



Council of the  
European Union

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**DRAFT MINUTES**  
COUNCIL OF THE EUROPEAN UNION  
(Environment)  
16 October 2023

## 1. Adoption of the agenda

The Council adopted the agenda set out in document 13891/23 and decided that items 3 and 4 would be taken in the closed session.

## 2. Approval of 'A' items

### a) Non-legislative list

13896/23

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

Statement to these items is set out in the Addendum.

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

13897/23

## Economic and Financial Affairs

Amendments of the European Parliament to the Council's position on the draft budget for 2024

**S** 13651/23  
FIN

*Non-approval of the European Parliament's amendment(s)*  
approved by Coreper, Part 2, on 11.10.2023

The Council confirmed that it cannot approve all the amendments to the Council's position on the draft budget for 2024 should they be adopted by the European Parliament and approved the draft letter to the European Parliament to that effect, as set out in the Annex of the document above.

## Non-legislative activities

3. EU submission of an updated Nationally Determined Contribution (NDC) to the United Nations Framework Convention on Climate Change (UNFCCC)  
*Approval*

13840/23 + COR 1

4. Conclusions on preparations for the 28th Conference of the Parties (COP 28) to the United Nations Framework Convention on Climate Change (UNFCCC)  
(Dubai, UAE, 30 November-12 December 2023)  
*Approval*

13842/23

## Legislative deliberations

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

5. **Regulation amending Regulation (EU) 2019/1242 on CO<sub>2</sub> emission standards for heavy-duty vehicles**  13843/23  
*General approach*

The Council reached a general approach on the Heavy-duty vehicles Regulation as reflected in the outcome of proceedings (14284/23).

Statements by Germany, Sweden and the Commission are set out in the Annex to these minutes.

6. **Directive on urban wastewater treatment (recast)**  13857/23 + **COR 1**  
*General approach* + ADD 1

The Council agreed on a general approach on the Urban Wastewater Treatment Directive, as set out in the outcome of proceedings (14271/23).

Statements by Germany, Estonia, Cyprus, Latvia and Malta are set out in the Annex to these minutes.

## Any other business

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

- i) **Directive amending Directive 2008/98/EC on waste** 11624/23 + ADD 1

The Council took note of the information provided by the Commission, as well as the intervention from other delegations.

- ii) **Regulation on preventing plastic pellet losses to reduce microplastic pollution**  
*Information from the Commission*

The Council took note of the information provided by the Commission, as well as the intervention from other delegations.

- b) **Commission Recommendation on improving the rate of return of used and waste mobile phones, tablets and laptops** [2] 13995/23  
*Information from the Commission*

The Council took note of the information provided by the Commission, as well as the intervention from other delegations.

- c) **Our Baltic Conference (Palanga, Lithuania, 29 September 2023)** [2] 14025/23  
*Information from the Commission*

The Council took note of the information provided by the Commission, as well as the intervention from other delegations.

- d) **23<sup>rd</sup> Meeting of the Contracting Parties to the Barcelona Convention (COP 23) (Portorož, Slovenia, 4-8 December 2023)** [2] 13805/23  
*Information from the Slovenian delegation*

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

- e) **How the Flood Directive functioned as a prevention tool during the recent floods in Greece** [2] 14072/23  
*Information from the Greek delegation*

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

- f) **9th Our Ocean Conference (Athens, Greece, 16-17 April 2024)** [2] 14070/23  
*Information from the Greek delegation*

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

- g) **National Energy and Climate Plans (NECPs) - state of play** [2] 13839/23  
*Information from the Commission*

The Council took note of the information provided by the Commission, as well as the intervention from other delegations.

- h) **Implementation of ETS (Directive 2023/959): Issues of concern for the maritime freight transport** 2 13928/23  
*Information from the Italian, Greek and Portuguese delegations*

The Council took note of the information provided by the Italian, Greek and Portuguese delegations, as well as the intervention by other delegations and the Commission.

