

Brussels, 3 October 2024
(OR. en)

13865/24
PV CONS 47
COMPET 965
IND 452
MI 825
RECH 418
ESPACE 81

DRAFT MINUTES
COUNCIL OF THE EUROPEAN UNION
(Competitiveness (Internal Market, Industry, Research and Space))
26 September 2024

1. Adoption of the agenda

The Council adopted the agenda set out in document 13533/24.

2. Approval of 'A' items


a) Non-legislative list 13577/24

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

Statements to this item are set out in the Addendum.


b) Legislative list (Public deliberation in accordance with Article 16(8) of the Treaty on European Union) 13578/24

Internal Market and Industry

1. **Regulation on the Single Market Emergency Instrument**  13030/24
Adoption of the legislative act
approved by Coreper, Part 1, on 25.9.2024 + COR 1 (et)
+ ADD 1
PE-CONS 46/24
MI


The Council approved the European Parliament's position at first reading and the proposed act has been adopted pursuant to Article 294(4) of the Treaty on the Functioning of the European Union, with Luxembourg voting against and Estonia abstaining (legal basis: Articles 21, 46 and 114 TFEU).

Statements to this item are set out in the Annex.

2. **Regulation amending Regulations (EU) 2016/424, (EU) 2016/425, (EU) 2016/426, (EU) 2019/1009 and (EU) No 305/2011 as regards emergency procedures due to a Single Market emergency**  13041/24 + ADD 1
Adoption of the legislative act
approved by Coreper, Part 1, on 25.9.2024 PE-CONS 47/24
MI

The Council approved the European Parliament's position at first reading and the proposed act has been adopted pursuant to Article 294(4) of the Treaty on the Functioning of the European Union, with Luxembourg voting against and Bulgaria abstaining (legal basis: Article 114 TFEU).


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

3. **Directive as regards emergency procedures for the conformity assessment, adoption of common specifications and market surveillance due to a Single Market emergency**  13045/24 + ADD 1
Adoption of the legislative act
PE-CONS 48/24
MI
approved by Coreper, Part 1, on 25.9.2024

The Council approved the European Parliament's position at first reading and the proposed act has been adopted pursuant to Article 294(4) of the Treaty on the Functioning of the European Union, with Luxembourg voting against (legal basis: Articles 91 and 114 TFEU).

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

Transport

4. **Single European Sky 2+**  13264/24
Adoption of the Council's position at first reading and of the statement of the Council's reasons
+ ADD 1-2
approved by Coreper, Part 1, on 18.9.2024
8311/24 + COR 1
+ ADD 1
+ ADD 1 COR 1
AVIATION

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union, and the statement of the Council's reasons, with Spain abstaining (legal basis: Article 100(2) TFEU).

Statements to this item are set out in the Annex.

Non-legislative activities

3. The future of European competitiveness, tackling the challenges facing industry and businesses in the single market 13253/24
Policy debate
4. The state aid framework and its contribution to EU policy objectives 13272/24
Policy debate

Any other business

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

The need to discuss and reflect on the further unified approach regarding the enforcement of EU-standards in e-commerce   13596/24


Information from Germany, supported by Austria, Denmark, France, the Netherlands and Poland

The Council took note of the information provided by Germany, supported by Austria, Denmark, France, the Netherlands and Poland.




- b) **Priorities for the new Commission in the Single Market**  13597/24

Information from the Czech Republic and Luxembourg, on behalf of Austria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Germany, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Sweden

The Council took note of the information provided by the Czech Republic and Luxembourg, on behalf of Austria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Germany, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Sweden.

- c) **Overview of the automotive conference** 
Information from the Presidency

The Council took note of the information provided by the Presidency.

-
-  First reading
-  Item based on a Commission proposal
-  Public debate proposed by the Presidency (Article 8(2) of the Council's Rules of Procedure)

Statements to the legislative "A" items set out in doc. 13578/24**Ad "A" item 1:** **Regulation on the Single Market Emergency Instrument**
*Adoption of the legislative act***STATEMENT BY ESTONIA**

“Estonia strongly believes in the aim of the Single Market Emergency Instrument, that the European Union as a whole must prepare for any future crisis. However, crisis preparedness and civil protection is also the task of every Member State. It is extremely important that SMEI does not intervene with any national competence or national security in this regard.

Strategic reserves and compulsory stockpiles consist of goods that we are likely to have a shortage of during a crisis, compiled to ensure the territorial integrity of the State, maintain law and order and safeguard national security during any possible crisis. Consequently, there is a probable overlap between goods that are considered crisis relevant goods under the article 21(b) and goods that are a part of strategic reserves or compulsory stockpiles.

