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## OUTCOME OF THE COUNCIL MEETING

3545th Council meeting

**Transport, Telecommunications and Energy**

**Transport and Telecommunications issues**

Luxembourg, 8 and 9 June 2017

Presidents

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- Documents for which references are given in the text are available on the Council's internet site (<http://www.consilium.europa.eu>).
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's internet site or may be obtained from the Press Office.

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## **ITEMS DEBATED**

### **TRANSPORT**

#### **Training for lorry and bus drivers**

The Council agreed its position (a 'general approach') on updated rules for the training and qualifications of professional lorry and bus drivers. These rules aim to ensure that appropriate minimum training requirements are applied across the EU and that all EU countries recognise training received in another EU country.

The update puts greater emphasis on safety in training and will improve recognition of qualifications obtained in another member state.

For details, see press release:

[Training for lorry and bus drivers to focus more on safety – Council agrees its position](#)

[Council general approach on the training and qualifications of professional lorry and bus drivers](#)

#### **Road safety**

The Council is setting a target of halving the number of serious injuries on roads in the EU by 2030 from the 2020 baseline, using a recently agreed common definition. Of particular concern is the number of pedestrians and cyclists killed or seriously injured each year.

Today's Council conclusions on road safety endorse the Valletta declaration on improving road safety adopted at an informal ministerial meeting organised by the presidency on 29 March 2017. They will feed into the next EU strategy on road safety, which is expected to be developed for the decade 2020-2030.

Read the full text of the [conclusions](#).

## **Maritime transport**

Competitiveness, decarbonisation and digitalisation are the guiding principles that will serve as a basis for the EU's maritime transport policy up to 2020 and beyond. These principles aim to ensure that maritime transport remains an attractive way of transporting goods and people and becomes even more environmentally-friendly. It should also serve as a catalyst for investment and innovation.

Today's Council conclusions endorse the content of the Valletta declaration on the EU's maritime policy, which was adopted at an informal ministerial conference organised by the presidency on 29 March 2017.

Read the full text of the [conclusions](#).

**Any other business**– ***Mobility package***

The Commission presented the mobility package that it published on 31 May. The package includes six legislative proposals related to road transport, designed to boost its social fairness and to make it greener and more competitive.

The proposals on market access seek to tighten the conditions for hauliers' access to the market, simplify restrictions on cabotage (where a haulier based in one member state operates in another member state) and create effective cooperation between EU countries in fighting letterbox companies and unfair competition based on unacceptable working conditions.

The proposed social rules aim to simplify and clarify rules on rest periods. They also set out to clarify the application of 'posting of workers' principles by laying down a minimum time that the driver needs to spend in a given country – three days per month – before local minimum wage and annual leave rules start to apply. Enforcement of the rules would be improved in particular through the use of tachograph data.

The road charging initiatives would extend the pricing principle to buses and coaches and to trucks between 3.5 and 12t, and in a more limited way to light vans and passenger cars. Time-based charges (vignettes) would be phased out in favour of distance-based charging. Technical requirements for toll system operators would be revised to allow for the creation of trans-border tolling systems.

Finally, the restriction on the use of hired vehicles in international transport would be softened to some extent. This proposal seeks to make road transport cleaner, as hired vehicles tend to have lower emissions.

Although member states had had very little time to examine the new proposals, most of them took the floor to express their initial views following the Commission's presentation.

They generally welcomed the Commission's efforts to simplify and clarify the existing rules and to step up enforcement measures.

Most of the member states' comments concerned the parts of the package which relate to transport workers' working conditions and the continued restrictions on access to markets.

Many ministers stressed the need to have decent working conditions for transport workers and to eliminate letterbox companies. Others emphasised the importance of the single market and competitiveness in relation to third countries. A few delegations mentioned the specific situation of peripheral member states for which greater distances create costs. Some ministers pointed out that the review of the combined transport directive should be discussed at the same time as the proposed rules on cabotage.

A number of member states expressed their support for strengthening the 'polluter pays' principle but preferred to retain flexibility for member states in basic choices for road charging systems.

The presidency concluded that the proposals relating to working conditions and market access would need very detailed assessment in terms of their economic and social impact. Furthermore, the Council would have to wait for the outcome of the consultation of the social partners before forming its position. A detailed analysis is also needed of the social, economic and environmental impact of the proposals on road charging and tolling systems.

The Working Party on Land Transport will start analysing the proposals on 13 June 2017.

For further information on the proposals, see [Europe on the move](#).

