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Transport, Telecommunications and Energy

Luxembourg, 7, 8 and 11 June 2018

Presidents **Ivaylo Moskovski**
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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

Safeguarding competition in air transport

The Council adopted its position ('general approach') on the proposed regulation on safeguarding competition in air transport ([10146/17](#)). The proposal, presented by the Commission in June 2017, aims to ensure fair competition between EU airlines and third-country carriers while maintaining conditions conducive to a high level of connectivity.

For more information, see press release:

[Safeguarding competition in air transport – the Council adopts its position](#)

Port reception facilities

The Council adopted a general approach on updated rules on port reception facilities for the delivery of waste from ships ([9011/1/18 REV 1](#)). The proposed directive aims to enhance protection of the marine environment by reducing waste discharges at sea and to improve the efficiency of maritime operations in port by reducing the administrative burden.

For more information, see press release:

[Tackling marine litter: Council agrees its stance on port reception facilities](#)

Key road transport proposals on market access and social aspects

The Council took stock of progress on core proposals relating to market access and social aspects under the first mobility package ([progress report](#)). These proposals, which concern road transport, aim to ensure a balance between adequate working conditions for drivers and the freedom for operators to provide cross-border services. They include new rules on access to the occupation of haulier and access to the road haulage market (including cabotage); rest and driving times and tachographs; posting of road transport workers; and enforcement legislation. The proposals were presented by the Commission in June 2017.

In the Council, all delegations agree that these proposals are so interlinked that they must be advanced in parallel.

In extensive discussions in the Council working party, considerable progress has been made on technical issues and some political issues. However, a number of sensitive issues remain outstanding, such as cabotage rules, organisation of weekly rest periods and where to take them, the frequency of the right to 'return to home', retrofitting of vehicles with smart tachographs, and special rules on posting drivers (in terms of their scope, grace period and control).

In today's Transport Council, all member states took the floor to express their views following the presentation of the progress report.

Electronic road tolling and exchange of information

The Council adopted a general approach on a draft directive on electronic road tolling and exchange of information ([8856/1/18 REV 1](#)). The aim of the proposal is to allow road users to pay electronic tolls across the EU with one on-board unit, one contract and one invoice. The new rules will also make it easier to recover unsettled road fees from drivers of vehicles registered in another EU country.

For more information, see press release:

[EU is making it easier to recover unpaid road tolls – Council agrees its stance](#)

Hired vehicles

The Council could not endorse a general approach ([8387/18](#)) on a proposal to update the rules on hired vehicles. The proposal, presented by the Commission in May 2017 under the first mobility package, aims to establish a clear and uniform regulatory framework for the market for hired vehicles, and to soften the restrictions on using hired vehicles in international transport.

Combined transport

The Council took stock of progress made on a proposal to promote the use of combined transport over long-distance road freight ([progress report](#)). The objective is to encourage the shift from road to lower emission transport modes such as inland waterways, maritime transport and rail. This would improve the quality of air and reduce congestion on roads.

The [draft directive](#), presented by the Commission in November 2017 under the second mobility package, revises the 1992 combined transport directive, which is the only legal instrument at EU level to directly incentivise a modal shift in goods transport.

In the Council, delegations have welcomed the revision of the directive and its objective to further promote the modal shift. The working party has made substantial progress on the proposal, but a number of issues still need further clarification. In particular, delegations have stressed the link between this proposal and the ongoing negotiations on the proposed rules on the posting of drivers and on cabotage in international transport. The current presidency text therefore considers the application of these legislative acts to combined transport as an issue to be decided once an agreement has been reached on those proposals.

Clean vehicles

The Council assessed progress on a proposal to promote the market uptake of clean and energy-efficient vehicles by encouraging public bodies to choose them in public procurement ([progress report](#)). The [proposal](#), which amends the current directive, aims to contribute to the reduction of overall transport emissions as well as to competitiveness and growth in the transport sector. It was presented by the Commission in November 2017 as part of its second mobility package.

In the Council, the proposal is being discussed in the working party, where delegations have welcomed the objective of reducing emissions. The discussions have identified the definition of a 'clean vehicle' and the level and implementation of the procurement targets as key issues. Further work is needed at working party level to make progress on this file.

Rail passenger rights

The Council took stock of progress on a draft regulation updating rail passengers' rights ([progress report](#)). The [proposal](#), which was presented by the Commission in September 2017, revises the [current regulation](#) from 2007, which applies to both domestic and international journeys and services.

The revision aims to introduce the concept of force majeure with regard to the provision of rail services, to cut down exemptions to the rules and to improve the rights of persons with disabilities and reduced mobility. It would also encourage the offer of 'through-tickets', which cover successive railway services possibly operated by several companies.

In the Council, the working party has carried out the first article-by-article examination of the proposal, but substantial further work is still needed before the Council can form its position.

Any other business

– *Mobility package III*

The Commission briefed ministers on its mobility package III, presented on 17 May 2018.

[Europe on the Move: Commission completes its agenda for safe, clean and connected mobility](#)
(Commission website)

– *Action plan on military mobility*

The Commission briefed ministers on its action plan on military mobility.