Therefore, we interpret article 2(6) of the SMEI, together with the national security exemption as set out in the article 4(2) of the Treaty of the European Union, as exempting strategic reserves and national stockpiles from the scope of SMEI.”

STATEMENT BY LUXEMBOURG

“Luxembourg strongly supports any initiative designed to improve the functioning of the internal market by means of common rules that strengthen legal certainty, encourage cross-border activities and prevent the emergence of new obstacles.

Unfortunately, Luxembourg has serious doubts as to whether the ‘Single Market Emergency Instrument’ (SMEI) will live up to these principles. At a time when the EU needs to strengthen the integration and resilience of the internal market, an instrument like the SMEI runs the risk of allowing Member States to impose additional restrictions in a crisis situation.

The lessons learned following the numerous restrictions introduced by Member States during the pandemic show that obstacles must be addressed at source and in accordance with the Treaties. However, the SMEI – or IMERA (Internal Market Emergency and Resilience Act) – merely treats symptoms rather than causes, while adding new layers of bureaucracy likely to hamper crisis management.”

Luxembourg supports the establishment of a blacklist of practices prohibited in times of emergency. However, the benefits of such a list are likely to be cancelled out since the SMEI also allows Member States to introduce mitigation measures if the blacklist is not complied with – for instance, digital forms that would be applied to selected cross-border activities identified as critical by the Commission. In doing so, the SMEI would appear not only to validate, but even to encourage the introduction of restrictions to free movement by providing for additional procedures, instead of addressing the underlying problem.

The very broad and unclearly defined scope of the SMEI is likely to hinder the adoption of targeted and effective measures to support industry, unlike the EU Chips Act, the Net-Zero Industry Act, the Critical Raw Materials Act or the Temporary Crisis and Transition Framework. The horizontal and ‘one size fits all’ nature of the SMEI risks creating disproportionate and inappropriate measures, resulting in a burden for economic operators instead of offering them the support that they need.

Lastly, all regulations need to contain clear rules to allow for operational clarity. Yet, the SMEI is based on vague and unclearly defined concepts, cumbersome bureaucratic procedures and complex governance, raising important legal and practical questions about its relationship with other existing instruments. The result is a lack of legal certainty that has the potential to lead to confusion in a crisis-management situation.

For these reasons, Luxembourg cannot support the adoption of the Single Market Emergency Instrument (SMEI).

Luxembourg invites the Commission to step up its efforts to ensure greater harmonisation and mutual recognition in all EU legislation in order to promote good quality rules and protect fundamental freedoms at all times, including during crises.”

STATEMENT BY THE COMMISSION

“The Commission acknowledges the importance of strengthening freedom to provide services and the free movement of workers and eliminating obstacles to them. For that purpose, the Commission is committed to facilitate the freedom to provide services and the free movement of workers, including by strengthening enforcement. In order to respond to an internal market emergency, the Commission is willing to put forward, where appropriate, common templates or forms in relation to justified and proportionate digital declaration, registration or authorisation procedures that have been put in place by Member States and are in line with Union law.”

Ad "A" item 2: **Regulation amending Regulations (EU) 2016/424, (EU) 2016/425, (EU) 2016/426, (EU) 2019/1009 and (EU) No 305/2011 as regards emergency procedures due to a Single Market emergency**
Adoption of the legislative act

STATEMENT BY LUXEMBOURG

“Luxembourg strongly supports any initiative designed to improve the functioning of the internal market by means of common rules that strengthen legal certainty, encourage cross-border activities and prevent the emergence of new obstacles.

Unfortunately, Luxembourg has serious doubts as to whether the ‘Single Market Emergency Instrument’ (SMEI) will live up to these principles. At a time when the EU needs to strengthen the integration and resilience of the internal market, an instrument like the SMEI runs the risk of allowing Member States to impose additional restrictions in a crisis situation.

The lessons learned following the numerous restrictions introduced by Member States during the pandemic show that obstacles must be addressed at source and in accordance with the Treaties. However, the SMEI – or IMERA (Internal Market Emergency and Resilience Act) – merely treats symptoms rather than causes, while adding new layers of bureaucracy likely to hamper crisis management.

Luxembourg supports the establishment of a blacklist of practices prohibited in times of emergency. However, the benefits of such a list are likely to be cancelled out since the SMEI also allows Member States to introduce mitigation measures if the blacklist is not complied with – for instance, digital forms that would be applied to selected cross-border activities identified as critical by the Commission. In doing so, the SMEI would appear not only to validate, but even to encourage the introduction of restrictions to free movement by providing for additional procedures, instead of addressing the underlying problem.