- i) **Impact of the revised EU ETS and energy prices on EU climate policy** 2 13801/23  
*Information from the Polish delegation*

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

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- 1 First reading
- C Item based on a Commission proposal
- 2 Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)
- S Special legislative procedure
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**Statements to the legislative "B" item set out in doc. 13891/23****Ad "B" item 5:****Regulation amending Regulation (EU) 2019/1242 on CO2 emission standards for heavy-duty vehicles**  
*General approach***STATEMENT BY GERMANY**

“Germany welcomes the General Approach adopted by the Council today. In particular, we welcome that the level of ambition has been maintained. We also welcome the technology-open design. On the one hand, the proposed definition of a zero-emission vehicle allows vehicles with hydrogen combustion engines in addition to battery electric and hydrogen fuel cell vehicles. On the other hand, internal combustion engine technology remains a permissible option for manufacturers and users - ideally running on climate-neutral fuels. Against this background, we ask the EU Commission to conduct an analysis on the use of climate-neutral e-fuels in road transport as part of the Review to be conducted in 2027. In addition, as part of the Review, the European Commission is asked to examine how vehicles type approved for running exclusively on climate-neutral e-fuels can be considered zero emission within the meaning of this Regulation.”

**STATEMENT BY SWEDEN**

“Sweden reiterates its conviction that a Tail-pipe approach for decarbonizing the Heavy-Duty Vehicle sector is the preferable path towards net-zero emissions by 2050. Including a Carbon Correction Factor in the Regulation for strengthened CO2 emission performance standards for new Heavy-Duty Vehicles, will risk delaying the transition to zero-emission vehicles and the necessary enabling conditions for such a transition.”

**STATEMENT BY THE COMMISSION**

“The Commission emphasises the principle of technological neutrality and is prepared to also consider the potential of e-fuels to reduce greenhouse gas emissions within the scope of the review, provided that a corresponding technological development will be available.”

**STATEMENT BY GERMANY**

“The German Federal Government continues to support the objectives of the Urban Wastewater Treatment Directive and thus, in principle, extended producer responsibility (EPR) as an important financing mechanism. However, we would have preferred if Article 9 of the General Approach on Urban Wastewater Treatment Directive, which introduces extended producer responsibility for water management for the first time, envisaged only complementary financing by producers of the costs for introducing quaternary treatment in wastewater treatment plants.

It is equally important that all producer groups are equally included in the EPR, whose product use is associated with the release of trace substances via urban wastewater treatment plants. The isolated consideration of only two sectors, in particular with regard to the production of patent-free medicinal products, which are already under severe cost pressure, is not acceptable and will further exacerbate the critical supply of medicinal products in the EU and the vulnerability of supply chains. The production of patent-free medicinal products (such as antibiotics) has already largely been moved to third countries, and an additional cost burden will further accelerate this process, thus harming Europe as a production site. It is not socially acceptable to apply the polluter pays principle alone to indispensable medicinal products. Extended producer responsibility must give special consideration to the balance between protecting the environment and ensuring health care provision.

In its position, the European Parliament took up these ideas and proposed complementary financing to avoid unintended effects, for example, on the availability, affordability and accessibility of vital products, in particular, medicinal products.

Germany generally welcomes the proposed regime and the flexibility with regard to wastewater monitoring (Article 17), as the emergence and spread of bacteria resistant to antibiotics has developed into a major public health problem worldwide.

However, the proposed provision in Article 17(3), which stipulates that monitoring of wastewater for antimicrobial resistance (AMR) shall be mandatory from a given agglomeration size, is not, in our view, expedient nor does it correspond to the current state of research. Rather, national authorities should be given the flexibility to decide when, where and how to best monitor AMR in wastewater. Germany therefore requests that careful consideration be given to the wording, also to avoid jeopardising the acceptance of this important issue.

Germany would welcome it if these points were taken into account in the upcoming trilogue negotiations.”

## STATEMENT BY ESTONIA

“We express serious concerns in relation to the approach proposed in Article 9 on applying the extended producer responsibility (EPR) to pharmaceuticals. While the EPR can be a useful source of funding to cover the costs of wastewater treatment from micropollutants (quaternary treatment), it should not be an obligatory or only solution for the Member States. When applying the EPR, Member States should be able to consider their specific national context regarding technical feasibility and economic viability of setting up the EPR, as well as wider socio-economic implications, in particular the availability and affordability of essential and critical products.

