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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Employment, Social Policy, Health and Consumer Affairs)
12 and 13 June 2023

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MEETING ON MONDAY 12 JUNE 2023

1. Adoption of the agenda

The Council adopted the agenda set out in 10104/1/23 REV 1.

2. Approval of "A" items

Non-legislative list

10142/23

The Council adopted all "A" items listed in the document above, including all linguistic COR and REV documents presented for adoption.

EMPLOYMENT AND SOCIAL POLICY

Legislative deliberations

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

3. Directive on standards for equality bodies (Article 19) *General approach*

SC

10027/23

+ ADD 1-2

The Council reached a general approach on the Directive on standards for equality bodies (Article 19) as set out in the document above.

Statements by Austria and Germany are set out in the Annex to these minutes.

4. Directive on standards for equality bodies (Article 157) *General approach*

IC

10038/23

+ ADD 1-2

The Council reached a general approach on the Directive on standards for equality bodies (Article 157) as set out in the document above.

Statements by Austria and Germany are set out in the Annex to these minutes.

5. Directive on equal treatment (Article 19)¹ *Policy debate* *Progress report*

SC

9043/23

9544/23

The Council took note of the progress report on the Directive on equal treatment (Article 19) as set out in document 9043/23.

The Council held a policy debate on the Directive on equal treatment (Article 19) based on a Presidency steering note as set out in document 9544/23.

¹ In the presence of a representative of the European Union Agency for Fundamental Rights.

Non-legislative activities

6. **Conclusions on mainstreaming a gender equality perspective in policies, programmes, and budgets** P2 9026/23 + ADD 1
Approval

The Council approved the Conclusions on mainstreaming a gender equality perspective in policies, programmes, and budgets as set out in the document above.

Statements by Hungary and Poland are set out in the Annex to these minutes.

Legislative deliberations

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

7. **Directive on improving working conditions in platform work** P1C 10107/23
General approach + ADD 1-3

The Council reached a general approach as set out in the document above.

Statements by France, by Lithuania and a joint statement by Belgium, Luxembourg, Malta, Netherlands, Portugal, Romania, Slovenia and Spain are set out in the Annex to these minutes.

8. **Directive amending Directives 98/24/EC and 2004/37/EC as regards the limit values for lead and its inorganic compounds and diisocyanates** P1C 9619/23
General approach

The Council reached a General approach on the Directive amending Directives 98/24/EC and 2004/37/EC as regards the limit values for lead and its inorganic compounds and diisocyanates as set out in the document above.

Non-legislative activities

9. **Council Recommendation on strengthening social dialogue in the European Union** P2C 9650/23
(*)
(Legal basis proposed by the Commission: Article 292 in conjunction with Article 153 (1) (f) TFEU)
Adoption

The Council adopted the Council Recommendation on strengthening social dialogue in the European Union as set out in the document above.

10. European Semester 2023

Policy debate

Presentation by the respective chairs of the Employment Committee and the Social Protection Committee of the key messages on the Social Convergence Framework

9608/23
9481/23 + ADD 1

The Council held a policy debate based on a steering note as set out in document 9608/23.

The Council took note of the information provided by the respective chairs of the Employment Committee and the Social Protection Committee on the key messages on the Social Convergence Framework as set out in document 9481/23.

- a) **Contribution on employment and social policies aspects of the country-specific recommendations: Recommendations on the 2023 national reform programmes to each Member State**
Approval

9900/23
9901/1/23 REV 1
9954/23
9842/23 ADD 1

The Council approved the contribution on employment and social policies aspects of the country-specific recommendations on the 2023 national reform programmes to each Member State as set out in the country documents listed in document 9901/1/23 REV 1.

A statement by Hungary on its country-specific recommendation is set out in the Annex to these minutes.

- b) **Assessment of the country-specific recommendations for 2023 and implementation of the country-specific recommendations for 2022: Opinion of the Employment Committee and the Social Protection Committee**
Endorsement

9955/23 + ADD 1-3

The Council endorsed the Opinion of the Employment Committee and the Social Protection Committee on the assessment of the country-specific recommendations for 2023 and implementation of the country-specific recommendations for 2022 as set out in the document above.

Any other business

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



- i) **Directive on the protection of workers from the risks related to exposure to asbestos at work**

12863/22

- ii) **Revision of the Regulations on the coordination of social security systems (883/04 and 987/09)**
Information from the Presidency

15642/16

The Council took note of the information from the Presidency.

