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## OUTCOME OF THE COUNCIL MEETING

3581st Council meeting

**Transport, Telecommunications and Energy**

**Telecommunications and Transport issues**

Brussels, 4 and 5 December 2017

Presidents **Urve Palo**  
Minister for Entrepreneurship and Information  
Technology of Estonia  
**Kadri Simson**  
Minister for Economic Affairs and Infrastructure of  
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# P R E S S

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## **ITEMS DEBATED**

### **TELECOMMUNICATIONS**

#### **Free flow of data**

The Council held a policy debate on a draft regulation on the free flow of non-personal data ([presidency background note](#)). The aim of the proposal is to set out a clear legal framework under which non-personal data could move freely across borders in the EU. To achieve this, it would remove national rules that currently restrict companies in choosing a location for storing or processing their data, unless such restrictions are justified on grounds of public security. At the same time, it aims to ensure that competent authorities have access to data stored or processed in another member state so that they can carry out their regulatory tasks just as they do when the data are stored in their own territory.

Ministers welcomed the proposal and stressed its importance for citizens, businesses, public administrations and the entire economy. They supported a swift agreement on it.

Ministers highlighted the need to have a clearly defined scope, especially as regards personal and non-personal data. Special attention must be paid to mixed data sets.

They agreed that any restrictions on the free movement of non-personal data should be limited to clearly defined and duly justified circumstances.

The new rules should not hamper regulatory or judiciary activity of member states.

Effective cooperation mechanisms are needed to facilitate data exchange but they should not create an additional burden for businesses or administrations.

The presidency said it was hoping for an agreement on this proposal to be reached by the end of the year.

[Digital single market for Europe](#)

## ePrivacy

The Council assessed progress made on a proposal to update privacy rules for electronic communications (ePrivacy) ([progress report](#)). The draft regulation sets out to ensure a high level of protection of private life, communications and personal data in the electronic communications sector. It also aims to create a level playing field for providers of various services and to ensure free movement of electronic communications data and services in the EU. It will replace the current ePrivacy directive, which was last updated in 2009, and complement the general data protection regulation adopted in 2016.

Considerable efforts have been made in the Council working party to advance negotiations on the proposal as set out in the presidency progress report, but a number of issues still require further discussion before the Council can form its position.

## Body of European Regulators for Electronic Communication (BEREC)

The Council agreed its position, known as a 'general approach', on updating the rules for the Body of European Regulators for Electronic Communication (BEREC) ([text of the Council general approach on BEREC](#)). BEREC and its Riga-based BEREC office contribute to the consistent implementation of EU telecoms rules and provide valuable technical expertise to the national regulatory authorities (NRAs). A key role of BEREC is to promote the availability and take-up of very high capacity data connectivity, and safeguard and encourage competition in the provision of electronic communications networks and services.

For more information, see press release:

[Body of European Regulators for Electronic Communication \(BEREC\): Council agrees its position](#)  
[Electronic Communications Code](#)

## Other business

### – *European Electronic Communications Code*

The presidency briefed ministers on the state of play regarding the proposal for a directive establishing a European Electronic Communications Code ([information note](#)).

It called on the member states to be ready for compromises so that the June 2018 deadline set by the **European Council** for an agreement with the European Parliament could be respected.

The presidency also pointed out that the second trilogue, at which significant progress could be made on spectrum and end user rights, would take place in less than two days.

### – *5G roadmap*

The presidency provided [information on a 5G roadmap](#), which follows up on the 5G ministerial declaration signed in Tallinn in July 2017. Minister Palo explained that the roadmap expressed a common political goal and sent a clear message to businesses that were ready to invest in the next generation of mobile networks. Above all it reinforced the signal to citizens that the European Union was moving on 5G and continued to be highly committed to establishing the gigabit society by 2025. The roadmap, which is supported by member states, was signed by Minister Palo.

### [5G roadmap](#)

### – *Building strong cybersecurity for the EU*

The presidency briefed ministers on developments regarding cybersecurity.

In September the Commission presented a cybersecurity package - a comprehensive and ambitious set of documents aiming to boost the EU's cybersecurity.

On 20 November the Council adopted [conclusions](#) on strengthening cybersecurity which set the framework for future work in this field.

An action plan is being prepared to specify the building blocks of the cybersecurity agenda, setting clear objectives, identifying lead actors and indicating deadlines.

– ***Work programme of the incoming presidency in the field of telecommunications***

The incoming Bulgarian presidency presented its work programme.



## **TRANSPORT**

### **Mobility package I - market access and social aspects**

Ministers welcomed the [progress report](#) on the work undertaken under the Estonian presidency on the social and market pillars of the first mobility package.

