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European Union

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DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Economic and Financial Affairs)
4 October 2022

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1. **Adoption of the agenda**

The Council adopted the agenda set out in 12814/22.

2. **Approval of 'A' items**

a) **Non-legislative list**

12816/22

The Council adopted the "A" items listed in 12816/22 including COR and REV documents presented for adoption. Statements to these items are set out in the Addendum.

For the following items the documents should read as follows:

Delegated or Implementing Acts

Health

9. Commission Delegated Directive (EU) of 29.6.2022 amending Directive 2014/40/EU of the European Parliament and of the Council as regards the withdrawal of certain exemptions in respect of heated tobacco products
Delegated act - Intention not to raise objections
approved by Coreper, Part 1, on 28.09.2022

12560/1/22 REV 1
+ 12560/22 ADD 1
10815/22
+ **COR 1 (It)**
SAN

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

12817/22

Economic and Financial Affairs

1. **Daisy Chain Regulation**

Adoption of the legislative act


approved by Coreper, Part 2, on 28.09.2022



12617/22
PE-CONS 23/22
EF

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 TFEU).


Internal Market and Industry

2. **Regulation on a single market for digital services (Digital Services Act) and amending Directive 2000/31/EC**  12624/22
Adoption of the legislative act + ADD 1-2
approved by Coreper, Part 1, on 28.09.2022 PE-CONS 30/22
COMPET

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 114 TFEU).

Statements to this item are set out in the Annex.


Employment and Social Policy

3. **Directive on adequate minimum wages in the European Union**  12616/22
Adoption of the legislative act + ADD 1 REV 2
approved by Coreper, Part 1, on 28.09.2022 PE-CONS 28/22
SOC

The Council approved the European Parliament's position at first reading and the proposed act was adopted, with Denmark and Sweden voting against and Hungary abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 153(2), in conjunction with point (b) of Article 153(1) TFEU).

Statements to this item are set out in the Annex.


Transport

4. **Directive on uniform procedures for checks on the transport of dangerous goods by road (codification)**  12630/22
Adoption of the legislative act PE-CONS 22/22
approved by Coreper, Part 2, on 28.09.2022 CODIF
TRANS

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 91 TFEU).

5. **Regulation amending Regulation (EU) 2019/833 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation (NAFO)**  12620/22
PE-CONS 34/22
PECHE
Adoption of the legislative act
approved by Coreper, Part 1, on 28.09.2022

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 43(2) TFEU).

6. **Regulation laying down conservation and management measures applicable in the Western and Central Pacific Fisheries Convention Area and amending Council Regulation (EC) No 520/2007**  12618/1/22 REV 1
+ REV 1 ADD 1
PE-CONS 36/22
PECHE
Adoption of the legislative act
approved by Coreper, Part 1, on 28.09.2022

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 43(2) TFEU).

A statement to this item is set out in the Annex.

Legislative deliberations

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

3. **Regulation on REPowerEU chapters in recovery and resilience plans**  12662/2/22 REV 2
General approach

The Council adopted a general approach on the Regulation on REPowerEU chapters in recovery and resilience plans.

Statements to this item are set out in the Annex.

4. **Any other business** 12320/22
Current financial services legislative proposals
Information from the Presidency

The Presidency informed Ministers about the state of play of current financial services legislative proposals.

Non-legislative activities

5. Economic and financial impact of the Russian aggression against Ukraine
Exchange of views
6. High energy prices and financial markets: State of play
Presentation by the Commission and exchange of views
7. Economic recovery in Europe
a) Review report on the implementation of the Recovery and Resilience Facility
Presentation by the Commission and exchange of views
b) Council implementing decisions under the Recovery and Resilience Facility ☐ 12275/22 + ADD 1
(*)
Adoption
8. Preparation of the G20 Finance Ministers and Central Bank Governors meeting of 12-13 October 2022 and the IMF annual meetings: EU Terms of Reference and statement to the International Monetary and Financial Committee (IMFC) 12367/22
12368/22
Approval
9. Conclusions on climate finance in view of the 27th Conference of the Parties (COP 27) to the United Nations Framework Convention on Climate Change (UNFCCC) in Sharm El-Sheikh on 6-18 November 2022 12478/22 + ADD 1
Approval

