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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Economic and Financial Affairs)
6 November 2018

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1. **Adoption of the agenda** 13423/18

The Council adopted the agenda set out in 13423/18.

2. **Approval of "A" items** 13425/18
a) **Non-legislative list**

The Council adopted the "A" items listed in 13425/18 including COR and REV documents presented for adoption. Statements related to these items are set out in the Addendum.

For the following items the documents should read as follows:

Institutional Affairs


11. Members of the Scientific and Technical Committee 12722/18 + **ADD 1**
Adoption 12676/18
approved by Coreper, Part 1, on 24.10.2018 RECH

Foreign Affairs

27. Venezuela restrictive measures - review - Decision and 13141/18
Implementing Regulation 13014/18
Adoption 13016/18
approved by Coreper, Part 2, on 24.10.2018 **+ COR 1 (el)**
CORLX

- b) **Legislative list (Public deliberation in accordance with Article 16(8) of the Treaty on European Union)** 13427/18

Justice and Home Affairs

1. **Visas for third countries nationals (codification)**  13058/18
Adoption of the legislative act PE-CONS 50/18
approved by Coreper, Part 2, on 24.10.2018 CODIF
VISA

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 77(2)(a) TFEU).

2. Eurojust Regulation

Adoption of the legislative act

approved by Coreper, Part 2, on 24.10.2018



13059/1/18 REV 1
13059/18 ADD 1
PE-CONS 37/18
+ COR 1 (nl,da,es,ro)
EUROJUST

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish, Irish and United Kingdom delegations did not participate in the vote. (Legal basis: Article 85 TFEU). Statements related to these items are set out in the Annex.

3. Freezing and Confiscation Regulation

Adoption of the legislative act

approved by Coreper, Part 2, on 24.10.2018



13061/18
PE-CONS 38/18
JAI

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish and Irish delegations did not participate in the vote. (Legal basis: Article 82(1)(a) TFEU).

Culture/Audiovisual Matters

4. Review of AVMS Directive

Adoption of the legislative act

approved by Coreper, Part 1, on 24.10.2018



13052/1/18 REV 1
13052/18 ADD 1
PE-CONS 33/18
+ COR 1 (ro)
AUDIO

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Denmark, the Netherlands, the Czech Republic, Finland and Ireland voting against, and Luxembourg and the United Kingdom abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 53(1) and Article 62 TFEU). Statements related to these items are set out in the Annex.

Economic and Financial Affairs

5. **Directive on extending period of application of optional reverse charge mechanism and of quick reaction mechanism (VAT)** SC 13021/18
12033/1/18 REV 1
FISC

Adoption

approved by Coreper, Part 2, on 31.10.2018

The Council adopted the Council Directive as finalised by the legal/linguistic experts in doc. 12033/1/18 REV 1 (Legal basis: Article 113 TFEU).

6. **Directive as regards rates of VAT on E-publications** SC 13022/18
12657/18
FISC

Adoption

approved by Coreper, Part 2, on 31.10.2018

The Council adopted the Council Directive as finalised by the legal/linguistic experts in doc. 12657/18 (Legal basis: Article 113 TFEU).

Legislative deliberations

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

3. **Digital services tax** SC 13525/18
Directive on a tax on revenues from certain digital services
Policy debate + COR 1
+ COR 2

The Council held a policy debate on the draft Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services.

4. **Any other business** 13541/1/18 REV 1
Current financial services legislative proposals
Information from the Presidency

The Council took note of the state of play of implementation of financial services legislation.

Non-legislative activities

The Council addressed the following non-legislative discussion items (5-9)

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|----|--|----------------------|
| 5. | European Court of Auditors' annual report on the implementation of the budget of the European Union for the financial year 2017
<i>Presentation</i> | |
| 6. | Conclusions on EU statistics
<i>Adoption</i> | 13526/18
13530/18 |
| 7. | Conclusions on climate finance for the COP24
<i>Adoption</i> | 13528/18 |
| 8. | Follow-up to the G20 and IMF meetings in Bali
<i>Information from the Presidency and the Commission</i> | 13540/18 |
| 9. | Any other business | |

S Special legislative procedure

C Item based on a Commission proposal

Statements to the legislative "A" items set out in 13427/18

Ad "A" item 2: **Eurojust Regulation**
Adoption of the legislative act

STATEMENT BY THE COMMISSION

"The Commission regrets that on several points, the co-legislators have decided to deviate from the approach agreed in the Joint Statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies of 19 July 2012, without providing the necessary justification. This relates in particular to the number of Commission representatives in the College/Management Board and the procedure for appointing and dismissing the Administrative Director of Eurojust. The Commission will assess the impact of those deviations on the functioning of the Agency at the appropriate opportunity. They should not be considered as a precedent for other agencies."

Ad "A" item 4: **Review of AVMS Directive**
Adoption of the legislative act

STATEMENT BY LATVIA

"The Republic of Latvia draws attention to the fact that the legal expression '*veikt uzņēmējdarbību*', which is used in the Latvian-language version of the Directive in relation to the place of establishment of audiovisual media service providers, means 'to conduct business'. It therefore differs substantially from the legal meaning of the phrase 'to be established', which is used in the English-language version of the text and the translations into other languages.

The Republic of Latvia notes that inconsistent and inaccurate usage of such fundamental legal terminology creates legal uncertainty, with unpredictable consequences. It not only risks disrupting the legal parallelism between the various language versions of the Directive, but could also lead to legal uncertainty and discrepancies in legal interpretation when transposing the Directive into Member States' national law. This could prove to be particularly problematic in the context of cross-border services, including on-demand services and video-sharing platforms.

The Republic of Latvia notes that the phrase 'to be established' is used in a similar context in Article 49 of the Treaty on the Functioning of the European Union, where it is translated into Latvian as '*izveidot*'. Although the term '*izveidot*' comes closer to the meaning of establishing a company, we would propose using the term '*dibināt*' ('to found or establish'), which is a more accurate translation and would prevent misinterpretation and legal uncertainty.

The Republic of Latvia intends to initiate the corrigendum procedure for the Directive, in order to ensure consistent and correct use of terminology."

JOINT STATEMENT BY FINLAND, IRELAND AND THE NETHERLANDS

"We, the undersigned Member States consider the promotion of the digital single market highly important and acknowledge the need for the review of regulatory framework for audiovisual media services taking into account changes in the market, consumption and technology.

The protection of minors from harmful content and the protection of all citizens against hate is in itself a legitimate aim. However, as stated consistently during the negotiations, the AVMS Directive is not the correct place for regulating video sharing platforms since the rest of the scope of the directive covers only AV media services where the service provider has editorial responsibility for the content of the program. The proposed regulation of video sharing platforms is difficult to control and it can cause undesired side effects and disproportionate administrative burden. Rather than overregulating video sharing platforms, a strong emphasis should be placed on promoting critical media literacy and media education in the Member States.

We consider that this lack of clarity compounded by a lack of impact assessments and a robust evidence base, could undermine the legal certainty needed for regulators and industry to implement the provisions in a clear, consistent and effective way and for industry to innovate. It also may threaten the ability of European citizens to exercise their fundamental rights in particular their freedom of expression.

For the reasons stated here and during the negotiations on this proposal, we will vote against the directive when it comes up for adoption as an "I" item in Coreper on 24.10.2018 and as an "A" item in the Council on 6.11.2018 (PE-CONS 33/18). Finland, Ireland and the Netherlands ask the Secretariat General of the Council to include this statement to the respective minutes of these two meetings."
