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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(**Employment**, **Social Policy**, **Health** and Consumer Affairs)
6 and 7 December 2018

CONTENTS

Page

1. Adoption of the agenda..... 4
2. Approval of "A" items 4
 - a) Non-legislative list

EMPLOYMENT AND SOCIAL POLICY

Legislative deliberations

3. Regulation on establishing a European Labour Authority 4

Non-legislative activities

4. European Semester 2019 5
 - a) Annual Growth Survey (AGS), Alert Mechanism Report (AMR), draft Joint Employment Report (JER), and draft Recommendation on the economic policy of the euro area
 - b) Contribution on employment and social aspects of the draft Recommendation on the economic policy of the euro area
 - c) Thematic Reviews on "Social Aspects of Digitalisation" (SPC) and "Digitalisation and Robotisation of Work" (EMCO)
 - d) Implementation of the Recommendation on long-term unemployment: EMCO key messages

Legislative deliberations

5. Directive on carcinogens or mutagens at work (third batch)..... 5

Non-legislative activities

6. Recommendation on access to social protection for workers and self-employed..... 6

Legislative deliberations

7. Regulation on the European Globalisation Adjustment Fund (EGF)..... 6

Non-legislative activities

8. Conclusions on gender equality, youth and digitalisation..... 6

Legislative deliberations

9.	Directive on equal treatment (Article 19).....	7
----	--	---

Any other business

10.	a)	Tripartite Social Summit (Brussels, 16 October 2018).....	7
	b)	Current legislative proposals.....	7
	c)	Commission activities	8
	d)	Presidency events	8
	e)	Joint Declaration "Gender Equality as a Priority of the European Union today and in the future"	8
	f)	Joint non-paper on the future of the LGBTI list of actions.....	8
	g)	Work programme of the incoming Presidency	8

HEALTH

Non-legislative activities

11	Cooperation against vaccine preventable diseases	9	
	a)	Recommendation on strengthened cooperation against vaccine-preventable diseases	
	b)	Tackling vaccine hesitancy at EU and national level: Challenges and possibilities in a digitalised world	

Any other business

12.	a)	Current legislative proposals.....	9
	b)	State of health in the EU	9
	c)	WHO Framework Convention on Tobacco control (FCTC): Eighth session of the Conference of the Parties (COP8) (Geneva, 1-6 October 2018).....	10
	d)	Implementation of Directive 2011/62/EU on falsified medicinal products	10
	e)	Challenges ahead in the medical device sector	10
	f)	Outcomes of conferences organised by the Austrian Presidency	10
	g)	Outcome of the Informal meeting of Health Ministers (Vienna, 10-11 September 2018)	11
	h)	Nomination of the Regional Director of the European Region of the World Health Organisation	11
	i)	Work programme of the incoming Presidency	11

ANNEX - Statements for the Council minutes.....	12
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MEETING ON THURSDAY 6 DECEMBER 2018

1. Adoption of the agenda

14795/18

The Council adopted the agenda set out in 14795/18.

2. Approval of "A" items

Non-legislative list

14798/18

The Council adopted the "A" items listed in 14798/18 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:

EU positions for international negotiations

2. Preparation of the 3rd Meeting of the Signatories to the MoU on the conservation of Migratory Sharks (Sharks MoS 3)
Establishment of the EU position
approved by Coreper, Part 1, on 28.11.2018

14556/1/18 REV 1
+ REV 1 ADD 1
+ REV 1 ADD 2
14778/18
PECHE
ENV

EMPLOYMENT AND SOCIAL POLICY

Legislative deliberations

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






3. Regulation on establishing a European Labour Authority
General approach



14583/18
7203/18

The Council reached a general approach as set out in doc. 15392/18. Hungary and Sweden voted against the general approach. Bulgaria submitted a statement to the Council minutes as set out in the Annex.

Non-legislative activities

4. **European Semester 2019**  14412/18
Policy debate
- a) **Annual Growth Survey (AGS), Alert Mechanism Report (AMR), draft Joint Employment Report (JER), and draft Recommendation on the economic policy of the euro area**  14443/18
14444/18
14445/18
14442/18
Presentation by the Commission
- b) **Contribution on employment and social aspects of the draft Recommendation on the economic policy of the euro area**  14533/1/18 REV 1
Approval
- c) **Thematic Reviews on "Social Aspects of Digitalisation" (SPC) and "Digitalisation and Robotisation of Work" (EMCO)**  14411/18
Endorsement of the joint key messages from EMCO and SPC
- d) **Implementation of the Recommendation on long-term unemployment: EMCO key messages**  14409/18
Endorsement

The Council held an exchange of views on the Autumn Economic Package, based on the presentation by the Commission and guided by a Presidency note. It approved the contribution on the employment and social aspects of the draft Recommendation on the economic policy of the euro area. The Council also endorsed the key messages of the Employment Committee and the Social Protection Committee.