Considering these aspects Member States should be able to decide on the use of alternative or additional funding sources to cover the costs of quaternary treatment and in justified cases be able to exempt certain product categories from the EPR.

Although the "polluter pays principle" is an underlying concept of environmental protection, we are not convinced it is suitable for pharmaceutical sector for the following reasons.

Firstly, **the clear added value of EPR in case of pharmaceuticals has not been confirmed by the feasibility study** (carried out as part of the Commission's impact assessment), as the effect of EPR on behavioural change would be very limited. On one hand, EPR is unlikely to significantly incentivise the substitution of pharmaceutical active ingredients in short- to medium-term, considering their specific innovation cycles. On the other hand, patients would not have the option to decrease their consumption of a medically indicated medicinal product or switch to another product. In this respect, **ethical aspects are not sufficiently considered**, as additional costs would have to be borne by patients, putting a disproportionate and unfair burden on population groups in a vulnerable situation due to their health condition.

Secondly, we note with concern that the chosen approach of the EPR system would cause **unequal treatment between Member States**. Additional barriers to market entry and price increase of certain pharmaceuticals could significantly worsen the availability and choice of treatment, especially in the context of small markets, which are already faced with frequent market withdrawals due to economic reasons. Furthermore, in Member States without a substantial local pharmaceutical production, the costs would rather be transferred from the manufacturer to other downstream actors. This would not serve the initial aim of producer responsibility, as in these circumstances the costs of EPR would very likely be transferred to the health care budget and increase patients' co-payments. Introducing mandatory EPR would thus have **negative socio-economic implications but also would intrude the Member States' competence** in financing healthcare. Additionally, **economic feasibility and administrative burden** should be considered, especially if the number of "producers" is relatively small. In smaller Member States and hence a lower consumption of pharmaceuticals, introducing EPR could lead to an unreasonable financial burden on a few actors on the market.

Thirdly, we note that in the general approach is not clear on **who is the subject of the extended producer responsibility** in the case of pharmaceutical supply chain, which involve many actors who make the product available on the market. Consequently, due to parallel trade this could lead to **double taxation**.

Because of these reasons Estonia is not able to support the General Approach on the Proposal for a Directive of the European Parliament and of the Council concerning urban wastewater treatment and abstains from the vote.



## STATEMENT BY CYPRUS

“The Republic of Cyprus shares the overall environmental objectives of the Urban Wastewater Treatment Directive, and will thus support the adoption of the General Approach by the ENVI Council. At the same time, it maintains legitimate concerns about the increased administrative burden and significant financial costs of this proposal. These outweigh the anticipated environmental benefits, particularly in the case of Member States with unique characteristics. In particular, in the case of Cyprus these unique characteristics include: the absence of rivers or lakes, the great depth of ground water (in many cases more than 100 meters deep) and the fact that most of our treated wastewater is used for agricultural irrigation. In fact, our River Basin Management Plans confirm that in most cases no water bodies are negatively affected from wastewater discharges.

For these reasons, Cyprus considers the provisions of this proposal excessive and would have preferred the adoption of a methodology based on a risk-based approach. Nonetheless, in a constructive spirit, Cyprus also supported during the negotiations, a series of targeted flexibilities, as follows:

- A higher threshold of agglomerations for which collecting systems must be built;
- The extension of the implementation timetables to 12 years for Member States that joined the EU in 2004;
- A further reduction of the percentage for autonomous production of renewable energy required by the treatment plants;
- The limitation of the requirement for quaternary treatment to cases of a real threat to human health or the environment, or alternatively, to make this requirement mandatory for agglomerations of more than 250,000 inhabitants;
- A targeted reduction of the frequency of sampling and analysis for monitoring of micro-organisms, microplastics and pathogens.

Furthermore, the interpretation that will be given to “individual systems” through the implementing acts, to be adopted by the Commission as provided in Article 4 (4), is of particular importance. Of equal importance is to safeguard sufficient EU funding that will support Member States in their efforts to meet the increased financial requirements of this Directive.

Cyprus is confident that these concerns will be given due consideration during the upcoming trilogue negotiations with the European Parliament, aiming for an agreement that takes into account the particular circumstances of all Member States and facilitates the achievement of the EU environmental goals in the most cost-effective way.”

