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European Union

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#### **DRAFT STATEMENT OF THE COUNCIL'S REASONS**

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Subject: Position of the Council at first reading with a view to the adoption of a  
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE  
COUNCIL establishing the Digital Europe Programme and repealing  
Decision (EU) 2015/2240  
– Draft Statement of the Council's reasons

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## **I. INTRODUCTION**

1. On 6 June 2018 the Commission adopted the Proposal for a Regulation of the European Parliament and of the Council establishing the Digital Europe Programme for the period 2021-2027<sup>1</sup> as one of the proposals related to the Multiannual Financial Framework (hereinafter: MFF), part of the 'Single Market, Innovation and Digital' chapter.
2. In the European Parliament, the Committee for Industry, Research and Energy (ITRE) was chosen as the lead committee. The committee voted on its draft report on 21 November 2018. The report was then confirmed in the plenary on 12 December 2018<sup>2</sup>.
3. On 4 December 2018 the TTE Council adopted a partial general approach<sup>3</sup>. The partial general approach did not include a number of elements, in particular provisions with budgetary implications or of horizontal nature, or provisions related to pending discussions in other Council preparatory bodies on other legislative proposals. Such elements were marked in the text with square brackets.
4. The European Economic and Social Committee adopted its opinion on 17 October 2018<sup>4</sup>.
5. The European Committee of the Regions adopted its opinion on 5 December 2018<sup>5</sup>.
6. On 8 February 2019, the Presidency asked the Coreper for a mandate<sup>6</sup> to start the negotiations with the European Parliament. The trilogue took place on 13 February 2019 in Strasbourg and the co-legislators reached a common understanding on the Regulation establishing the Digital Europe Programme for the period 2021-2027. The common understanding did not include the bracketed elements of the text.

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<sup>1</sup> Doc. 10167/18 + ADD 1

<sup>2</sup> P8\_TA(2018)0521

<sup>3</sup> Doc. 14488/18 REV 1

<sup>4</sup> EESC 2018/03902

<sup>5</sup> COR 2018/03951

<sup>6</sup> Doc. 5989/19 COR 1

7. On 13 March 2019 the Permanent Representatives Committee confirmed the common understanding reached at the trilogue, while acknowledging that work would resume with the European Parliament once the Council had a mandate on all elements of the proposal.
8. On the basis of the common understanding, the European Parliament adopted its position at first reading on 17 April 2019<sup>7</sup>.
9. In its conclusions from 21 July 2020<sup>8</sup>, the European Council issued the political guidance for all MFF-related files. In light of this, the Permanent Representatives Committee mandated<sup>9</sup> the Presidency on 7 October 2020 to resume negotiations with the European Parliament with a view to reaching an agreement on the whole text.
10. The second trilogue was held on 14 December 2020 in a virtual format. During this trilogue the Council and the European Parliament reached a provisional agreement on all outstanding issues.
11. On 18 December 2020, the Permanent Representatives Committee confirmed this final compromise text with a view to agreement<sup>10</sup>.
12. On 14 January 2021, the European Parliament's Committee on Industry, Research and Energy (ITRE) endorsed the final compromise text. Subsequently, the Chair of the ITRE Committee sent a letter to the Chair of the Committee of Permanent Representatives indicating that, should the Council formally transmit to the European Parliament its position as agreed during trilogues, subject to lawyer-linguist verification, he would recommend to the Plenary that the Council's position at first reading be accepted without amendments at the European Parliament's second reading.

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<sup>7</sup> P8\_TA-PROV(2019)0403

<sup>8</sup> Doc. 00010/20

<sup>9</sup> Doc. 11293/20

<sup>10</sup> doc. 13835/20.

## II. OBJECTIVE

13. The general objective of the Proposal for a Regulation of the European Parliament and of the Council establishing the Digital Europe Programme for the period 2021-2027 is to establish a spending instrument to maximise the benefits of the digital transformation for EU citizens, businesses and public administrations, namely by reinforcing EU digital capacities in five key areas (so called 'specific objectives'): High Performance Computing, Artificial Intelligence, Cybersecurity and Trust, Advanced Digital Skills and Deployment, best use of digital capacity and interoperability.

## III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

### **General observations**

14. With a view to finding agreement on the Regulation, the Council and the European Parliament conducted negotiations with the aim of concluding a second reading agreement on the basis of a Council's first reading position that the Parliament could approve as such. The text of the Council's first reading position fully reflects the compromise reached between the co-legislators.
15. The Council shares the objectives and the principles outlined in the European Parliament's first reading position and supports the Programme's structure which will contribute to the achievement of its objectives.
16. *Digital Innovation Hubs*: The Council agrees with the European Parliament's first reading position that the designation of Digital Innovation Hubs should be done through an open and competitive process.

17. *Security restrictions*: The Council supports the European Parliament's first reading position concerning security restrictions as regards participation in actions under Artificial Intelligence and High Performance Computing. The Council agrees that work programmes may provide that entities controlled from third countries may be eligible for participating in actions under those two specific objectives only if they comply with conditions related to security set out in the work programme.
18. *Ethics*: The Council is in alignment with the European Parliament's first reading position as regards the conditions relating to ethical issues for the specific objective 'Artificial Intelligence'. For the Council it is also important to ensure that various actions under this objective take into account the ethical principles and therefore the Council agrees with the addition of more detailed provisions on ethics including, in particular, the possibility of ethics checks by the Commission and the possibility to suspend, reduce or terminate funding.
19. *Complementing grants*: The Council agrees with the European Parliament's first reading position in that grants under the Digital Europe Programme may cover up to 100% of the eligible costs, without prejudice to the co-financing principle.

### **Specific observations**

20. At the last trilogue on 14 December 2020, co-legislators were able to reach a compromise on the following outstanding issues.
21. *Allocation of budget to specific objectives*: The co-legislators agreed to adapt the allocation of the programme budget to the five specific objectives by reducing the amount for each objective by the same percentage (17,47%) as for the total budget of the programme. This makes it possible to maintain the weighting and balance of the original proposal.

22. *Duration of the programme:* Co-legislators agreed on the duration of the Digital Europe Programme. Article 1 establishes the programme for the period which is in alignment with the duration of the Multiannual Financial Framework 2021-2027.
23. *Work programmes:* The co-legislators agreed to keep in the text the provisions concerning the use of implementing acts for the adoption of work programmes for actions under direct management. It was also agreed to combine these provisions with modifications providing additional assurances that the content of future work programmes will be firmly anchored in the Articles 4-8 of the Regulation, with broad guidelines from Annex I applicable throughout the duration of the programme. Moreover, the co-legislators agreed to include the possibility to use delegated acts for updating Annex I.
24. *Participation of third countries:* The co-legislators agreed to introduce the concept of 'partial association' in the Regulation, namely association of third countries to a limited number of specific objectives pursued under the Digital Europe Programme.

#### **IV. CONCLUSION**

25. The Council position at first reading on the Regulation establishing the Digital Europe Programme for the period 2021-2027 fully reflects the compromise reached in negotiations between representatives of the Council and of the European Parliament, facilitated by the Commission.
26. Accordingly, the Permanent Representatives Committee is invited to suggest that the Council:
  - endorse this statement of the Council's reasons on its position at first reading, and
  - transmit this statement to the European Parliament.

27. After adoption by the European Parliament of its position at second reading, approving the Council's position without amendments, the Regulation of the European Parliament and the Council establishing the Digital Europe Programme for the period 2021-2027 will enter into force on the day of its publication in the Official Journal of the EU.
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