Legislative deliberations

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

5. **Directive on carcinogens or mutagens at work (third batch)**   14579/18
General approach 7733/18

The Council reached a general approach as set out in doc. 15393/18. France, Finland, Italy, Lithuania, the Netherlands, United Kingdom and Slovakia submitted a joint statement to the Council minutes as set out in the Annex of this document.

Non-legislative activities

6. **Recommendation on access to social protection for workers and self-employed**  14582/18

(Legal basis proposed by the Commission: Article 292 of the TFEU in conjunction with Articles 153 and 352 thereof)

Political agreement

The Council reached a political agreement, with the abstention of Hungary, on the Recommendation on access to social protection for workers and self-employed (doc. 15394/1/18 REV 1). Germany agreed, referring to its parliamentary scrutiny reservation. Bulgaria, Slovakia, the Netherlands and Hungary submitted statements to the Council minutes as set out in the Annex to this document.

Legislative deliberations


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

7. **Regulation on the European Globalisation Adjustment Fund (EGF)**   14246/18
9701/18

Progress report

The Council took note of the progress report as set out in doc. 14246/18.

Non-legislative activities

8. **Conclusions on gender equality, youth and digitalisation**  14580/18 + ADD 1
Adoption

The Council was unable reach a consensus on the draft Council Conclusions. The Presidency presented Presidency Conclusions as set out in doc. 15308/18. This document was supported by all delegations except Hungary and Poland.

Legislative deliberations

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

9. **Directive on equal treatment (Article 19)** SC 14253/18
Progress report 11531/08

The Council took note of the progress report as set out in doc. 14253/18.

Any other business

10. a) **Tripartite Social Summit (Brussels, 16 October 2018)** 2
Information from the Presidency and the Commission

The Council took note of the information provided by the Presidency and the Commission.

- b) **Current legislative proposals** IC
(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

- (i) **Revision of Directive on carcinogens and mutagens (2nd batch)**
 - (ii) **Revision of Regulations on Agencies (Eurofound, OSHA and CEDEFOP)**
 - (iii) **Directive on Accessibility Act**
 - (iv) **Directive on Work-life balance**
 - (v) **Directive on transparent and predictable working conditions**
 - (vi) **Revision of the Regulations on the Coordination of Social Security Systems**
- Information from the Presidency*

The Council took note of the information provided by the Presidency.

- c) **Commission activities** 14325/18
14326/18
(i) **EU Framework for National Roma Integration Strategies: Midterm evaluation**
(ii) **Future of Work Conference (April 2019)**
(iii) **Union for the Mediterranean (UfM): Ministerial meeting (April 2019)**
Information from the Commission

The Council took note of the information provided by the Commission.

- d) **Presidency events** 14316/18
(i) **Digitalisation of work**
(ii) **Fight against occupational cancer**
(iii) **Gender equality events**
Information from the Presidency

The Council took note of the information provided by the Presidency.

- e) **Joint Declaration "Gender Equality as a Priority of the European Union today and in the future"** 14309/18
Information from the Presidency

The Council took note of the information provided by the Presidency.

- f) **Joint non-paper on the future of the LGBTI list of actions** 14314/18
Information from the Maltese delegation

The Council took note of the information provided by the Maltese delegation.

- g) **Work programme of the incoming Presidency** 14314/18
Information from the Romanian delegation

The Council took note of the information provided by the incoming Romanian Presidency.

Non-legislative activities

11. Cooperation against vaccine preventable diseases

- a) **Recommendation on strengthened cooperation against vaccine-preventable diseases**   14295/18
14152/1/18 REV 1
Adoption 8679/18

The Council adopted the Recommendation as set out in doc. 14152/1/18 REV 1.

- b) **Tackling vaccine hesitancy at EU and national level: Challenges and possibilities in a digitalised world**  14302/1/18 REV 1
Exchange of views

The Council held an exchange of views based on the questions set out in doc. 14302/1/18 REV 1.

Any other business

12. a) **Current legislative proposals**
(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)

Regulation on health technology assessment and amending Directive 2011/24/EU  14694/18
5844/18 + COR 1
Information from the Presidency


The Council took note of the information from the Presidency.

- b) **State of health in the EU**  14722/18
Information from the Commission

The Council took note of the information from the Commission and of an intervention by the Hungarian delegation.