– ***Professional qualifications in inland waterways***

The presidency briefed ministers on the latest developments on the proposal on professional qualifications in inland waterways. The presidency highlighted the importance of transport on inland waterways as an efficient way to alleviate congestion on European roads and to reduce emissions in the transport sector.

The principle of proportionality has been, and still is, a key concern for the Council in the negotiations with the Parliament on this file. The presidency remains committed to finalising the file and calls upon the Commission to show a degree of flexibility.

– ***Civil aviation safety and EU Aviation Safety Agency***

The presidency updated ministers on the negotiations with the European Parliament on the proposal aimed at revising EU rules for civil aviation safety and the EU Aviation Safety Agency (EASA) ([information note](#)). The presidency had three trilogue meetings with the Parliament on this proposal and reached tentative agreement on certain areas. While the third trilogue showed that the positions of the co-legislators are wide apart on several key issues, the presidency hopes that the explanations provided during the trilogue will prove helpful for further negotiations on this proposal.

– ***Aviation: Open and Connected Europe***

The Commission presented its latest aviation-related package '[Aviation: Open and Connected Europe](#)', which it had published earlier the same day. The initiative aims to safeguard competition and connectivity in air transport, facilitate investment in European airlines and enhance the efficiency and competitiveness of European aviation. It comprises a draft regulation on safeguarding competition in air transport, interpretative guidelines on ownership and control of EU airlines, interpretative guidelines on public services obligations, and good practices drawn from existing national practices, designed to facilitate continuity of air traffic management.

The initiative follows up on the aviation strategy for Europe launched by the Commission in 2015, which laid out a series of policy actions to be taken in the coming years.

A number of member states took the floor to express their initial reactions to the new initiative.

– ***Aviation security: large electronic items in cabin luggage***

The Commission informed ministers on the state of play concerning the 'laptop ban'.

In March 2017, the United States and the United Kingdom banned large electronic devices, such as laptops, tablets and cameras, from being carried in passenger cabins on flights from certain countries in North Africa and the Middle East because of a threat of terrorism.

In April the European Aviation Safety Agency updated its safety recommendation, stating that personal electronic devices containing lithium batteries should preferably be carried in the passenger cabin. This would enable the crew to react quickly in the event of an incident.



Since then, the US has been seeking to extend the ban to transatlantic flights. Following high-level contacts between the EU and the US, the possible extension has been postponed for the time being, but, according to the Commission, the issue is not off the table.

At international level, the International Civil Aviation Organisation (ICAO) has recently begun reviewing the security and safety risks of laptops and other portable electronic devices to ensure a balanced and effective response on behalf of aviation globally.

– ***Social dimension in the aviation sector***

Ministers took note of information provided by the Commission in response to the request by the Netherlands regarding the social consequences of the emerging business and employment models in the aviation sector such as 'pay-to-fly' arrangements and recruitment of air crews through private employment agencies ([Netherlands information note](#)).

The Netherlands delegation welcomes such new schemes as they open up new opportunities, but also considers that the EU as a whole should work together to identify any undesirable effects and consequently act on them, so as to create a level playing field and fair working conditions.

The Commission said that it was currently evaluating internal aviation market rules, including on the principal place of business. Stakeholders would be consulted. It agreed that atypical forms of employment should not lead to abuse. It was also waiting for a major ruling by the European Court of Justice regarding the legal situation of air crews.

– ***Automated and connected driving – Amsterdam declaration follow-up***

Germany invited member states, industry and the Commission to participate in the second high-level dialogue on automated and connected driving, which will take place in Frankfurt on 14 and 15 September 2017 on the side lines of the IAA International Motor Show (German delegation information note 9426/17).

High-level structural dialogues on automated and connected driving provide a forum for member states to exchange views and best practices with regard to the development and deployment of automated and connected driving and to monitor progress. These dialogues were set up in a declaration endorsed by transport ministers at an informal meeting in Amsterdam in April 2016. The first such structural dialogue was hosted by the Netherlands and took place in Amsterdam in February 2017. The next one will be organised by Sweden.

– *Protection against acts of terror in road transport*

The Swedish delegation briefed ministers on the follow-up to the terrorist attack carried out in Stockholm on 7 April 2017 ([information note](#)). The delegation stressed the importance of discussing the best ways to create security enhancing measures in the field of transport by road vehicles in public environments.

Other member states, including those where similar attacks had taken place, took the floor to express their support for the Swedish initiative.

They consider that it is important to keep sharing information on how the transport sector can contribute to preventing such attacks. This exchange can be carried out within the current legal framework and using existing channels. The Land Transport Security Expert Group (LANDSEC) plays an important role in this regard.