- b) **Presidency conferences**
Information from the Presidency



9652/23



The Council took note of the information from the Presidency on the Presidency conferences.

- c) **Work programme of the incoming Presidency**
Information from the Spanish delegation

MEETING ON TUESDAY 13 JUNE 2023

HEALTH

Non-legislative activities

12. **Council Recommendation on stepping up EU actions to combat antimicrobial resistance in a One Health Approach**   9581/23 (*)
(Legal basis proposed by the Commission: Article 168(6) TFEU)
Adoption

The Council adopted the Council Recommendation on stepping up EU actions to combat antimicrobial resistance in a One Health approach as set out in the document above.

Legislative deliberations



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

13. **Regulation on fees and charges payable to EMA**   9674/1/23 REV 1
General approach

The Council reached a General approach on the Regulation on fees and charges payable to EMA. It also mandated the Presidency to open negotiations with European Parliament on this basis as set out in the document above.

14. **Regulation on the European Health Data Space**   9368/23
Progress report

The Council took note of the progress report on the Regulation on the European Health Data Space as set out in the document above.

15. **Regulation on standards of quality and safety for substances of human origin intended for human application**   9120/23 + COR 1
Progress report

The Council took note of the progress report on the Regulation on standards of quality and safety for substances of human origin intended for human application as set out in the document above.

Non-legislative activities

16. **Strengthening the pharmaceutical ecosystem in support of competitiveness and equitable access to medicines** [2] 9583/23
Exchange of views

The Council held an exchange of views on strengthening the pharmaceutical ecosystem in support of competitiveness and equitable access to medicines as set out in the document above.

Any other business

17. a) **Applying a needs-driven approach to pharmaceutical innovation** [2] 9967/23
Information from the Austrian, Belgian, Irish, Luxembourg and Netherlands delegations

The Council took note of the information from the Austrian, Belgian, Irish, Luxembourg and Netherlands delegations on applying a needs-driven approach to pharmaceutical innovation.

- b) **Creation of a “European Day in remembrance of the victims of the Covid-19 Pandemic”** [2] 9915/23
Information from the French delegation

The Council took note of the information from the French delegation on the creation of a “European Day in remembrance of the victims of the Covid-19 Pandemic” and of interventions by several delegations and the Commission.

- c) **Negotiations for an international agreement on pandemic prevention, preparedness and response, as well as complementary amendments to the International Health Regulations (2005)** [2] 9868/23
Information from the Presidency and the Commission

The Council took note of the information from the Presidency and the Commission on the negotiations for an international agreement on pandemic prevention, preparedness and response, as well as complementary amendments to the International Health Regulations (2005).

d) Communication on a comprehensive approach to mental health

 9870/23

Information from the Commission

The Council took note of the information from the Commission on its communication on a comprehensive approach to mental health.

e) Presidency conferences

 9871/23

Information from the Presidency

The Council took note of the information from the Presidency on the Presidency conferences.

f) Work programme of the incoming Presidency

Information from the Spanish delegation



First reading



Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)



Item based on a Commission proposal

Statements to the "B" items set out in 10104/1/23 REV 1**Ad "B" item 3:** **Directive on standards for equality bodies (Article 19)**
*General approach***STATEMENT BY AUSTRIA**

“Austria fully supports the objectives of the proposed Directives to strengthen the protection against discrimination and to improve the support for victims of discrimination.

Austria emphasizes that the proposed Directives set minimum standards for equality bodies.

Austria already has a well-functioning best-practice system in the field of equal treatment and anti-discrimination that has proven its worth for decades. In order to preserve effective and long-established national structures, there should be flexibility in implementing these Directives. Effective institutions and efficient mechanisms shall continue to exist within this new framework.”

STATEMENT BY GERMANY

“We agree with the general approach on the Directive, subject to the following interpretation:

1. We appreciate the fact that, during the negotiations at the Council Working Party meeting, the Commission assured us that we can also implement Article 8 exclusively by means of an alternative dispute resolution procedure in which the defendant must participate. To that end, the equality body, at the request of a person claiming discrimination, will examine and decide on the case on the basis of the information provided to it, taking into account the reversal of the burden of proof. Germany interprets Article 8 as meaning that the requests for information are not compulsorily enforced, but that the defendant will be made aware of the reversal of the burden of proof.
2. We also appreciate the fact that Germany can prohibit equality bodies from publishing private or company data in the context of the summaries referred to in Article 8a.
3. At the last Council Working Party meeting, the Commission also assured us that we would have the possibility of implementing Article 9(2a) in such a way that ‘competent entities’, i.e. recognised anti-discrimination associations in Germany, would be able to initiate proceedings on behalf of victims and thus provide judicial support to those affected by discrimination. This will ensure effective judicial support for those affected by discrimination.”

