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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Employment, Social Policy, Health and Consumer Affairs)
13 and 14 June 2019

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MEETING ON THURSDAY 13 JUNE 2019

1. Adoption of the agenda

The Council adopted the agenda set out in 9828/19.

2. Approval of "A" items

a) Non-legislative list

9868/19

The Council adopted the "A" items listed in 9868/19 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:


Internal Market and Industry

- | | |
|---|--|
| 1. Regulation amending Regulation (EU) No 1388/2013 on quotas for certain agricultural and industrial products
<i>Adoption</i>
approved by Coreper, Part 1, on 05.06.2019 | ☐ 9628/19
9337/19
<u>+ COR 1 (sk)</u>
<u>+ COR 2 (hu)</u>
UD |
| 2. Regulation amending Regulation (EU) No 1387/2013 on suspensions on certain agricultural and industrial products
<i>Adoption</i>
approved by Coreper, Part 1, on 05.06.2019 | ☐ 9442/19
9340/19
<u>+ COR 1 (sk)</u>
<u>+ COR 2 (hu)</u>
UD |


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

9870/19

Employment and Social Policy

1. **Directive on transparent and predictable working conditions**  9327/19 + ADD 1
Adoption of the legislative act PE-CONS 43/19
approved by Coreper, Part 1, on 05.06.2019 SOC

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Austria, Belgium and Germany abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 153(1)(b) and Article 153(2)(b) TFEU). Statements related to this item are set out in the Annex.

2. **Regulation on establishing a European Labour Authority**  9400/19 + ADD 1
Adoption of the legislative act + ADD 2
approved by Coreper, Part 1, on 05.06.2019 PE-CONS 49/19
SOC

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Austria, Hungary and Sweden voting against and the Czech Republic and Poland abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 46, Article 48, Article 53(1), Article 62 and Article 91(1) TFEU). Statements related to this item are set out in the Annex.

3. **Directive on Work-Life Balance**  9310/19 + ADD 1
Adoption of the legislative act PE-CONS 20/19
approved by Coreper, Part 1, on 05.06.2019 EMPL

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with Denmark, Hungary, the Netherlands and Slovenia voting against and Austria and Poland abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 153(2)(b) and Article 153(1)(i) TFEU). Statements related to this item are set out in the Annex.

Agriculture

4. **Regulation amending general food law**  9332/19 + ADD 1
Adoption of the legislative act
approved by Coreper, Part 1, on 05.06.2019 PE-CONS 41/19
AGRILEG


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: Articles 43 and 114 and Article 168(4)(b). Statements related to this item are set out in the Annex.

Fisheries


5. **Regulation on technical measures**  9431/19 + ADD 1
Adoption of the legislative act
approved by Coreper, Part 1, on 05.06.2019 PE-CONS 59/19
PECHE

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Netherlands voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 43(2) TFEU). Statements related to this item are set out in the Annex.

Environment


6. **Regulation on persistent organic pollutants (POPs) (recast)**  9427/19 + ADD 1
Adoption of the legislative act
approved by Coreper, Part 1, on 05.06.2019 PE-CONS 61/19
ENV

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 192(1) TFEU). Statements related to this item are set out in the Annex.

7. **Regulation on CO2 standards for heavy-duty vehicles**  9426/19
Adoption of the legislative act
approved by Coreper, Part 1, on 05.06.2019 + ADD 1 REV 1
PE-CONS 60/19
CLIMA


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 192(2) TFEU). Statements related to this item are set out in the Annex.

Internal Market and Industry

8. **Directive on digital tools and processes in company law**  9322/1/19 REV 1
Adoption of the legislative act
approved by Coreper, Part 1, on 05.06.2019
+ REV 1 ADD 1
PE-CONS 25/19
DRS

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 50(1) and points (b), (c), (f) and (g) of Article 50(2) TFEU).
Statements related to this item are set out in the Annex.

Transport

9. **Directive on the promotion of clean and energy-efficient road transport vehicles**  9425/19 + ADD 1
Adoption of the legislative act
approved by Coreper, Part 1, on 05.06.2019
PE-CONS 57/19
+ REV 1 (de)
TRANS

The Council approved the European Parliament's position at first reading and the proposed act has been adopted, with the Czech Republic, Germany, Poland and the Slovak Republic voting against and Austria, Estonia and Latvia abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 192 TFEU). Statements related to this item are set out in the Annex.

10. **Regulation establishing a European Maritime Single Window environment**  9423/19
Adoption of the legislative act
approved by Coreper, Part 1, on 05.06.2019
PE-CONS 38/19
MAR

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 100(2) TFEU).