New digital technologies, such as geo-fencing, can be useful in preventing and mitigating such attacks.

– *EU cycling strategy*

The Luxembourg delegation briefed ministers on the latest developments in the preparation of a cycling strategy for the EU ([information note](#)). A blueprint for an EU cycling strategy, drafted under the guidance of the European Cyclists' Federation (ECF) will be handed over to Commissioner Violeta Bulc at the international Velo-city 2017 conference in mid-June in Arnhem-Nijmegen in the Netherlands. The aim is to have the strategy included in the Commission's work programme for 2018.

– ***Rail safety: European Rail Traffic Management System (ERTMS)***

The Luxembourg delegation invited member states and the Commission to speed up the deployment of the European Rail Traffic Management System (ERTMS), and in particular the European Train Control System (ETCS) trackside and on-board control-command and signalling, on Europe's railway network ([Luxembourg information note](#)). It considers that a harmonised European rail safety system, and especially the ETCS, would significantly improve safety in railway operations and would support the interoperability of the European railway system.

The Commission said it was developing an ERTMS deployment action plan, which would be finalised by the end of this year.

– ***Incoming presidency's work programme in the field of transport***

The incoming Estonian presidency presented its work programme for the second half of 2017.

As regards the newly presented mobility package, the presidency will strive for substantial progress on the proposals on access to the international road haulage market and profession as well as the proposals on road transport workers' social rights and safety. Road charging matters will be the topic of a policy debate at the Council in December.

As an overarching principle, the Estonian presidency will emphasise the free flow and reuse of data in all sectors.

An informal ministerial meeting will be held in Tallinn on 20 and 21 September 2017. At the meeting the Estonian presidency wishes to emphasise the importance of connectivity between all regions of the EU as a key element underpinning the European single market. The meeting will include a joint session between transport and energy ministers.

The Transport Council will take place on 5 December 2017.

## **TELECOMMUNICATIONS**

### **Review of EU telecoms rules**

The Council took stock of the progress made and held a policy debate on the revision of the EU telecoms rules ([progress report](#), [discussion paper](#)). The review sets out to improve fixed and mobile connectivity for all users across Europe. This will be achieved by spurring investment to roll out very high-capacity digital networks and by encouraging competition and innovation. The draft rules also include measures to safeguard solid consumer protection.

The proposal for new telecoms rules, a '**European Electronic Communications Code**', merges four existing telecoms directives (framework, authorisation, access and universal service). Another proposal updates the rules for the **body of European regulators, BEREC**. These proposals were presented by the Commission in September 2016 under the 'connectivity package'.

### **Work in the Council (progress report)**

Since the December 2016 policy debate, the Telecommunication Working Party has concluded its first examination of the entire code and has subsequently concentrated its efforts on the rules on services and access.

Under the **latest presidency proposal**, number-independent interpersonal communications services (such as instant messaging apps) would be subject to some rules on end-user rights insofar as these services have certain characteristics which are regulated by the new rules (quality of service, price, contract duration etc.). This means that citizens would be protected in the same way when using electronic communications services with similar end-user characteristics and would not need to worry about how, or by whom, the service is delivered. To make the rules future-proof, developments on the market would be monitored so that targeted new rules could be introduced where necessary.

As regards the rules on access to networks, the latest presidency text has retained the overall structure proposed by the Commission, including provisions on encouraging co-investment and on the identification of 'digital exclusion zones' where operators or public authorities have neither rolled out a very high-capacity network nor are planning to do so, and where specific measures should therefore be taken. In general, the presidency text adds flexibility for member states to act effectively taking into account their national, and particularly local, circumstances. It also reduces the administrative burden that the Commission proposal would create.

The Maltese presidency is of the view that its compromise proposals provide a strong foundation for finalising the Council position on all parts of the code and BEREC regulation during the upcoming Estonian presidency, taking into account the views expressed by ministers in the policy debate.

### Policy debate

In the proposed new telecoms rules, enhanced coordination plays a key role in the EU's efforts to achieve the overall objectives of the code. Therefore, the presidency invited ministers to consider **in what areas and to what extent coordination mechanisms ought to be reinforced to provide adequate reassurances of predictability for investors and competitors.**

In the debate, ministers generally agreed on the importance of a clear and transparent regulatory framework and good coordination to encourage private investment. They warned against introducing any new burdensome regulation, and considered that the current cooperation mechanisms were working well and did not need a complete overhaul.

Many ministers underlined the need for flexibility for member states to take into account their different market characteristics and user needs. This includes flexibility in access conditions to tackle local situations and tools for national regulators to address uncompetitive duopolies.