- c) **WHO Framework Convention on Tobacco control (FCTC): Eighth session of the Conference of the Parties (COP8) (Geneva, 1-6 October 2018)**  14861/18
Information from the Presidency and the Commission


The Council took note of the information from the Presidency and the Commission and of an intervention by the Netherlands delegation.

- d) **Implementation of Directive 2011/62/EU on falsified medicinal products**  14721/18
Information from the Commission

The Council took note of the information from the Commission.

- e) **Challenges ahead in the medical device sector**  15172/18
Information from the Danish and Spanish delegations

The Council took note of the information from the Danish and Spanish delegations and of interventions by the German, Irish, French, Netherlands and United Kingdom delegations and of the Commission.

- f) **Outcomes of conferences organised by the Austrian Presidency:**  14609/18
- i) **Matching health needs and pharmaceutical research:
How to set the research agenda for public health (Vienna, 25 September 2018)**
 - ii) **People's food – people's health: Towards healthy and sustainable European food systems (Vienna, 22-23 November 2018)**

Information from the Presidency

The Council took note of the information from the Presidency.

- g) **Outcome of the Informal meeting of Health Ministers (Vienna, 10-11 September 2018)**  14606/18
Information from the Presidency






The Council took note of the information from the Presidency.

- h) **Nomination of the Regional Director of the European Region of the World Health Organisation**  15043/18
Information from the Presidency

The Council took note of the information from the Presidency.

- i) **Work programme of the incoming Presidency** 
Information from the Romanian delegation

The Council took note of the information from the Romanian delegation.

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-  First reading
-  Special legislative procedure
-  Public deliberation (Article 8(1) of the Council's Rules of Procedure)
-  Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)
-  Item based on a Commission proposal
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STATEMENTS TO THE LEGISLATIVE "B" ITEMS SET OUT IN DOC. 14795/18

Ad "B" item 3: **Regulation on establishing a European Labour Authority**
General approach

STATEMENT BY BULGARIA

"Bulgaria supports the establishment of a European Labour Authority/Agency and the opportunity through its activities to facilitate access to information for workers, employers and national institutions on rights and obligations in the event of cross-border labour mobility situations; also supports the promotion of coordination between Member States in cross-border enforcement of the Union law. We believe that the establishment of a European Labour Authority/Agency will facilitate communication between Member States' authorities to resolve cross-border disputes between them and facilitate finding solutions in case of labour market disruptions.

However, we would like to express our concern regarding the inclusion of the road transport in the scope of the Regulation, namely: the legislative acts listed in Article 1, Paragraph 3 items g), h) and i).

We also would like to note that joint inspections in the field of road transport currently are carried out by the Bulgarian authorities in cooperation with other Member States within the framework of our membership in other European organizations, such as the Euro Contrôle Route (ECR).

In addition, we believe that the road transport legislation is specific and therefore is currently separated from the employment and social legislation.

We are also concerned about the legal uncertainty that would be created in connection to the discussions on the Mobility Package I, which are still ongoing after the general approach reached at the Transport, Telecommunication and Energy Council meeting on December 3rd 2018 and due to this reason the inclusion of the above legislative acts cannot be considered as a balanced text by definition."

Ad "B" item 5: Directive on carcinogens or mutagens at work (third batch)
General approach

**STATEMENT BY FRANCE, FINLAND, ITALY, LITHUANIA, THE NETHERLANDS,
UNITED KINGDOM AND SLOVAKIA**

"France, Finland, Italy, Lithuania, The Netherlands, United Kingdom and Slovakia support any measure which increases the safety and health of workers. It is in this spirit that France, Finland, Italy, Lithuania, The Netherlands, United Kingdom and Slovakia support the mandate of the Presidency on the revision of Directive 2004/37/EC.

However, France, Finland, Italy, Lithuania, The Netherlands, United Kingdom and Slovakia regret that the alternative option including complementary biomonitoring for cadmium compounds, as proposed by the Scientific Committee for limit values for occupational exposures (SCOEL) and the Advisory Committee for Occupational Safety and Health (ACSH), could not be retained in the general approach.

This alternative based on the use of biomonitoring provides the same degree of protection for workers through more precise controls of medical analysis while simplifying technical constraints for companies for those Member States wishing to apply it. This is why it should be better taken into account, where appropriate, in European legislation."

Ad "B" item 6: Recommendation on access to social protection for workers and self-employed
Political agreement

STATEMENT BY BULGARIA

"The Republic of Bulgaria appreciates the efforts of the Austrian Presidency and supports the objectives of the Recommendation to improve and broaden the scope of social protection for all employed persons, in particular for those working in atypical forms of work, and the self-employed persons.