Non-legislative activities

3. **European Semester 2019: Horizontal note on employment and social policy aspects of Country Specific Recommendations** [2] 9879/19
9878/19
Policy debate

The Council held a policy debate on the European Semester, based on a Horizontal note (doc. 9879/19) and guided by a Presidency note (doc. 9878/19). Ministers acknowledged the important coordinating role of the European Semester. They generally welcomed an increased focus on employment and social issues, including the integration of the European Pillar of Social Rights in the European Semester.

Legislative deliberations

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

4. **Directive on equal treatment (Article 19)** [SC] 9567/1/19 REV 1
Progress report

The Council took note of the progress report as set out in doc. 9567/1/19 REV 1.

Non-legislative activities

5. **Conclusions on "Closing the gender pay gap: Key policies and measures"** [2] 9804/19
Adoption

The Council adopted the conclusions as set out in doc. 10349/19.

6. **Conclusions on "The changing world of work: Reflections on new forms of work and implications for the safety and health of workers"** [2] 9686/19
Adoption

The Council adopted the conclusions as set out in doc. 9686/19.

7. **Conclusions on "FEAD - Fund for European Aid to the Most Deprived: Valuable support but its contribution to reducing poverty is not yet established" (CoA SR No 5/2019)** [2] 9575/19
Adoption

The Council adopted the conclusions as set out in doc. 10359/19.

Any other business

8. a) **Gender balance on company boards** [2] 9823/19
Information from the Commission
- The Council took note of the information provided by the Commission and of interventions by the Spanish and Portuguese delegations and by the Commission.
- b) **Current legislative proposals** [1][C]
(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)
- i) Regulation on European social statistics 11774/16 + ADD 3
- ii) Revision of the Regulations on the coordination of social security systems (883/04 and 987/09) 15642/16 + ADD 1
+ ADD 1 REV 1
- Information from the Presidency*
- The Council took note of the information provided by the Presidency and of the intervention by the Commission.
- c) **Presidency conferences** [2] 9822/19
Information from the Presidency
- The Council took note of the information provided by the Presidency.
- d) **Outcome of the EU-Western Balkans ministerial meeting (Luxembourg, 12 June 2019)** [2]
Information from the Presidency
- The Council took note of the information provided by the Presidency.
- e) **Outcome of the EU-Arab high-level meeting on disability rights (Malta, 25 April 2019)** [2] 9733/19
Information from the Maltese delegation
- The Council took note of the information provided by the Maltese delegation.
- f) **Prioritising gender budgeting in the future Multiannual Financial Framework** [2] 9824/19
Information from the Maltese delegation
- The Council took note of the information provided by the Maltese delegation and of interventions by the Spanish and Swedish delegations.
- g) **Work programme of the incoming Presidency** [2]
Information from the Finnish delegation
- The Council took note of the information provided by the Finnish delegation.

MEETING ON FRIDAY 14 JUNE 2019

HEALTH

Non-legislative activities

9. **Conclusions on combatting antimicrobial resistance** [2] 9765/19
Adoption

The Council adopted the Conclusions as set out in doc. 9765/19.

10. **Facilitating investments to transform and improve health systems** [2] 9769/1/19 REV 1
Exchange of views

The Council held an exchange of views based on the questions set out in doc. 9769/1/19 REV 1.

Any other business

11. a) **Medical devices: Implementation of Regulation (EU) 2017/745 on medical devices (MDR)** [2] 9774/19
Information from the Irish and German delegations

The Council took note of the information from the Irish and German delegations, and of interventions by the Belgian, Bulgarian, Czech, Cypriot, Estonian, French, Greek, Hungarian, Italian, Latvian, Lithuanian, Netherlands, Polish, Portuguese, Slovenian, Spanish, Swedish, United Kingdom delegations and by the Commission.

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

Regulation on health technology assessment and amending [1] [C] 9770/19
Directive 2011/24/EU 5844/18 + COR 1
Information from the Presidency on the state of play

The Council took note of the information from the Presidency and the intervention of the Commission.

- c) **Outcome of the informal meeting of Health Ministers (Bucharest, 14-15 April 2019) and of other meetings organised by the Romanian Presidency** [2] 9775/19
Information from the Presidency

The Council took note of the information from the Presidency and the intervention of the Commission.

- d) **Measles situation in the EU/EEA** 9913/19
Information from the Commission

The Council took note of the information from the Commission.

- e) **Work programme of the incoming Presidency** 9913/19
Information from the Finnish delegation

The Council took note of the information from the Finnish delegation and the intervention of the Commission.

-
- 1** First reading
C Item based on a Commission proposal
S Special legislative procedure
2 Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)
-

Statements to the legislative "A" items set out in 9870/19

Ad "A" item 1: **Directive on transparent and predictable working conditions**
Adoption of the legislative act

STATEMENT BY THE COMMISSION

"In accordance with Article 23 of the Directive, the Commission will review the application of this Directive 8 years after the directive entered into force, with a view to propose, where appropriate, the necessary amendments. The Commission undertakes in its report to pay particular attention to the application of Articles 1 and 14 by the Member States. The Commission will also verify compliance with Article 14 when assessing whether Member States have fully and correctly transposed the Directive into their national legal systems."