Delegations underlined the importance of leaner, clearer and harmonised rules as well as better working conditions for drivers. They highlighted the fact that transport is both an essential pillar for the functioning of the internal market and an important economic sector in itself – a sector that needed a solid framework which avoided overregulation and at the same time allowed for effective control of social and market rules.

Several ministers referred to the compromise that social affairs ministers were able to reach on the posting of workers directive in the October 2017 EPSCO Council, and pointed out that a lot of work still needed to be done for transport-specific rules in this respect.

Many delegations took the view that if social rules were harmonised and enforced more thoroughly, then the market for domestic haulage operations (cabotage) would also need steps towards liberalisation. Many other delegations took the opposite position and underlined the diversity of aspects influencing the competitive environment.

As regards rest-time rules, many delegations welcomed the general direction of the Commission proposal. However, views diverged as regards the flexibility needed for operators and for drivers, while all agreed on the importance of road safety as a central concern.

Regarding more effective control, delegations agreed that administrative cooperation needed to be intensified, also in respect of 'letterbox companies' and that roadside checks should be able to use electronic documents and information from smart tachographs. Concerning this latter aspect, a number of delegations advocated a quicker roll-out of smart tachographs in European fleets.

Finally, concerning the overhaul of the directive on hired vehicles, good progress was noted, but several delegations expected additional safeguards to be built into the proposal in order to cushion negative effects.

## **Mobility package I - road charging**

Ministers held a policy debate on the road charging proposals of the first mobility package ([background paper](#)).

Member states supported the use of 'polluter pays' and 'user pays' principles to promote clean mobility, but expressed differing views on how to put them into practice.

Regarding the proposed extension of the scope of the Eurovignette directive to cover all vehicles, some agreed with the Commission that all vehicle categories should be included, some others preferred to exclude buses and coaches as means of public transport to fight congestion, while others would like to treat passenger cars differently.

While the Commission has proposed introducing a distance-based charging system, which ultimately would replace all time-based systems, member states expressed their preference for keeping the flexibility to choose the kind of system that best suited their individual characteristics.

Delegations generally agreed on the principle of road charging revenues being reinvested for the benefit of road users but wanted to keep the flexibility to decide on the redeployment of these revenues according to their own priorities. Furthermore, certain member states indicated that earmarking of revenues would be contradictory to their national budgetary and legal arrangements.

A large number of ministers welcomed the proposal to introduce an interoperable electronic tolling system. Many delegations also expressed their backing for reinforcing cross-border exchange of information on unpaid toll fees to step up enforcement.

The views expressed by ministers will provide input for further work on these proposals.

## **Progress in TEN-T and CEF**

The Council adopted conclusions on the progress of the Trans-European Transport Network (TEN-T) and the Connecting Europe Facility (CEF) for transport. The conclusions take stock of the implementation to date of both TEN-T and CEF for transport, and examine the future investment needs and priorities for EU transport infrastructure.

[Council conclusions on the progress of the Trans-European Transport Network \(TEN-T\) implementation and the Connecting Europe Facility for transport](#)

## **Digitalisation of transport**

The Council adopted conclusions on the digitalisation of transport. The conclusions underline the importance of this issue for the European economy and competitiveness, and confirm the EU's ambition to become a global leader in this area. They propose the elimination of the obstacles to acquiring a seamless and more effective multimodal transport system in Europe. The Commission is invited to develop a comprehensive digitalisation strategy for the transport sector in the first quarter of 2019.

[Council conclusions on the digitalisation of transport](#)

## **Mid-term evaluation of Galileo, EGNOS and the European GNSS Agency**

The Council adopted conclusions on the report by the Commission containing a mid-term evaluation of Galileo, EGNOS and the performance of the European GNSS Agency. The conclusions underline the strategic importance of Europe's satellite navigation systems and set out a number of recommendations on their implementation and evolution.

[Council conclusions on "The Mid-term Evaluation of the Galileo and EGNOS programmes and of the performance of the European GNSS Agency"](#)

## **Safeguarding competition in air transport**

The Council assessed progress made on the proposed regulation on safeguarding competition in air transport ([progress report](#)). The proposal, presented by the Commission in June, aims to ensure fair competition between EU airlines and third-country carriers while maintaining conditions conducive to a high level of connectivity.

Several ministers underlined the need for legal clarity in this area. Delegations highlighted different aspects to be taken into account such as the need to ensure air connectivity, especially in peripheral regions, the need to have an efficient tool for fair competition to replace the current one which is not enforceable, and making sure that traffic rights are excluded from the regulation and that the new regulation will not undercut member states' bilateral agreements with third countries.

## **Other business**

### **– *Military mobility***

The Commission provided information on a [joint communication on improving military mobility in the European Union](#).