The very broad and unclearly defined scope of the SMEI is likely to hinder the adoption of targeted and effective measures to support industry, unlike the EU Chips Act, the Net-Zero Industry Act, the Critical Raw Materials Act or the Temporary Crisis and Transition Framework. The horizontal and ‘one size fits all’ nature of the SMEI risks creating disproportionate and inappropriate measures, resulting in a burden for economic operators instead of offering them the support that they need.

Lastly, all regulations need to contain clear rules to allow for operational clarity. Yet, the SMEI is based on vague and unclearly defined concepts, cumbersome bureaucratic procedures and complex governance, raising important legal and practical questions about its relationship with other existing instruments. The result is a lack of legal certainty that has the potential to lead to confusion in a crisis-management situation.

For these reasons, Luxembourg cannot support the adoption of the Single Market Emergency Instrument (SMEI).

Luxembourg invites the Commission to step up its efforts to ensure greater harmonisation and mutual recognition in all EU legislation in order to promote good quality rules and protect fundamental freedoms at all times, including during crises.”

Ad "A" item 3: **Directive as regards emergency procedures for the conformity assessment, adoption of common specifications and market surveillance due to a Single Market emergency**
Adoption of the legislative act

STATEMENT BY LUXEMBOURG

“Luxembourg strongly supports any initiative designed to improve the functioning of the internal market by means of common rules that strengthen legal certainty, encourage cross-border activities and prevent the emergence of new obstacles.

Unfortunately, Luxembourg has serious doubts as to whether the ‘Single Market Emergency Instrument’ (SMEI) will live up to these principles. At a time when the EU needs to strengthen the integration and resilience of the internal market, an instrument like the SMEI runs the risk of allowing Member States to impose additional restrictions in a crisis situation.

The lessons learned following the numerous restrictions introduced by Member States during the pandemic show that obstacles must be addressed at source and in accordance with the Treaties. However, the SMEI – or IMERA (Internal Market Emergency and Resilience Act) – merely treats symptoms rather than causes, while adding new layers of bureaucracy likely to hamper crisis management.

Luxembourg supports the establishment of a blacklist of practices prohibited in times of emergency. However, the benefits of such a list are likely to be cancelled out since the SMEI also allows Member States to introduce mitigation measures if the blacklist is not complied with – for instance, digital forms that would be applied to selected cross-border activities identified as critical by the Commission. In doing so, the SMEI would appear not only to validate, but even to encourage the introduction of restrictions to free movement by providing for additional procedures, instead of addressing the underlying problem.

The very broad and unclearly defined scope of the SMEI is likely to hinder the adoption of targeted and effective measures to support industry, unlike the EU Chips Act, the Net-Zero Industry Act, the Critical Raw Materials Act or the Temporary Crisis and Transition Framework. The horizontal and ‘one size fits all’ nature of the SMEI risks creating disproportionate and inappropriate measures, resulting in a burden for economic operators instead of offering them the support that they need. Lastly, all regulations need to contain clear rules to allow for operational clarity. Yet, the SMEI is based on vague and unclearly defined concepts, cumbersome bureaucratic procedures and complex governance, raising important legal and practical questions about its relationship with other existing instruments. The result is a lack of legal certainty that has the potential to lead to confusion in a crisis-management situation.

For these reasons, Luxembourg cannot support the adoption of the Single Market Emergency Instrument (SMEI).

Luxembourg invites the Commission to step up its efforts to ensure greater harmonisation and mutual recognition in all EU legislation in order to promote good quality rules and protect fundamental freedoms at all times, including during crises.”

Single European Sky 2+

Ad "A" item 4:

Adoption of the Council's position at first reading and of the statement of the Council's reasons

JOINT STATEMENT BY THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION

“Without prejudice to the prerogatives of the budgetary authority in the framework of the annual budgetary procedure and to the Commission’s powers to establish the draft budget, the European Parliament and the Council invite the Commission to propose in the framework of the annual budgetary procedure the creation of an additional administrative support budget line under the Connecting Europe Facility (CEF), financed from CEF available appropriations as identified in the Legislative Financial Statement provided by the Commission. This new budget line would cover the cost of contractual agents and other administrative expenditures for the Secretariat of the Performance Review Board, Performance Review Board and National Supervisory Authorities Cooperation Board such as technical assistance, expert costs, contracts for data provision, external studies and for additional consultancy services, while establishment plan posts will be financed from the administrative budget line under Heading 7, with full respect of the current Multiannual Financial Framework Regulation. To the extent possible, such a financing under CEF should be without prejudice to the funds already earmarked in the latest CEF Transport Work Programme.