STATEMENT BY GERMANY, SUPPORTED BY HUNGARY

"The definition of an employment relationship or employment contract is crucial to the scope of the Directive.

During the negotiations, Germany and many other Member States together advocated for reference to be made to the national law of the Member States for this purpose. The Directive affects the core area of individual labour law. The basic structures in this field have developed through tradition in the Member States and include, in particular, how employment relationships are defined and differentiated from other legal relationships.

A reference to national law is now found in Article 1(2) of the Directive. It follows that it is primarily for the Member States to define the employment relationship and hence the scope of the Directive, in accordance with their respective national rules.

Germany understands the reference in Article 1(2) to the case-law of the Court of Justice of the European Union (CJEU) as relating to that court's case-law on ensuring the effectiveness of directives. According to that case-law, it is first and foremost the Member States that define the employment relationship, if the directive in question refers to national law. That discretion is limited by the fact that Member States may not arbitrarily exclude certain categories of personnel. This is reviewed by the CJEU in each individual case, on the basis of the purpose of the particular Directive.

The reference in Article 1(2) of the Directive does not imply that the concept of an employment relationship is to be interpreted uniformly throughout the Union. Otherwise, the reference to national law would be meaningless. This also follows from the fact that the wording on ensuring uniform implementation has been deleted from the corresponding recital."

STATEMENT BY ESTONIA

"Proposal for a directive on transparent and predictable working conditions lays down new aspects for the protection of dismissal from work and burden of proof for employers. While Estonia agrees with the necessity and importance of providing protection from dismissal for workers, we also believe that there is a strong need to enable enough flexibility for the Member States, allowing them, when transposing the Directive, to take into account the different systems and practices of the Member States, especially the fact if their systems provide more protection to workers.

Estonian national legislation already fulfils or exceeds the level of protection required by the Directive.

Estonian legislation recognizes only limited grounds for dismissal, stated by law. The employer has the obligation to justify the cancellation of the employment contract and also during the labour dispute. The employer has to prove that grounds for dismissal were correct and justified.

Estonia strongly opposes the idea of considering employer in every case to act by mala fide, abusing the limits of the labour law. This derives from paragraphs 3 to 6 of Article 18, which assume that the employer has disregarded the restrictions while dismissing the employee. Estonian labour law is based on a different assumption, providing more protection and a more positive approach.

Estonia supports the adoption of the Directive. However, Estonia does not agree with the taken approach on Article 18 concerning the protection from dismissal and burden of proof. We consider that the protection required by the Directive is fulfilled in Estonia, based on a different dismissal system. Specificities regarding the dismissal should be left for the Member States to decide and regulate."

STATEMENT BY THE CZECH REPUBLIC

"The definition of an employment relationship or employment contract is crucial to the scope of the Directive. The Czech Republic, together with a number of other Member States, advocated during the negotiations that reference be made to national law of the Member States for this purpose. The Directive affects the core area of individual labour law. In the individual Member States the basic structures in this area have historical roots, including in particular how employment relationships are defined and differentiated from other legal relationships.

A reference to national law can now be found in Article 1 (2) of the Directive. From this it follows that Member States first and foremost define an employment relationship, and thus the scope of the Directive, in accordance with their respective national rules.

From the point of view of the Czech Republic, the reference the Court of Justice of the European Union (CJEU) in Article 1 (2) of the Directive refers to its case law on ensuring the effectiveness of directives. According to this case law, it is primarily Member States that are responsible for defining employment relationships where the directive in question refers to national law. This discretion is limited by the fact that Member States are not permitted to arbitrarily exempt certain categories of personnel. This is reviewed by the CJEU in each individual case on the basis of the purpose of the respective directive.

The reference in Article 1 (2) of the Directive does not imply that the concept of employment relationship is to be interpreted in a uniform manner across the Union. Otherwise, the reference to national law would be meaningless. This also follows from the fact that the assumption of uniform implementation has been deleted from the corresponding recital 8."

Ad "A" item 2: **Regulation on establishing a European Labour Authority**
Adoption of the legislative act

JOINT STATEMENT OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION

"The European Parliament, the Council and the Commission note that the process for selecting the location of the seat of the European Labour Authority (ELA) was not concluded at the time of the adoption of its founding Regulation.

Recalling the commitment to sincere and transparent cooperation and recalling the Treaties, the three Institutions acknowledge the value of exchange of information from the initial stages of the process for the selection of the seat of the ELA.

Such early exchange of information would make it easier for the three Institutions to exercise their rights according to the Treaties through the related procedures.