However, the Republic of Bulgaria considers that the recommendation should take better account of the national characteristics of the social security systems of the Member States and, in this regard, wishes to reaffirm its concerns about the extension of the scope of formal coverage of the self-employed persons, provided for in § 10 thereof, for occupational diseases and accident at work, even on a voluntary basis. This contradicts basic principles of the Bulgarian insurance model, where these risks are inherent only to the employees, which will lead to the impossibility for the country to fulfil this part of the recommendation in practice. The concerns are also related to the fact that, notwithstanding its non-binding nature, the Recommendation foresees the elaboration by each Member State, within 18 months of its adoption, of a plan for its implementation, which implementation will be monitored in the context of European Semester reporting.

For these reasons, in order not to block the adoption of the Recommendation, which implements basic principles of the European Pillar of Social Rights, the Republic of Bulgaria expresses its support for it but wishes to attach this statement to the minutes of the meeting of the Council, which confirms the incompatibility of the extension of the scope of social protection of the self-employed persons for accidents at work and occupational disease with the national insurance model."

STATEMENT BY SLOVAKIA

"The Slovak Republic supports the objectives of the recommendation, having in mind the changing realities of the world of work. The Slovak Republic reiterates that national situation of the Member States shall be taken into account, where the recommendation is to be implemented. Therefore, the Slovak Republic welcomes the increased flexibility of the text as well as non-binding nature of the recommendation.

Furthermore, the prerogatives of the Member States as regards the organisation of their social protection systems have to be respected. The Slovak Republic welcomes that the Recommendation recognizes the exclusive competence of the Member States with regard to the organisation of their social protection systems, including the level, substance and delivery of benefits, the level of contributions and the conditions for access.

The Slovak Republic recalls that according to Article 153(4) of the Treaty on Functioning of the EU the Union measures in the social policy field shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof.

The Slovak Republic still has concerns on paragraph 10 let. b) of the Recommendation. This provision recommends Member States *inter alia* to ensure access for self-employed persons, at least on voluntary basis, to accidents at work and occupational disease branch of their social protection system. The national system of the Slovak Republic provides for accidents at work and occupational disease insurance only for workers. This branch of social protection system is based on the principle of employer's liability for worker's accidents at work or occupational disease. The Slovak Republic deems this principle as a fundamental principle of the national social protection system.

In light of the previous text, the Slovak Republic considers the recommendation an instrument seeking to provide guidance for Member States when progressively adapting social protection systems in light of national circumstances."

STATEMENT BY THE NETHERLANDS

"The Netherlands supports the goals of the Council Recommendation to provide access to adequate social protection.

Taking into account article 153(4) TFEU which refers to the rights of Member States to define the fundamental principles of their social security systems, the government of the Netherlands interprets the recommendation as follows:

- Article 10 of the recommendation refers to national circumstances, which entails that Member States can make exceptions in light of these circumstances, for instance with regard to the application of the recommendation to workers and self-employed. This is in line with standard treaties of the International Labour Organization (ILO) and Council of Europe (ILO 102 and European Code of Social Security) in which groups can be excluded.
- Article 12 of the recommendation also refers to national circumstances, which entails that the elements of the article which are not applicable to the Dutch social protection system due to the fundamental distinction that is made between the level of protection needed for employees and self-employed, does not hinder the Netherlands in complying with the recommendation. The recommendation gives sufficient flexibility to take these country specific characteristics of social protection systems into account"

STATEMENT BY HUNGARY

"Having in mind that globalisation, technological developments and demographic changes create new challenges and opportunities in the labour market as well as in our welfare systems, Hungary supports the objectives of the Recommendation to provide access to adequate social protection to all workers in particular those in non-standard forms of employment and the self-employed. Hungary believes that the priority should be to empower our citizens for these changes, create more jobs and involve all persons capable to work into the labour market and in the same time avoid benefit dependency.

Hungary reminds that the implementation of the Recommendation should be in line with article 153 paragraph (4) TFEU which confirms that '*The provisions adopted pursuant to this Article: shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof, [...]'*. Hungary underlines the principle of subsidiarity, the division of competences set out in the Treaties as well as differences between Member States' circumstances should also be taken into consideration.

Hungary interprets the Paragraph 13 on adequacy as follows: ensuring adequate level of social protection should always take into account the Hungarian circumstances, national challenges and priorities as well as the entire set of provisions provided by the national social protection system. When considering these efforts budgetary implications should always be taken into account."