The financing under CEF of contractual agents and other administrative expenditures for the Secretariat of the Performance Review Board, Performance Review Board and National Supervisory Authorities Cooperation Board should not set a precedent for the financing of the Secretariat of other boards. It should not prejudice in any way the financing arrangements to be agreed upon in the framework of the next Multiannual Financial Framework Regulation.”

STATEMENT BY IRELAND AND FINLAND

“Ireland and Finland would like to thank our fellow Member States and the Commission for bringing this file to agreement. This has been a long and difficult negotiation process, and it is no secret that we are disappointed with the lack of ambition in the final text as are many in the aviation sector.

However, our view is that now that agreement has been reached, we should move to adopt the legislation as soon as possible. This will allow Member States and their NSAs, the Commission and the PRB to embed the newly agreed structures and focus on delivering real benefits in the European Network immediately.

Finally, we would like to reiterate our view that this adoption should not be the end of the discussion on SES. Given the capacity challenges the network faces and the environmental issues facing us all, we stand ready to work with Member States, the Commission and the sector as a whole to develop and enhance the European air traffic management regulatory framework.”

STATEMENT BY SPAIN

“Spain considers it essential to make progress towards achieving the Single European Sky, a key instrument for ensuring the environmental sustainability of aviation, improving efficiency in the use of airspace and fostering connectivity and economic development.

While recognising that the legal text agreed upon by the Council and the Parliament introduces some improvements on the current situation, Spain believes that the opportunity has been missed to secure a more ambitious legal and institutional framework that is more in line with the objectives of regulatory reform and aviation needs in the EU. Spain will therefore abstain from voting on this legislation.

However, Spain reiterates its commitment to working together with the other Member States and the Commission to develop and implement the newly approved legal text and to take every opportunity for improvement it may offer.”

STATEMENT BY THE COMMISSION REGARDING THE INSTITUTIONAL AUTONOMY OF THE COMMISSION IN RELATION TO THE SECRETARIAT SUPPORTING THE PERFORMANCE REVIEW BOARD

“The Commission will provide the Secretariat of the PRB, taking into account the needs indicated by the PRB so that the PRB can effectively perform its functions as laid down by the Regulation. The Commission will ensure that the Secretariat has sufficient resources to carry out these tasks. The Commission fully recognises the need for the PRB to work independently. The requirement that the Secretariat provides its support to the PRB without taking any directives except from the PRB to enable it to fulfil its role for the purposes of preparing the content and orientation of the opinions, recommendation, reports, and guidance material of the PRB, must be understood as corollary of this framework of independence. The set-up of the Secretariat cannot therefore encroach upon the principles of organisational autonomy and of independence of the Commission.”

STATEMENT BY THE COMMISSION ON THE FINANCING OF HUMAN RESOURCES FOR THE SINGLE EUROPEAN SKY AND LOCATION OF THE SECRETARIAT FOR PERFORMANCE REVIEW

“The Commission recalls that the final agreement reached by the co-legislators on the Amended proposal for a Regulation on the implementation of the Single European Sky has significantly modified the attribution of tasks of the Performance Review Body and of the Commission, as well as the governance for the Performance Review Body. The Commission’s tasks are more extensive compared to the Commission’s initial proposal as the Commission (and not the PRB set out in an Agency) would be in charge of all decisions and would rely on the advice of the Performance Review Board. Furthermore, the Commission would have to provide a Secretariat to the Performance Review Board and to the NSA Cooperation Board. As a consequence, the Commission requires a significant amount of staff and resources.

The human resources required by the final agreement endorsed by the co-legislators will not allow the Commission to respect the principle of stable staffing and will require additional resources, to be authorised by the European Parliament and the Council during the annual budgetary procedure along with the related budgetary appropriations.

Without any additional means, the options to finance the necessary administrative costs for staff of the Secretariat for Performance Review cannot be found. Heading 7 European Public Administration of the multiannual financial framework 2021-2027 was built on the principle of stable staffing, and there is no margin to finance additional officials and external staff. The Commission will internally redeploy the officials required for this initiative. However, for the additional staff needed, the new budget line would have to be created under the Connecting Europe Facility to finance them beyond the limit of the principle of stable staffing.

The Commission will seek to establish agreements with Eurocontrol and EASA for a programme of regular secondments of staff to the Secretariat. Finally, the Commission will seek to establish appropriate arrangements with Eurocontrol for the provision of relevant information.”
