the confidentiality rules referred to in paragraph 1 of this Section. Where such persons refuse to sign such statement, they shall be excluded from those discussions.
3. All acts of the Ministerial Council shall be signed by the Presidency.



4. Any amendments to these Rules of Procedure shall be adopted by a decision of the Ministerial Council.
5. If application of these Rules of Procedure to a specific situation gives rise to a difficulty of interpretation, the Presidency shall, in consultation and agreement with the Vice-Presidency, provide advice to resolve the situation.
6. One year from the entry into force of these Rules of Procedure, based on the practical experience with their application, the Secretariat may propose amendments to these Rules of Procedure as it deems useful or necessary. Where a Party wishes to propose such amendment, it shall consult first with the Secretariat.

These Rules of Procedure shall enter into force on the date of their adoption by the Ministerial Council.

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