10. Fiscal and non-fiscal role of the EU customs

12527/22

Exchange of views

11. Any other business

Status of the implementation of financial services legislation

Information from the Commission

☒ First reading

☐ Item based on a Commission proposal

(*) Item on which a vote may be requested

Statements to the legislative "B" items set out in doc. 12814/22

Ad "B" item 3: **Regulation on REPowerEU chapters in recovery and resilience plans**
General approach

STATEMENT BY THE COUNCIL

“In agreeing on the general approach proposed by the Presidency today on the REPowerEU proposal, the Council would like to point out that the distribution key and the sources of financing provided for in this proposal do not constitute a precedent for future Council discussions on other legislative proposals in these matters.”

STATEMENT BY THE COMMISSION

“The Commission will work with the European Parliament and the Council on targeted exceptional temporary measures under the 2014-2020 cohesion policy framework in the context of the EU emergency intervention to address high energy prices.”

Statements to the legislative "A" items set out in doc. 12817/22

Ad "A" item 2: **Regulation on a single market for digital services (Digital Services Act)**
 and amending Directive 2000/31/EC
 Adoption of the legislative act

STATEMENT BY THE COMMISSION

“The Commission acknowledges the importance of competitiveness, innovation and investment in digital services, in particular with regard to micro, small and medium sized enterprises and start-ups. For that purpose, the Commission is committed to facilitate compliance with the Digital Services Act by micro, small and medium sized enterprises and start-ups, notably through mobilising relevant programmes in favour of innovation, deployment of digital technologies and standardisation.”

STATEMENT BY DENMARK

“Denmark supports the final text with a view to finalise the Digital Services Act in order to update the horizontal rules that define the responsibilities and obligations of providers of digital services. We believe that the final Digital Services Act is essential to make the online environment more safe, predictable and trustworthy, and furthermore we welcome key amendments made during the trilogue such as protection of minors as well as the prevention of dark patterns.

However, we strongly regret that the Regulation does not set further responsibilities for providers of online marketplaces with respect to product safety. In our view, the responsibilities set out in the Regulation do not match the key role, which online marketplaces play in the distribution of products. For example, it is a problem that no one in the European Union can be held responsible in cases where online marketplaces make it possible for traders to sell their products and services from third countries directly to European consumers. We have witnessed several cases where European consumers end up with dangerous and illegal products. Even though, online marketplaces are met with obligations to assess information provided by traders and to perform random checks in terms of illegal products, the final text overall maintains a reactive approach which is detrimental for not only consumer protection, but also for competitiveness of European businesses. In this regard, we had hoped for a more ambitious Regulation, for example by ensuring that there is always a party in the EU, which is accountable for products entering the European market.

As we still see the need for a more ambitious approach on this matter in order to ensure an adequate consumer protection, we will continue to pursue this important agenda within other relevant legislation including the trilogue negotiations of the Regulation on general product safety.”

STATEMENT BY AUSTRIA

“Austria supports the objective of adequate minimum wages in the European Union.

Austria reiterates that primary law, the Treaty-based division of competences between the EU and its Member States, as well as the principles of subsidiarity and proportionality, must be fully respected. Different labour market models, the full autonomy of the social partners and well-established collective bargaining systems have to be preserved.

Austria underlines that, according to Article 153(5) of the Treaty on the Functioning of the European Union, notably regarding the nature and limits of Union competence in this respect, the European Union cannot intervene directly in the level of pay, so as not to affect the competence of the Member States and the autonomy of the social partners in this area. Therefore, a legal basis exists only for a Directive creating a procedural framework, which cannot oblige Member States to grant access to minimum wage protection for all workers.