The peer review as proposed by the Commission was considered to be too heavy. Any review mechanism should be lighter and voluntary.

As regards coordination for the timely release of spectrum, including for 5G, members states find sharing best practices the most useful way forward and acknowledge the importance of this coordination. They consider that too much harmonisation could be harmful, given the quick pace at which technology develops and the need to sometimes adjust to very specific local situations. BEREC's structure has proved its worth and it should not be turned into an agency. The radio spectrum policy group and BEREC were mentioned as suitable platforms for flexible coordination among member states in the field of spectrum. A mandatory period of 25 years for spectrum allocation was deemed to be too long as we do not know what the situation will be in the future. Some member states pointed out the need for cross-border coordination for countries with borders with non-EU countries.

Overall, the principles of subsidiarity and proportionality were mentioned several times.

Ministers' views will **provide guidance for future work** on the proposals in the Council working party.

### [EU telecoms rules](#)

### **Cross-border parcel delivery services**

The Council agreed on a general approach on a proposal to increase regulatory oversight and price transparency for **cross-border parcel delivery services**. The new rules aim to improve competition on the market and bring down prices, especially for citizens and small businesses.

For details, see press release:

[More transparent cross-border parcel delivery services – Council agrees its stance](#)

[Council general approach on cross-border parcel delivery services](#)

### **ePrivacy**

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

Under the [Commission proposal](#) on ePrivacy confidentiality of communications would apply to both the content of the communication and to metadata. The scope of privacy rules would be extended to cover not only traditional telecoms companies, but also providers of new services such as VoIP or instant messaging apps and web-based email. Consent would be required to access information on a user's device, and new rules on cookies would shift consent to the browser level in order to prevent 'consent fatigue'. Unsolicited commercial communications would require consent irrespective of the technology used.

The Commission would like the regulation to start to apply on the same date as the general data protection regulation, that is, on 25 May 2018.

### **Work in the Council**

The Telecommunications Working Party has started a detailed discussion on the text but member states are still analysing the proposal and formulating their respective positions.

In the initial discussions delegations welcomed the general thrust of the proposal and supported the objective of ensuring a high level of protection of privacy in electronic communications. However, in view of the detailed discussions that would be required to finalise a regulation – which is directly applicable in member states – they considered that the proposed date of application of 25 May 2018 would be extremely difficult to achieve.

The working party is continuing its work on the proposal, and the Maltese presidency aims to finalise its first examination by the end of June 2017 so as to provide a solid basis for future progress on the file.

### **Any other business**

#### **– *Wholesale roaming markets***

The presidency informed ministers on the state of play of the proposal on the reform of wholesale roaming markets ([information note](#)). This key regulation was published in the EU Official Journal on 9 June, the day of the Council meeting. The timely finalisation of the legal act means that 'roam like at home' can begin on 15 June as planned.

The presidency invited all citizens to celebrate the end of roaming fees by sharing their experiences with the hashtags #RoamLikeAtHome and #EUroaming.

#### **– *WiFi4EU***

The presidency updated ministers on the latest developments on the WiFi4EU draft regulation, which aims to promote internet connectivity in local communities ([information note](#)). The informal agreement reached by the presidency with the European Parliament on 29 May was endorsed by member states' ambassadors at the Permanent Representatives Committee on 7 June. The budget for the WiFi4EU project will be finalised in light of the outcome of the multiannual financial framework. The objective is to have the WiFi4EU scheme in place as soon as possible, so that public sector bodies and citizens can quickly start benefiting from it.

– ***Digital single market strategy***

The Commission briefed ministers on the state of play of the digital single market strategy as well as the next steps.

The Commission published a [mid-term review of the strategy](#) on 10 May 2017. The review takes stock of the progress made, calls on co-legislators to act swiftly on all proposals already presented, and outlines further actions on the data economy, cybersecurity and online platforms.

In the area of the data economy, the Commission intends to present a legislative initiative on the cross-border free flow of non-personal data by autumn 2017 and an initiative on accessibility and reuse of public and publicly-funded data by spring 2018.

To bolster cybersecurity, the EU will review its cybersecurity strategy and the Commission is looking into a revision of the mandate of the EU Agency for Network and Information Security (ENISA) by September 2017. The Commission also intends to develop measures on cybersecurity standards, certification and labelling by September 2017 to make connected objects more cyber secure.

Initiatives on online platforms, expected by the end of the year, will address unfair contractual clauses and trading practices in platform-to-business relationships and the removal of illegal content.

Other areas of action include digital skills, digital health and e-government.