The European Parliament and the Council take note of the Commission's intention to take any appropriate steps in order for the founding Regulation to provide for a provision on the location of the seat of the ELA, and to ensure that the ELA operates autonomously in line with that Regulation."

STATEMENT BY THE CZECH REPUBLIC

"The Czech Republic has always been and remains strong advocate of the free movement of workers, freedom of establishment, freedom to provide services, and fundamental principles of the Internal Market of the European Union. It is in the interest of the Union and all its Member States that the relevant EU Internal Market legislation is fully applied and obstacles to the effective exercise of those freedoms are removed.

The Czech Republic is of the view that establishing European Labour Authority (ELA) can contribute to the objective of making Internal Market fair and effective and thus implementing principles of the European Pillar of Social Rights. In this respect, the Czech Republic supports measures to improve the cross-border cooperation and enforcement of the Union law in the area of labour mobility. The focus on tackling abuses in order to protect the rights of mobile workers is also highly appreciated.

However, the Czech Republic has several reservations regarding the final text of the Regulation.

Firstly, the Czech Republic regrets that the newly established EU entity is not called "agency". This would be fully justified given the fact that it should be governed and operated in line with the principles of the *Joint Statement of the European Parliament, the Council and the Commission on decentralised agencies of 19 July 2012* which requires – to avoid confusion among citizens and stakeholders – to use a standard term "agency".

As to the scope and nature of activities of the Authority, the Czech Republic has always believed that the main task of the Authority should be to assist the Member States and the Commission in their voluntary cooperation aimed at effective application and enforcement of the Union law related to labour mobility. Such cooperation should respect the competences of Member States as regards the application and enforcement of the relevant Union law. The Article 1 of the Regulation reflects this principle.

However, the agreed provisions concerning joint and concerted inspections seem to be ambiguous in this respect and may give rise to different interpretations as to the extent of the competences of the Authority and Member States.

Any joint inspection should be carried out inter alia, on condition of compliance with the criteria of efficiency, which is one of the aspects the Member States should be able to assess when considering their participation in the joint or concerted inspection. Therefore, the Czech Republic understands these provisions as not imposing on Member States any obligation to participate in concerted or joint inspection, nor requiring them to thoroughly elaborate on and justify reasons for their non participation in joint or concerted inspections.

The Czech Republic reads the corresponding provision of the Regulation as enabling Member States where the inspection is carried out to autonomously determine the role and status of the officials from another Member State participating in joint inspection. Concerted and joint inspections organised under the ELA auspices must not replace nor undermine national competences.

Finally, as regards the mediation procedure the Regulation correctly stipulates that it is without prejudice to the competences of the Administrative Commission for the Coordination of Social Security Systems established in Regulation (EC) No 883/2004. However, the ELA Regulation does not provide sufficient safeguards regarding the prevention of duplicity of activities of the Administrative Commission for the Coordination of Social Security Systems and the Authority. Thereby, the Czech Republic calls for a Cooperation Agreement that would emphasise the role of the Administrative Commission for the Coordination of Social Security Systems in respect of social security issues to the widest possible extent."

Ad "A" item 3: **Directive on Work-Life Balance**
Adoption of the legislative act

STATEMENT BY SLOVENIA

"Slovenia supports the objective of the directive as stated in its Article 1, namely to achieve equality between men and women with regard to labour market opportunities and treatment at work through facilitating the reconciliation of work and family life for working parents and carers. Slovenia is of the firm opinion that its current national system has already achieved this objective. In Slovenia, the employment rate of women is one of the highest in the EU and the gender employment gap is one of the lowest. The positive impact of parenthood on women's employment is very high.

Given that the directive affects the national social security systems and their financial equilibriums, Slovenia underlines that the setting of minimum standards should be done in a way that does not interfere with well-established systems which are already achieving equal labour market opportunities for women and men.

Slovenia also points out that the directive is the first legislative file based upon the principles of the European Pillar of Social Rights (EPSR) aiming at upward convergence among Member States, which is strongly supported by Slovenia.

However, the lengthy and complex negotiations have shown that national systems vary considerably and that Member States support different sets of measures which allow "equal access to special leaves of absence in order to fulfil their caring responsibilities and encourage to use them in a balanced way" (principle 9 of EPSR). To the contrary, the final compromise text insists only on some of these measures, i.e. pay and non-transferability of leave. Furthermore, the final compromise disproportionately focuses on the measure of non-transferability rather than on pay. In particular, it reconfirms the derogation for tackling some Member States' concerns of payment, while omitting equally valid proposals for tackling concerns of other Member States, like Slovenia. Slovenia is therefore strongly convinced that the directive as finally agreed will not contribute to upward convergence and will not encourage parents to use special leaves in a balanced way. Based on the above, Slovenia will vote against the directive."