Against the background of the analysis contained in the opinion of the Council Legal Service, Austria highlights its wage determination model, which is based solely on collective bargaining agreements. Austria takes the view that the proposed Directive does not intend to change or undermine the Austrian wage-setting system, and that it will not affect Member States with well-functioning collective bargaining systems.

For those reasons, Austria interprets the text in the following way:

- The proposed Directive does not confer individual rights on workers;
- Obligations on adequacy stemming from the Directive are limited to statutory minimum wages;
- According to the Directive, wages negotiated by social partners are always considered to be adequate;
- The Directive allows but does not oblige Member States to introduce statutory minimum wages;
- The Directive allows but does not oblige Member States to introduce collective agreements in areas where social partners have not agreed on a collective bargaining agreement.”

STATEMENT BY BULGARIA

“The Republic of Bulgaria attaches great importance to the promotion and protection of human rights. The country is, and will remain, dedicated to its human rights commitments.

In 2018, the Bulgarian Constitutional Court adopted a decision stating that the Council of Europe’s Convention on preventing and combating violence against women and domestic violence (‘Istanbul Convention’) promotes legal concepts related to the notion of ‘gender’ that are incompatible with the basic principles of the Bulgarian Constitution. Moreover, in 2021 the Constitutional Court further clarified that the concept of ‘sex’ used in the Constitution, could, in the context of the national legal order, be understood in its biological sense only (men and women).

Recognising the importance of the issue, the Republic of Bulgaria is not opposed to adopting the draft minimum wage Directive; however, in line with the abovementioned Constitutional Court decisions, it states that, as regards the reference to ‘data disaggregated by gender’ in Article 10(2) of the Directive, the Republic of Bulgaria will only collect and provide data disaggregated by sex (male/female).”

STATEMENT BY DENMARK

“The social partners are responsible for wage setting in Denmark and it is essential to preserve the autonomy of the social partners in this regard. Against this background, Denmark is as a matter of principle opposed to introducing any binding regulation at EU-level regarding minimum wage. Consequently, Denmark has consistently opposed the Directive on adequate minimum wages in the European Union.

We appreciate the efforts to accommodate concerns that have been made by the Presidencies involved in the negotiations of the Directive in the Council. However, as a matter of principle, Denmark cannot support the Directive on adequate minimum wages in the European Union. Denmark fully agrees that all workers in the European Union should be able to live a decent life for their wage when working full-time. Achieving this objective must be done with respect for the fact that wage setting is national competence and with respect for the autonomy of the social partners.”

STATEMENT BY HUNGARY

“The Hungarian Government is committed to ensuring an appropriate and efficient functioning of the national minimum wage-setting system. Since 2010, the Hungarian minimum wage has more than doubled and was set after consultation with the social partners. This fact, among others, clearly demonstrates the government’s firm commitment to raising living standards for all. As a result of an agreement signed by the Government and the social partners, the national minimum wage in Hungary was further increased by 20% from 1 January 2022, which was the highest development rate in the EU.

Hungary recalls that regulation of pay, including the determination of minimum wages, clearly falls within the exclusive competence of the Member States as enshrined in Article 153(5) of TFEU and is an essential tool of national economic policy.

Furthermore, 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 the 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 with its national legislation, Hungary interprets the term ‘gender’ as referring to sex and, accordingly, the reference to ‘data desegregated by gender’ in Article 10(2) of the text of the directive as data disaggregated by sex (women and men).”

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, and the expression ‘gender pay gap’ as disparities in pay 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 "A" item 6: **Regulation laying down conservation and management measures applicable in the Western and Central Pacific Fisheries Convention Area and amending Council Regulation (EC) No 520/2007**
Adoption of the legislative act

STATEMENT BY THE COMMISSION

“The European Parliament and the Council underlined on several occasions the need to further improve the process of implementation of conservation measures adopted by Regional Fisheries Management Organisations (RFMOs), notably in a timely manner.

The Commission regrets that its attempt to streamline the implementation process has not been fully retained by the European Parliament and the Council. The Commission will continue to work together with the European Parliament and the Council on further improvements to the implementation process.”