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STATEMENT BY HUNGARY

“Hungary believes that the Presidency’s approach towards gender equality is based on a delicately balanced compromise therefore we support the current approach of the *Council Conclusions on mainstreaming a gender equality perspective in policies, programmes and budgets*.

Hungary is committed to promoting work-life balance and encouraging women's participation in the labour market, especially in areas where women are underrepresented compared to men, since providing adequate opportunities for women and men play a vital role in economic growth, prosperity and competitiveness. However we consider it important that we provide the Member States with the necessary flexibility with regard to financial matters and by bearing in mind the feasibility of the measures to avoid creating unnecessary administrative burdens.

Hungary is supporting women and men in vulnerable situations caused by crises and considers it important to promote gender equality in the context of the post- pandemic recovery from COVID-19 also defined as a priority in the *Council Conclusions on mainstreaming a gender equality perspective in policies, programmes and budgets*.

Hungary recognises and promotes equality between men and women in accordance with the Fundamental Law of Hungary and the primary law, principles and values of the European Union, as well as commitments and principles stemming from international law. Equality between women and men is enshrined in the Treaties of the European Union as a fundamental value. In line with these and its national legislation, Hungary interprets the term 'gender' as a reference to 'sex' in the *Council Conclusions on mainstreaming a gender equality perspective in policies, programmes and budgets*.

Furthermore, Hungary declares that the Commission's Communication on 'A Union of Equality: Gender Equality Strategy 2020-2025' referred to in the *Council Conclusions on mainstreaming a gender equality perspective in policies, programmes and budgets* should be interpreted with due regard to the national competences and the specific circumstances in each Member State."

STATEMENT BY POLAND

"Equality between women and men is enshrined in the Treaties of the European Union as a fundamental right. Poland ensures equality between women and men within the framework of the Polish national legal system in accordance with international human rights treaties and within the framework of the fundamental values and principles of the European Union. For these reasons, Poland will interpret the expression 'gender equality' as equality between women and men, in accordance with Articles 2 and 3 of the Treaty on European Union and Articles 8 and 157(3) of the Treaty on the Functioning of the European Union. In view of the above, Poland will interpret other expressions containing the term 'gender' as referring to 'sex', in accordance with Article 10, Article 19(1) and Article 157(2) and (4) of the Treaty on the Functioning of the European Union."

Ad "B" item 7:

Directive on improving working conditions in platform work *General approach*

STATEMENT BY FRANCE

"France is committed to the protection of all persons performing platform work, regardless of their status. With this in mind, through national legislation or collective bargaining between recognised social partners, it grants specific rights to self-employed workers who offer platform-based services.

This strong commitment is consistent with the framework set out in the European Commission's 'Guidelines on the application of Union competition law to collective agreements regarding the working conditions of solo self-employed persons' published together with the above proposal for a Directive on 9 December 2021 and adopted in 2022.

France considers that a mechanism of legal presumption of employment to facilitate the correct classification of the employment status of persons performing platform work will only be effective and relevant if it is not applied to genuine self-employed workers. This also requires that this presumption relies on the triggering of clear, transparent and legally predictable procedures.

For these reasons, France considers that Article 4(1), read in conjunction with Article 2(4)(b) and the corresponding recitals, in particular recital (24a), allows for the legal presumption of employment to be triggered only on the basis of an assessment of the measures determined and applied unilaterally by the platforms through their terms and conditions and practices.

Thus, contractual clauses included in the terms and conditions or practices of digital labour platforms which are aimed solely at complying with the requirements of EU law, national legislation or collective agreements should not be taken into account to assess whether any of the criteria listed in Article 4(1) are fulfilled.

This is the only interpretation that allows for a proper link between the mechanism of presumption provided for in the proposal for a Directive and the legal or contractual requirements which otherwise apply to digital labour platforms. France therefore intends to preserve its national model to improve the working conditions of persons performing platform work, regardless of their employment status.”

STATEMENT BY LITHUANIA

“Lithuania supports the objectives of this Directive to improve the working conditions of platform workers and the protection of persons performing platform work regarding the processing of their personal data through the use of automated monitoring or decision-making systems.