JOINT STATEMENT BY CROATIA, THE CZECH REPUBLIC AND GERMANY

"The Federal Republic of Germany ('Germany'), the Republic of Croatia ('Croatia') and the Czech Republic support the general aim of the proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers.

Germany, Croatia and the Czech Republic consider both the scope of the Directive and the definition of 'worker' to be important. The wording in Article 2 and the corresponding recital in the draft directive are rather unconventional. Germany, Croatia and the Czech Republic would therefore like to outline their view in this regard, which is based on insights gained during the negotiations.

Germany, Croatia and the Czech Republic consider the wording in both Article 2 and the corresponding recital as providing clarification that the Member States have competence for defining the scope of the directive in accordance with their respective national provisions.

Germany, Croatia and the Czech Republic also consider that the references to the CJEU, its case-law or parts thereof are intended simply as references to the CJEU's task of ensuring the effectiveness of the Directive. That task is limited to guaranteeing that the relevant directive is effective in achieving its aims, and so is restricted to individual checks against arbitrariness."

STATEMENT BY HUNGARY

"Hungary supports the overall aim of the Proposal for the Directive of the European Parliament and of the Council on work-life balance for parents and carers ('the Directive'), namely to enhance equality between men and women through facilitating the reconciliation of work and family life for working parents and carers.

Hungary strongly believes that family policy is of paramount importance and is fully committed to support the families with all possible instruments. One of the key elements of the Hungarian family policy is to support the adequate balance between work and family life, to help women with children to be able to return to work and to support men's involvement in the life of the family.

Family policy falls primarily under the competence of the Member States, in this context, the principles of subsidiarity and proportionality are of particular importance when it comes to Union level legislation. Hungary cannot support any Union measure that endangers Hungarian family policy and the achievements thereof. Hungary is strongly convinced that we shall not intervene in the life of families and force their decision regarding the uptake of parental leave, without respecting their freedom of decision based on their personal, social and financial circumstances. This is particularly true regarding the non-transferability of parental leave. Accordingly, Hungary is convinced that at EU level, it is only appropriate to designate basic principles for the Member States, leaving the necessary room for manoeuvre for them to set up the tools, timing and priorities at national level, in accordance with the principle of conferral of competences and the principles of subsidiarity and proportionality as laid down in the Treaties.

The scope of the draft Directive, particularly the definition of worker is of great significance for Hungary. Hungary considers Article 2 together with its corresponding recital of the draft Directive that Member States have full discretion regarding the definition of the scope of the Directive in accordance with their national rules. In doing so account should be taken of the case-law of the Court of Justice of the European Union regarding workers who make use of their Union right to movement."

Ad "A" item 4: **Regulation amending general food law**
Adoption of the legislative act

STATEMENT BY THE COMMISSION

"The Commission welcomes the political agreement reached by the European Parliament and the Council on the proposal for a Regulation on the transparency and sustainability of the EU risk assessment in the food chain.

However, the Commission regrets that the co-legislators have decided to deviate from the Common Approach of the Parliament, the Council and the Commission on decentralised agencies of 19 July 2012.

In particular, the Commission regrets the deviation from the Common Approach with regard to the composition of the Management Board of the European Food Safety Authority (number of members designated by the European Parliament).

This deviation should not be considered as a precedent for other agencies."

Ad "A" item 5: **Regulation on technical measures**
Adoption of the legislative act

STATEMENT BY THE COMMISSION
on the adaptation of tonnage

"In the context of the ongoing evaluation of the entry-exit regime set out in Article 23 of Regulation (EU) No 1380/2013, the Commission will examine whether changes are required on the need to adjust the capacity ceilings set out in Regulation (EU) No 1380/2013."

STATEMENT BY THE COMMISSION
on derogations to article 13 (3) of Regulation (EC) No 1967/2006 (the Mediterranean Regulation)

"Where Member States submit requests for a derogation to Article 13 (3) of Regulation (EC) No 1967/2006 (Mediterranean Regulation), these can be granted if the conditions for such a derogation are fulfilled, as a viable way to permit important fisheries whilst protecting the coastal zone."

STATEMENT BY THE COMMISSION ON REGIONALISATION

"The Commission relies on the Member States' resolve to make the regionalization process a success for the Common Fisheries Policy. The Commission trusts that Member States will ensure that regionalized technical measures will continue contributing to the objectives of the Common Fisheries Policy, in particular reduction of unwanted catches, and will act in accordance with the principle of loyal cooperation to swiftly address via joint recommendations any potential deterioration of the conservation status currently in place. The Commission underlines that the empowerment of the Commission to adopt by means of delegated acts measures as set out in the Member States' joint recommendations does not have the power to affect the Commission's discretion to adopt such acts. Moreover, in the absence of such joint recommendations by the Member States having a direct management interest, the Commission will use all legal means available to it to address any such deterioration, including, where necessary, emergency measures in line with Article 12 Regulation (EU) No 1380/2013 and the right to submit proposals for the relevant measures in the Common Fisheries Policy field under the Treaty."