### **– *Aviation Strategy***

The Commission provided information on the implementation of the Aviation Strategy for Europe, which was adopted in December 2015.

### **– *Connected and automated cars***

The German delegation provided information on the second high-level dialogue on automated and connected driving that took place in September 2017 in Frankfurt am Main.

### **– *IMO strategy for reducing greenhouse gas emissions from shipping***

The French delegation provided information on a declaration calling on the International Maritime Organisation (IMO) to adopt an ambitious strategy in 2018 for reducing greenhouse gas emissions from shipping.

### **– *World Maritime Days (Szczecin, Poland, June 2018)***

The Polish delegation provided information on the IMO World Maritime Days that will take place in Szczecin, Poland, in June 2018 ([information note](#)).

### **– *EU summer-time arrangements and recent developments in Finland***

The Finnish delegation provided information on EU summer-time arrangements and recent developments in Finland.

– ***Mobility package II***

The Commission presented its second mobility package, which was published in November.

[Europe on the Move: Commission takes action for clean, competitive and connected mobility](#)

– ***Rail passenger rights***

The presidency briefed ministers on the state of play of a draft regulation on rail passenger rights.

– ***Work programme of the incoming presidency in the field of transport***

The incoming Bulgarian presidency presented its work programme.

## **OTHER ITEMS APPROVED**

### **TRANSPORT**

#### **Inland navigation - recognition of professional qualifications**

The Council adopted a [directive on the recognition of professional qualifications in inland navigation](#).

For more information, see press release: [EU inland navigation sector to have a common system of professional certificates – Council adopts legal act](#)

#### **Western Balkans Transport Community Treaty**

The Council approved the EU position with a view to the first meeting of the Ministerial Council of the Transport Community between the EU and the Western Balkans, which is scheduled to take place in Brussels on 6 December.

The signing procedure for the Treaty on the Transport Community was finalised on 9 October 2017.

So far, the EU, Albania, Bosnia and Herzegovina and Kosovo\* have agreed to apply the treaty provisionally. Serbia has recently finalised its ratification procedure. Consequently, the treaty applies provisionally among these parties, pending official notification by Serbia.

#### **Cooperative Intelligent Transport Systems (ITS)**

The Council took a decision aimed at extending by a further five years the delegation of power to the Commission in respect of directive 2010/40/EU on the deployment of Intelligent Transport Systems ([PE-CONS 52/17](#)).

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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.

[Directive 2010/40/EU](#) grants the Commission the power to adopt measures in respect of the specifications necessary to ensure the compatibility, interoperability and continuity for the deployment and operational use of ITS in the following priority areas:

- optimal use of road, traffic and travel data
- continuity of traffic and freight management ITS services
- ITS road safety and security applications
- linking the vehicle with the transport infrastructure

The delegation of power for an additional period of five years started on 27 August 2017. This period will be tacitly extended for further periods of five years, unless the European Parliament or the Council opposes this.

ITS integrate telecommunications, electronics and information technologies with transport engineering in order to plan, design, operate, maintain and manage transport systems.

The application of information and communication technologies to the road transport sector and its interfaces with other modes of transport significantly helps improve the environmental performance, efficiency, safety and security of road transport.

## **ENERGY**

### **Risk-preparedness in the electricity sector**

The Council adopted a negotiating position ([general approach](#)) on the [proposal](#) for a regulation on risk-preparedness in the electricity sector, repealing [directive 2005/89/EC](#).

The proposed regulation sets out a common framework of rules on how to prevent, prepare for and manage electricity crisis situations. It aims to ensure cooperation between member states in a spirit of solidarity, enhancing transparency in the preparation phase and during an electricity crisis, and respects the requirements of a competitive internal market for electricity.

This regulation also provides a framework for more systematic monitoring of security of supply issues. It contributes to the revised Third Energy Package by ensuring that, even in crisis situations, priority is given to market-based measures and markets can work as long as possible.

EU ambassadors approved the Council's negotiating position during the meeting of the Permanent Representatives Committee held on 16 November. Now it is formally endorsed at ministerial level. Negotiations with the European Parliament will start next semester under the Bulgarian presidency of the Council of the EU.

## **ENVIRONMENT**

### **Convention on the Conservation of European Wildlife and Natural Habitats**

The Council adopted a decision on the position to be taken, on behalf of the EU, at the 37th meeting of the Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats with regard to an amendment to Appendix II to the Convention ([14671/17 + COR1](#)). The Standing Committee of the Convention will meet in Strasbourg from 5 to 8 December 2017.

The EU will support the addition of the Balkan lynx, *Lynx lynx ssp. balcanicus*, to Appendix II to the Convention to ensure the special protection of this subspecies.