## STATEMENT BY LATVIA

“Latvia supports the main objectives of the proposal for a Directive concerning urban wastewater treatment, which lays down rules on the collection, treatment, and discharge of urban wastewater to protect the environment and human health.

Latvia has repeatedly expressed support to increased energy efficiency of wastewater management sector and to the use of renewable energy resources.

However, the current provisions in Article 11, Paragraph 2, which stipulate that only a maximum of 30% of energy may be purchased from external sources, are very problematic for Latvia.

We believe that energy neutrality provisions regarding the energy to be produced by urban wastewater treatment plant operators and the energy to be purchased from external sources should be based on energy audits, rather than a percentage threshold.

Instead, the full use of energy production potential identified in energy audits, allowing to purchase the remaining amount of energy, should be used.

In 2022, there were 19 urban wastewater treatment plants in Latvia treating a load of 10 000 p.e. and above. Out of these, only one urban wastewater treatment plant (serving our capital city Riga) treats a load above 100 000 p.e. (its load was close to 700 000 p.e. in 2022). The remaining urban wastewater treatment plants are much smaller - 9 of them treat a load between 10 000 p.e. and 20 000 p.e.; 4 of them treat a load of between 10 000 p.e. and 20 000 p.e., and the remaining 5 treat a load of between 30 000 p.e. and 70 000 p.e.

Due to smaller size, not all of the renewable energy sources (hydraulic, solar, thermal, wind energy or biogas) referred to in Recital 16 are technically and economically feasible for our urban wastewater treatment plants.

In 2018-2021, the share of renewable energy resources (generated by obtaining biogas from sewage sludge) of *Riga* wastewater treatment plant was on average 27%. Solar panels may produce just a few additional percent of the total energy consumption. On the other hand, the new requirements for treatment of nitrogen and micropollutants will increase the energy consumption of the *Riga* wastewater treatment plant.

Without the conclusions of energy audits on the best cost-effective measures to enhance the production of renewable energy, it is highly uncertain that one large and a few medium-sized treatment plants would be able to secure the total energy consumption of all urban wastewater treatment plants treating a load of 10 000 p.e. and above.

We would like to emphasize the potential risks ahead, when committing to a binding target without knowing whether its achievement will be technically and economically feasible in given circumstances.

However, realizing the importance of this proposal, which should guide the development of the wastewater management sector in the coming decades, and in the spirit of compromise, we can accept Presidency's proposal and agree on a General approach.

We encourage the Presidency to take into account the above mentioned conditions during the discussions in the dialogues with the European Parliament.”

## STATEMENT BY MALTA

“Malta has always acknowledged and supported the Commission’s ambition to address the source of pollution in our waters and ultimately, achieve zero pollution in the European Union.

Malta has made compromises to support the Presidency’s objectives throughout the negotiations but believes that ambition must not come at a disproportionate social cost. However, in line with the position adopted from the beginning of the negotiations in Council, Malta still has a major political concern on the application of the proposed extension of the Extended Producer Responsibility (EPR) to cover all medicines in Annex III.

While Malta understands the rationale behind EPR schemes and acknowledges the benefits that such schemes bring, having patients bear the ultimate financial burden is not acceptable. Patients undergoing treatment have little to no control over the manner in which they receive such treatment, much less choice over the type of medication prescribed. The current text does not provide enough safeguards to ensure that the financial impact (even if marginal) on the pharmaceutical industry will not trickle down to the patients.

Furthermore, Malta notes that the aims of this proposed Directive should be aligned with the aims of the proposed revision of the Pharmaceutical Legislation, which needs to address both the issue of accessibility but also the affordability of medicines across all Member States of the European Union. The sheer truth is that the European Union does not have a single market for pharmaceuticals yet, and Member States have different starting points, which are being ignored by this proposed Directive.

Malta believes that price increase of certain pharmaceuticals would significantly worsen the availability and choice of treatment, particularly for a small market like Malta’s market. This would ultimately make it even worse for patients, who are the most vulnerable.

It is in this spirit that Malta continues to believe that in the European Union’s pursuit of a better-quality water, this Directive should not jeopardise the accessibility, availability and affordability of vital products such as medicines which are a necessity and not a luxury.”

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