STATEMENT BY THE COMMISSION ON ARTICLE 25 ON SCIENTIFIC RESEARCH

"In relation to the provisions laid down in Article 25 of this Regulation on scientific research, the Commission envisages to regularly seek the advice of STECF where scientific research conducted by more than 6 commercial vessels involves any gears or uses listed in Article 7 of this Regulation to confirm that the level of participation is justified on scientific grounds."

STATEMENT BY DENMARK

"Denmark supports the new regulation on technical measures. A new regulation is needed to take into account the objectives of the reformed Common Fisheries Policy from 2013. Regionalisation is one of the fundamental elements of the reform. Regionalisation enables proportionate and adapted approaches to ensure a sustainable fisheries management, as it allows taking into account regional specificities in different sea basins.

However, unfortunately on the specific issue of spearfishing a proportionate approach was not taken in the new regulation on technical measures. Instead, a general prohibition in all EU-waters is included in the regulation for fishing with handheld spears and spear guns used in conjunction with an aqualung 24 hours a day or without an aqualung from dusk to dawn, cf. Article 7(g).

Underwater hunting with handheld spears and spear guns is a popular hobby for some recreational fishermen. It is furthermore a hobby that poses no biological threat to the marine species of the North Sea and Baltic Sea.

During the negotiations, Denmark has thus advocated that if provisions regulating spearfishing were to be included in the regulation on technical measures, they should be amendable through regionalisation, as this would allow taking into account regions, where this fishing practice could create a problem for the sustainability of the stocks, and regions, where this is not the case.

Denmark urges the Commission to reconsider the provisions adopted on spearfishing - which are in line with the content of the Commission original proposal - and as soon as possible present a proposal for an amendment to the provisions set out in article 7(g), allowing a regionalised approach."

Ad "A" item 6: Regulation on persistent organic pollutants (POPs) (recast)
Adoption of the legislative act

STATEMENT BY THE COMMISSION

"The Commission underlines that, notwithstanding the right of the co-legislators to choose the ordinary legislative procedure over delegated acts, the use of the ordinary legislative procedure to amend Annexes IV and V could compromise the ability of the EU and its Member States to comply with their international obligations under the Stockholm Convention and to negotiate concentration limits for POPs wastes within the Basel Convention, in view of the timelines and procedures that apply."

STATEMENT BY THE COMMISSION

"The Commission notes that as the definition of "article" in the recast of the POPs Regulation refers directly to the definition of "article" in Regulation (EC) No 1907/2006 (REACH), the Commission interprets this term in the same way as it is interpreted in REACH, including any clarifications provided by relevant case-law. Guidance will be prepared by the European Chemicals Agency, in agreement with the Commission, to confirm this interpretation of the term "article" in the POPs Regulation, in line with relevant case-law, at the earliest opportunity following the entry into force of the recast of the POPs Regulation."

STATEMENT BY THE COMMISSION

"The Commission confirms its intention to launch without delay a review of the limit value for PBDEs in Annex IV to the POPs Regulation, taking into account the available scientific and technical evidence, with the objective of proposing a lower limit value which would include consideration of a possible limit value of 500 ppm."

JOINT STATEMENT BY FRANCE AND SWEDEN

"France and Sweden welcome the recasting of the Regulation on persistent organic pollutants, which implements the European Union's commitments under the international Stockholm Convention while complying with the Lisbon Treaty.

We are grateful for the work achieved by the Austrian and Romanian Presidencies. We would also thank the MEPs tasked with working on the recast during the European Parliament's eighth term. We also thank the European Commission for providing technical elements for establishing the threshold values in the annexes.

France and Sweden stress their attachment to the recital recalling the Union's serious concern regarding the continuous release of persistent organic pollutants ('POPs') into the environment, since these chemical substances are transported across international boundaries, far from their sources, and persist in the environment, bioaccumulate through the food web, and thereby pose a threat to human health and the environment.

We are therefore concerned that the Regulation should constitute a common legal framework within which to take measures designed, in particular, to eliminate the manufacturing, placing on the market and use of POPs, as stressed in the recitals.

In that regard, we would reiterate that the task entrusted to the European Commission as from the adoption of this recast, namely the adoption of a revised threshold value for polyBDEs by 2021 at the latest, should begin as soon as possible. Sharing of experience on best technical and organisational practices will be an essential part of the Commission's task. The recently adopted 'best available techniques' (BREF on waste treatment of August 2018) and those currently being worked on (BREF on waste treatment by incineration, scheduled for adoption on 17 June 2019) can facilitate the speedy attainment of that objective."