The Council of Europe's Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) aims to conserve European wild flora and fauna and their natural habitats. It entered into force on 1 June 1982 and the EU and all its member states are parties to it.

For more details on the Bern Convention click [here](#).

## **FOREIGN AFFAIRS**

### **European Security and Defence College extension decision**

The Council adopted a decision on the budgetary impact statement for the European Security and Defence College covering the period from 1 January 2018 to 31 December 2018.

The Council also decided to publish the above-mentioned decision in the Official Journal.

[European Security and Defence College](#)



## **EU-Georgia relations - EU position for the EU-Georgia Association Council**

The Council adopted the position of the EU, a provisional agenda and an orientation note on key messages for the fourth meeting of the EU-Georgia Association Council which will take place in Brussels on 8 December 2017.

### [EU relations with Georgia](#)

## **DEVELOPMENT**

### **ACP-EU cooperation**

The Council adopted a decision to improve the functioning of the system of financial support in the event of exogenous shocks affecting African, Caribbean and Pacific (ACP) countries by implementing article 68 of the Cotonou agreement.

The partnership agreement between the members of the ACP group of states and the EU was signed in Cotonou in 2000. It entered into force on 1 April 2003.

The agreement provides for the possibility to mobilise additional financial support from the European development fund reserve for unforeseen needs, in order to mitigate the short-term adverse effects resulting from exogenous shocks, including the effects on export earnings, and safeguard the socioeconomic reforms and policies jeopardised by the drop in revenue.

## **TRADE**

### **Anti-dumping methodology**

The Council approved new rules aimed at protecting the EU against unfair trade practices. They will enter into force on 19 December.

The new legal framework removes the former distinction between market and non-market economies for calculating dumping while maintaining the same level of protection for producers. The Commission will now need to prove the existence of a 'significant market distortion' between a product's sale price and its production cost. On that basis, it will be allowed to set a price for the product by referring, for example, to the price of the good in a country with similar levels of economic development or to relevant undistorted international costs and prices.

The Commission will also draft specific reports on countries or sectors, describing distortions. In line with current practice, it will be for EU firms to file complaints, but they will be able to use the Commission's reports to support their case.

See [press release](#)

## **STATISTICS**

### **Tools tailored to enhance EU regional policy**

The Council agreed to amend the EU's common classification of territorial units for statistics (NUTS) in order to improve the collection, compilation and dissemination of data across the Union ([PE-CONS 49/17](#)).

The decision follows an agreement reached with the European Parliament aimed at increasing the efficiency of statistics through the use of common definitions.

It is important that decisions to reduce disparities between European regions and areas are taken on the grounds of a consistent and harmonised evidence-based policy.

The new regulation is a step forward for the production of reliable and comparable data.

The [NUTS classification](#) is a hierarchical system for dividing up the economic territory of the EU for the purpose of helping European regions.

In particular, this review integrates the territorial typologies into the current NUTS regulation.

The degree of urbanisation typology is used, for instance, to define eligibility for European Regional Development Fund support for innovative actions in cities or towns and suburbs.

The EU's statistical office, Eurostat, publishes many statistics on a wide range of subjects at regional level in accordance with the NUTS regulation. These statistics are useful in the context of EU territorial development policies.

## **APPOINTMENTS**

### **Panel on judicial appointments**

The Council appointed the following persons as members of the panel on judicial appointments to the Court of Justice and the General Court from 1 March 2018:

- Mr Christiaan Timmermans (president)
- Mr Simon Busuttil
- Mr Frank Clarke
- Mr Carlos Lesmes Serrano
- Ms Maria Eugénia Martins de Nazaré Ribeiro
- Mr Andreas Vosskuhle
- Mr Mirosław Wyrzykowski

The panel's task is to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the member states make the appointments. The members of the panel have a four-year term of office.

## **INTERNAL MARKET**

### **Textiles - polyacrylate**

The Council did not oppose a Commission regulation aimed at amending regulation 1007/2011 on textile names and labelling to include a new textile fibre name (polyacrylate) ([13662/17](#) and [13662/17 ADD 1](#)).

Regulation 1007/2011 lays down rules on:

- (i) the use of textile fibre names and related labelling and marking of fibre composition of textile products;
- (ii) the labelling or marking of textile products containing non-textile parts of animal origin;  
and

- (iii) the determination of the fibre composition of textile products by quantitative analysis of binary and ternary textile fibre mixtures.

The aim is to improve the functioning of the single market and to provide accurate information to consumers.

The application to include polyacrylate as a new textile fibre name was submitted in January 2014. The Commission examined the application and acknowledged that it complied with the criteria set out in the regulation.

The draft regulation is a delegated act. Now that the Council has expressed no objections, it will enter into force if the European Parliament does not object.

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