– ***Cybersecurity***

The Commission updated ministers on the latest developments on cybersecurity ([information note](#)).

The recent WannaCry cyberattack was the first time that EU countries shared information on a cybersecurity incident within the Computer Security Incident Response Teams network under the network and information security (NIS) directive. The Commission calls on the member states to ensure effective and timely transposition of the NIS directive, so that full use can be made of the cooperation mechanisms under the directive.

The current EU policy response to cyber threats is guided by the 2013 cybersecurity strategy. Since the threat landscape has evolved drastically in the last few years, the Commission, together with the High Representative, will review the EU cybersecurity strategy in September, also taking into account the NIS directive.



Other actions envisaged include the revision of the European Network and Information Security Agency's (ENISA) mandate subject to the outcome of the ongoing evaluation, as well as setting up a certification framework for cybersecurity products.

– ***Europe's digital progress report***

The Commission informed ministers about the latest annual [Europe's digital progress report](#) (EDPR), which was published on 27 April 2017.

The report combines quantitative data from the [digital economy and society index](#), published in March 2017, with country-specific policy insights, allowing the progress made in terms of digitalisation by each EU country to be tracked. Since the report identifies specific challenges and offers possible solutions together with examples of best practices, it provides important feedback for policy-making at EU and national level.

– ***Incoming presidency's work programme in the field of telecommunications***

The incoming Estonian presidency presented its [telecommunications work programme](#) for the second half of 2017.

Building a digital Europe will be an overarching principle across all Council configurations under the Estonian presidency. The Telecommunications Council will focus on key horizontal enablers, in particular connectivity, the data economy, trust and security, and e-government.

As regards the Electronic Communications Code and the BEREC regulation, the Estonian presidency aims to agree on a general approach on these two proposals and, if possible, begin trilogues with the European Parliament.

An informal joint ministerial meeting with competitiveness ministers will be held in Tallinn on 17 and 18 July 2017. The next Telecommunications Council will take place on 4 December 2017.

In addition, the presidency will organise a Digital Summit in Tallinn on 29 September.

## **OTHER ITEMS APPROVED**

### **TRANSPORT**

#### **International Civil Aviation Organisation (ICAO) – coordination**

The Council approved two information notes containing recommended EU positions for the next meeting of the ICAO Council on 5 to 23 June 2017, so that the information notes can be used as the basis for the interventions of the representatives of the EU countries which are members of the ICAO Council. One of the information notes covers environmental protection and the other non-environmental issues.

### **FOREIGN AFFAIRS**

#### **EU-Uzbekistan partnership and cooperation**

The Council adopted a protocol to the Partnership and Cooperation Agreement between the EU and Uzbekistan. This protocol was needed to take account of Croatia's accession to the EU.

The Partnership and Cooperation Agreement was signed in 1996. EU relations with Uzbekistan are framed by the EU and Central Asia Strategy for a New Partnership, which outlines the overall cooperation objectives, policy responses and priority fields for the EU's engagement in Central Asia.

[EU-Uzbekistan relations](#)

## **ENVIRONMENT**

### **Hazardous properties of waste - Ecotoxic**

The Council adopted a Regulation amending Annex III to [Directive 2008/98/EC on waste](#) concerning the hazardous property HP 14 'Ecotoxic' ([8430/17](#)).

In Annex III, waste is defined as 'ecotoxic' when it presents or may present immediate or delayed risks for one or more sectors of the environment. The attribution of this hazardous property 'ecotoxic' to waste was done on the basis of a set of criteria laid down in Annex VI to Council Directive 67/548/EEC<sup>1</sup>. The new regulation replaces previous criteria and introduces conditions and calculation methods to ensure the appropriate classification of hazardous waste as 'ecotoxic'.

Luxembourg, Poland, the Netherlands, Austria, Belgium, Czech Republic, France and Finland voted against. Statements by Austria, Czech Republic, Belgium and Poland were issued on the adoption of the regulation ([9425/17 + REV1 + ADD1 + REV2 + ADD1](#)).

## **CULTURE**

### **Protocol on Cultural Cooperation EU-Korea**

The Council adopted a decision extending the period of entitlement to audiovisual co-productions of the Protocol on Cultural Cooperation to the Free Trade Agreement between the European Union, and the Republic of Korea ([9505/17](#)). The period shall be extended from 1 July 2017 to 30 June 2020.

The protocol is the cooperation framework between the parties for the facilitation of exchanges relating to cultural activities, goods and services, including in the audiovisual sector.

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<sup>1</sup> Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances ([OJ 196, 16.8.1967, p. 1](#)).