Ad "A" item 7: **Regulation on CO2 standards for heavy-duty vehicles**
Adoption of the legislative act

STATEMENTS BY THE COMMISSION

- "1. The Commission is pursuing the technical development of the Vehicle Energy Consumption Calculation Tool (VECTO) with a view of updating it regularly and in a timely manner, in the light of innovation and to take account of the implementation of new technologies improving the fuel efficiency of heavy-duty vehicles.
2. The Commission notes the agreement of the co-legislators relating to Article 20 of this Regulation, which amends Directive 96/53/EC without setting an explicit time limit for its transposition.

The Commission also notes that other provisions of Directive 96/53/EC are being modified by the Decision of the European Parliament and of the Council amending Council Directive 96/53/EC as regards the time limit for the implementation of the special rules regarding maximum length for cabs delivering improved aerodynamic performance, energy efficiency and safety performance¹, which provides for an application of those new provisions as of 1 September 2020.

Given the situation, the Commission calls upon Member States to carry out as soon as possible and at the latest by the same date, i.e. 1 September 2020, any necessary adaptation of their national legislation to Article 20 of the present Regulation and to inform the Commission thereof in accordance with Article 11 of Directive 96/53/EC. This would obviate any need for a further legislative proposal by the Commission on this issue."

¹ PE-CONS 40/19

STATEMENT BY GERMANY, HUNGARY AND THE CZECH REPUBLIC

"Germany, Hungary and the Czech Republic support the compromise text. We acknowledge the Presidency's committed efforts to take account of our concerns. However, Germany, Hungary and the Czech Republic wish to point out that the agreement reached is ambitious and poses major challenges for vehicle manufacturers, especially with regard to the year 2025. In our view, there is an urgent need to expand the European charging infrastructure in order to facilitate unrestricted cross-border deployment of electric powertrain technologies. This requires a concerted strategy from the Commission and Member States. Charging infrastructure for heavy-duty vehicles, as opposed e.g. to passenger cars, presents new and different challenges. Germany, Hungary and the Czech Republic would also stress the importance of a review being conducted by the Commission in 2022 without preconceived conclusions. All elements of this review, including the mandate to assess the possibility of a methodology for taking into account alternative fuels, are very important."

Ad "A" item 8: **Directive on digital tools and processes in company law**
Adoption of the legislative act

STATEMENT BY GERMANY

"In order to ensure that the digitalisation process continues to move forward in this area, Germany accepts the text of the Directive and, for the sake of reaching an agreement, withdraws the concerns it has raised on several previous occasions regarding the extent of the company information available free of charge. The question of costs is an important issue for the *Länder*, which are responsible for the registers in Germany. In Germany, the registers are financed by fees. Expanding the extent of the company information available free of charge (especially to include information about persons authorised to represent a company) constitutes unjustified interference in the Member States' autonomy over the financing of the registers. The aim of making company information transparent is already accounted for by the fact that the fees have to be appropriate."

Ad "A" item 9: Directive on the promotion of clean and energy-efficient road transport vehicles
Adoption of the legislative act

STATEMENT BY GERMANY

"Germany supports this Directive's aim of using public procurement of clean road transport vehicles to contribute to achieving air-quality and climate goals in the transport sector.

In the medium-to-long term, the signals sent to the market by this Directive may stimulate the supply of clean vehicles. In some sub-sectors covered by the Directive, however, these vehicles are still significantly more expensive and not yet available in sufficient quantities. Whether a sufficient number will be available in the future and whether the public sector will be able to afford them cannot yet be foreseen under present conditions.

Implementing the Directive in some sub-sectors will involve considerable cost and bureaucracy for Member States, particularly those with a federal structure. As a result of the high quotas for clean buses that must be complied with in the short term, more funding will be needed for environmentally-friendly public transport, leading to higher ticket prices for individual passengers.

For the above reasons, Germany is not able to endorse the Directive in its current form."

STATEMENT BY THE SLOVAK REPUBLIC

"While the Slovak Republic generally supports the objectives of this Directive, it wishes to point out that the financial impacts of this Directive were not presented on required level and the targets foreseen for public transport sector may cause restrictions to the provision of public transport services.

Moreover, the construction of the necessary infrastructure will cause additional costs.

In addition, Slovakia believes the shortening of the transposition period that was agreed in the final text, will cause problems in the appropriate implementation of the Directive, both at the state level as well as on the regional level.

Besides, the Slovak Republic believes the implementation of this Directive will lead to an increase in administrative burden.

For these reasons, the Slovak Republic cannot support the Directive."

STATEMENT BY ESTONIA

"Estonia fully supports the aims and objectives of the directive, which pave the way towards low-emission mobility. We support and intend moving towards low and zero-emission public transportation.

