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NOTE

From: Presidency
To: Permanent Representatives Committee/Council

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Subject: Proposal for a Directive of the European Parliament and of the Council on the accessibility of public sector bodies' websites
– *Progress report*

The present report has been drawn up under the responsibility of the Luxembourgish Presidency. It sets out the work done so far in the Council's preparatory bodies and gives an account of the state of play in the examination of the above-mentioned proposal.

INTRODUCTION

1. The Commission adopted its proposal for a *Directive of the EP and of the Council on the accessibility of public sector bodies' websites*¹ on 3 December 2012 with Article 114 TFEU as a legal basis. The proposal aims to approximate the laws, regulations and administrative practices of the Member States related to the requirements for web accessibility of public sector bodies' websites, in order to improve the functioning of the internal market.
2. After a first presentation of the proposal and of its impact assessment in January 2013, the Council Working Party on Telecommunications and the Information Society (WP TELE) discussed the proposal under the Irish Presidency. Its progress report² highlighted the main issues raised by delegations, i.e.: the use of standards, scope, legal basis and the costs and benefits of the implementation of the proposal. A report by the Greek Presidency took the status of the file forward to May 2014.³ Discussions on the file continued under the Italian and Latvian Presidencies, as set out in their respective progress reports.⁴
3. The delayed adoption of the European Standard hampered progress on the file, with discussions suspended until its adoption in 2014.
4. In the European Parliament, Mr. Jorgo Chatzimarkakis (IMCO) was appointed as Rapporteur. Prior to the end of its term of office, the outgoing EP adopted its first reading position on 26 February 2014.⁵ In the new EP, Ms. Dita Charanzova (IMCO) has been appointed Rapporteur.

¹ Doc 17344/12

² Doc 10089/13

³ Doc 10016/14

⁴ Doc 15512/14 and 8977/15

⁵ Doc 6835/14

STATE OF PLAY IN THE COUNCIL

1. During the Luxembourg Presidency Semester, and on the basis of the progress made under the Latvian Presidency, revised texts⁶ proposed by the Presidency were discussed during various meetings of WP TELE. On the basis of these discussions, the Presidency has put together the present progress report in order to inform Ministers about the state of play of the proposal. This report should be read together with the reports presented by the Irish, Greek, Italian and Latvian Presidencies referred to in point 2, since many issues raised in them remain of interest.
2. As regards monitoring/reporting and transposition requirements, delegations had indicated under the previous Presidencies a preference for a prioritised and phased approach to the implementation of web accessibility requirements. The requirements will now apply at different dates for websites published before or after the transposition date.
3. Discussions under the Luxembourg Presidency concentrated once again on the scope of the proposal, taking into account the difficult balance required between the potential extension of the scope compared to the initial Commission proposal and the need to avoid an undue burden.
4. Following the very constructive and focused discussions, the Presidency is now able to propose a negotiating mandate to the COREPER so that the Dutch Presidency starts the trilogues in early 2016.
5. It should be noted that Member States have made the scope broader than what was initially proposed by the Commission.

⁶ Docs 13204/15 and 13886/15. As of 19 November a third text is expected to be produced and discussed on 4 December.

MAIN ELEMENTS OF THE PRESIDENCY COMPROMISE

The latest Presidency proposals introduced the following main changes.

Scope (Articles 1, 1a, 2)

Building upon the progress made under the Latvian Presidency, the Presidency has followed on the suggestion to frame the scope firstly by types of content to be covered, and secondly by types of public sector bodies to be covered. This framing was done while keeping in mind the ambition clearly expressed by the Member States.

The scope of the Directive would exclude several types of websites (intranets, extranets, websites that are not edited anymore), some content published before the transposition, and other specific content such as third party content not commissioned by public sector bodies, mapping services, or finally some types of reproductions of heritage collections items (previously mentioned as digital collections in the area of culture).

To further limit the scope of the Directive by reducing the types of public sector bodies to be covered, broadcasters and non governmental organisations have been explicitly excluded. Some of them could have been covered by the definition of public sector bodies as set out in Article 2(8).

The second paragraph of Article 1 was amended to explain that making websites accessible should not impose a disproportionate or undue burden on the public sector bodies.

As many Member States want to achieve a higher level of accessibility, a minimum harmonisation clause was inserted in Article 1a. It clarifies that Member States may apply the web accessibility requirements to content or websites not covered by the Directive.

Additional measures (Article 6)

A feedback mechanism was added for enabling users to signal accessibility issues.