Lithuania believes that the Directive should not restrict, but rather promote, social dialogue between persons performing platform work and digital labour platforms, and their representatives. This Directive should be consistent with the European Commission's Guidelines on the application of Union competition law to collective agreements regarding the working conditions of solo self-employed persons. We consider that measures or rules required by law or collective agreements shall not be taken into account for automatic trigger of the legal presumption and reclassification of the status.

At the same time, Lithuania emphasizes that the legal presumption, its criteria, the threshold of triggering the legal presumption, application of the legal presumption and its rebuttal should be proportionate and should not create the administrative burden for the genuine self-employed persons.”

STATEMENT BY BELGIUM, LUXEMBOURG, MALTA, THE NETHERLANDS, PORTUGAL, ROMANIA, SLOVENIA AND SPAIN

“The Governments of Belgium, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia and Spain value the efforts and commitment by successive EU Council Presidencies and the European Commission to achieving a general approach on the proposal for a Directive on improving the working conditions in platform work. We congratulate the Swedish Presidency on achieving a general approach today.

We welcome today’s General approach as an important step towards better protection of platform workers. The coming negotiations with the European Parliament present a unique opportunity to further guarantee fair and dignified working conditions for digital platform workers across Europe.

This Directive is an important piece of legislation that aims to address the challenges related to the future of work. The EU has the opportunity to be the global leader in improving working conditions for platform workers and setting the benchmark for a fair and inclusive digital transition for millions of workers who should not be excluded from meaningful social dialogue.

From the very beginning of negotiations, it has been our common desire to adopt a Directive with the highest degree of ambition, one that strikes the right balance between achieving a real improvement of the working conditions of people performing platform work, irrespective of their employment status, and a sustainable development of the platform economy. A Directive that, while contributing to a level playing-field in the EU, allows for a correct classification of people who work through digital platforms and entails a real improvement of their working conditions.

The text subject to today’s approval in Council includes progress on algorithmic management, the need for human supervision of these processes and workers’ information rights, as well as transparency within the digital platform work. These are all important steps that contribute to the rights of all platform workers.

Furthermore, establishing a rebuttable presumption of employment is an important step for the protection of platform workers. Nevertheless, in its current design the rebuttable legal presumption of the employment relationship in today’s General Approach is less ambitious and effective than the one proposed by the Commission. The rebuttable legal presumption should be activated under clear and transparent norms and mechanisms, shared by all Member States, that respect the jurisprudence by the Court of Justice of the European Union and national Courts.

Moreover, it is necessary to establish a legal presumption without restrictions or derogations, as this would only perpetuate the existing imbalance today between the digital platforms (including when using intermediaries) and the individuals that perform digital platform work, which has led to the existence of thousands of bogus self-employed workers in Europe and precarious working conditions. We will also aim to extend the scope of the legal presumption to tax, criminal and social security proceedings.

With the aim of keeping the legislative process on track and therefore allowing the start of the negotiations with the European Parliament, and sensitive to the calls for action from several relevant stakeholders, our like-minded group today facilitated, albeit with different voting positions but with a shared desire to improve the text, the adoption of the general approach by the Council.”

European Semester 2023

Ad "B" item 10 **(a):**

Contribution on employment and social policies aspects of the country-specific recommendations: Recommendations on the 2023 national reform programmes to each Member State

Approval

STATEMENT BY HUNGARY

“Hungary acknowledges the central role of CSRs in the EU multilateral surveillance framework. This year the timeframe at the disposal of Member States on the assessment of the recommendations were extremely limited. The overstretched procedure challenges not only the multilateral character of the process but also the guarantees of national ownership. At the same time, Hungary expresses its concerns regarding the lack of fact-based, substantial policy dialogue in this year’s procedure.

The wording of the country specific recommendations must not be overly prescriptive. Hungary stresses that according to the common understanding the recommendations would need to be well grounded, based on correct assessment determine the objectives and leave appropriate room to choose the policy means to meet the agreed objectives. It could also be expected from such a comprehensive document to acknowledge properly the progress made in the field of former recommendations, thereby balancing the newly set targets with the development path taken.

This year’s Semester process took place at the detriment of the consistency and quality of horizontal and in-depth assessments. We are therefore convinced that these issues need to be addressed without delay but no later than the start of the next Semester cycle. Hungary considers that the procedure and the timeframe of the next cycle need to be negotiated and set well in advance in the Councils concerned.

Finally we find it critical that despite Hungary’s limited access to new EU funds and no access to RRF resources at all, Hungary made significant progress in the implementation of the vast majority of commitments and reforms undertaken in our RRP. However, their implementation proved to be slower and sometimes partial due to the delayed funding from the RRF. “