However, Estonia wishes to reiterate its concern regarding the 50% subtarget for zero-emission buses (Annex, Table 5 footnote). More precisely, Estonia considers that the subtarget might impede choosing the technology that best fits Member States local conditions. The capacity of procuring zero-emission buses as an obligation in different Member States is not thoroughly analysed. The Commission impact assessment did not foresee nor analyse setting a subtarget for zero-emission buses. There was no Council impact assessment carried out either on this matter. Setting this target is a policy choice with substantial impact on Member States but as well on industry. As a result, this kind of a policy measure should not be adopted in a hurry without any further impact analysis.

In the Estonian case and considering the current infrastructure and technological development, including technology price, only electric buses can be viewed as zero-emission buses in the meaning of the Directive. In recent years, two of our biggest cities have concluded contracts for long-term public transportation tenders and our capital has also committed to renewing one third of their bus fleet in the coming years with new CNG buses using bio-methane as a fuel. The state has also been actively involved in supporting the setting up of refuelling infrastructure for bio-methane all over the country. We see bio-methane as an option to provide zero CO₂-emission fuel as well as a way to bring additional economic activity to rural areas by producing bio-methane from agricultural residues. Producing bio-methane from biodegradable waste contributes to achieving circular economy goals.

In Estonia, a few bigger municipalities make up a majority of public transportation procurement. This leaves us with a situation where before 2025, the majority of bus procurement contracts will be for longer distance county-level transportation, but electric buses are currently an option only for urban public transportation as their driving range is limited. Therefore, we risk not achieving the subtarget of zero-emission buses at least during the first period up to 2025. Using bio-methane, which is considered as a zero CO₂-emission fuel in the greenhouse gas inventory, could help to ensure a smoother transition to low-emission transportation in countries, where electric or hydrogen buses are not yet a viable option for regional public transportation.

Consequently, and yet again stressing the commitment and support for the aims and objectives of the Directive, Estonia regrets that the subtarget can be fulfilled only with electric or hydrogen buses. In this context, Estonia will abstain regarding the current legislative proposal."

STATEMENT BY AUSTRIA

"Austria generally supports the objectives of this Directive and stresses the need to achieve the EU's climate goals through clear measures. Nevertheless, Austria is concerned that the financial impact of the Directive is not yet clear and the targets set for the public transport sector may have the unintended consequence of limiting the provision of public transport services. Moreover, the construction of the necessary infrastructure will cause additional costs. Therefore, Austria calls upon the European Commission to promote national support programmes to reach the objectives of this Directive, especially with regard to public transport, and to additionally provide support and funding programmes at EU level to support the transition to clean vehicles. Furthermore, the implementation of this Directive will lead to a far heavier administrative burden. For these reasons, Austria cannot endorse the Directive and therefore abstains from voting."

STATEMENT BY POLAND

"Poland strongly supports the general aim of the proposed amended Directive, to increase the market uptake of clean, i.e. low- and zero-emission vehicles in public procurement and hence contribute to the reduction of overall transport emissions and the competitiveness and growth in the transport sector.

From the beginning of the process, Poland has presented its supportive approach towards the European Commission's proposal and was committed to reaching the most appropriate compromise, which would be on one hand, ambitious enough to reach the outlined aim, on the other – feasible to implement.

We consider level of ambition initially proposed by the European Commission as evidence-based and already very ambitious. Raising the level of LDV targets without strong analytical background is in our opinion not appropriate, in particular as the lower level of ambition for LDV targets proposed by the Commission resulted from the assessment of the availability of clean LDV and the maturity of this market. Moreover, Poland is of the opinion that the implementation period should be 30 months.

Longer period would not affect negatively the aims of the amended Directive. On the contrary, it would bring an added value for the quality of implementing measures. The amended Directive does not contain ready-made solutions, implementation of which would guarantee achievement of the projected goals. Transposition of the Directive into national law will require thorough analysis as well as development, tests and deployment of new solutions in order to reach goals which were set.

Within each country, there are different specificities of individual regions and local communities, structures and administrative dependency, type of entities purchasing vehicles or providing services with their use. New solutions will most probably require far-reaching law changes which will go through the parliamentary process.

Therefore, Poland cannot support the Directive in its current form."

STATEMENT BY THE CZECH REPUBLIC

"While the Czech Republic fully recognizes the need to move forward the decarbonisation of the transport sector, this new Directive raise our deep concerns not only in general as regards the level of ambition but more specifically as regards its possible negative impact on quality of public transport.

We expect the Commission to monitor continuously how this new Directive affect contracting authorities. The Directive may have impact especially on authorities responsible for awarding public service contracts within the meaning of Regulation (EC) No. 1370/2007, which have as their subject matter the provision of passenger transport services. The Commission shall be able to come with adequate corrective measures if the implementation of this Directive leads in some countries or regions to the reduction of the scope of public transport under public service obligations.

We also invite the Commission to explore all possible measures how to support in the future the implementation of this Directive in the area of public transport including measures related to state aid rules."