[Joint communication on the action plan on military mobility](#)

– *Implementation of the EU cycling strategy*

At the request of the Belgian, Luxembourg and the Netherlands delegations, the Commission updated ministers on the implementation of the EU cycling strategy.

– *Follow-up to the Amsterdam declaration: Third high-level dialogue on automated and connected driving*

The Swedish delegation briefed ministers on the third high-level dialogue on automated and connected driving, which will take place in Gothenburg from 18 to 19 June 2018.

– *EU summer-time arrangements*

At the request of the Finnish delegation, the Commission briefed ministers on the state of play regarding EU summer-time arrangements.

– *Work programme of the incoming presidency*

The Austrian delegation presented its work programme in the field of transport for the second half of 2018.

TELECOMMUNICATIONS

ePrivacy

The Council held a policy debate on a proposal to update privacy rules for electronic communications (ePrivacy). 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](#) (GDPR), which became applicable on 25 May of this year.

The [document prepared by the presidency for the Council](#) also contains a progress report on the technical discussions within the Council (see also the [latest compromise](#) proposed by the presidency).

During today's Council debate, ministers generally stressed the need to have a text which will protect our citizens and at the same time provide legal certainty for SMEs and other businesses, to encourage innovation and growth. The solutions must be user friendly and future proof.

The relationship between ePrivacy and the general data protection directive still needs to be clarified. Several delegations mentioned the need to ensure a level playing field among different service providers. This includes avoiding a situation in which the same data would be subject to different rules depending on who is processing them (i.e. ePrivacy imposing stricter obligations on providers of communications services than the GDPR on other entities).

Many ministers thought that the latest presidency text was a good basis to continue discussion. However, most delegations agreed that further work was needed under the next presidency to ensure the quality of this complex legislation. This includes work on the list of permitted cases of processing of metadata, and the protection of terminal equipment and privacy settings. Overall, ministers expressed their readiness to continue to work constructively to conclude this dossier.

Cybersecurity agency and cybersecurity certification

The Council agreed its position ('general approach') on a proposal to upgrade the current European Union Agency for Network and Information Security (ENISA) to become a permanent EU agency for cybersecurity, and to create an EU-wide certification framework for information and communication technology (ICT) products and services ([Council general approach](#); [Commission proposal](#)).

The proposal, known as the Cybersecurity Act, aims to establish a high level of cybersecurity and cyber resilience within the EU, as well as to increase trust in ICT-based products and to improve the functioning of the single market. It is part of the 'Cybersecurity package' presented by the Commission in September 2017.

For more information, see press release:

[EU to create a common cybersecurity certification framework and beef up its agency – Council agrees its position \(press release, 08/06/2018\)](#)

Re-use of public sector information

The Council held a policy debate on a draft directive to promote the re-use of public sector information (PSI). The [proposal](#) aims to strengthen the EU's data economy by increasing the amount of public sector data available for re-use, ensuring fair competition and encouraging cross-border innovation based on data.

The Council's policy debate was structured around a set of questions prepared by the presidency in a [background document](#).

During the debate, ministers agreed that Europe's competitiveness requires the availability of public data as a key resource for innovation and data-based technologies, in particular artificial intelligence applications, which require vast amounts of high-quality data.

Ministers also agreed that the European open data policy should progress, and welcomed the proposal to extend the scope of the directive.

The Belgian delegation suggested changing the name of the directive to the Open Data directive, to better reflect its scope. The Commission supported this suggestion.

Several ministers mentioned the complementarity between the PSI proposal and the proposal on the free flow of non-personal data as enablers of a thriving EU data economy.

The incoming Austrian presidency promised to endeavour to make as swift progress on this dossier as it can.

Any other business

- ***European Electronic Communications Code and the Body of European Regulators for Electronic Communications (BEREC)***

The presidency briefed ministers on the draft directive on the European Electronic Communications Code and the draft regulation on the Body of European Regulators for Electronic Communications (BEREC) ([9510/18](#)). The presidency reached a provisional deal with the European Parliament on both proposals on 5 June, subject to approval by member states.

[Electronic Communications Code](#)

- ***Free flow of non-personal data***

The presidency updated ministers on the draft regulation on the free flow of non-personal data ([9508/18](#)). The objective is to reach an agreement with the Parliament by the end of June.

- ***Digital single market***

The Commission briefed ministers on the state of play regarding the digital single market. Vice-President Ansip expressed satisfaction with the progress made to date, given that 16 of 29 legislative files have already been concluded. He expressed his hope that the remaining files would be closed within the term of the current European Parliament and that adequate funding for the digital single market would be secured under the new multiannual financial framework.

- ***Work programme of the incoming presidency***

The incoming Austrian presidency presented its work programme in the field of telecommunications for the second half of 2018. It emphasised its focus on files contributing to the digital single market, such as ePrivacy, .eu domain, public sector information, the cybersecurity plan and the eGovernment action plan.

ENERGY

ACER regulation

The Council today agreed its position ('general approach') on the regulation on ACER, the EU Agency for the Cooperation of Energy Regulators. The functioning and the role of the agency, as well as the scope of its specific tasks, are defined in the regulation. Ministers welcomed the compromise text as a good basis for the upcoming negotiations with the European Parliament.

New regulatory tasks and competences will only be granted to the agency on condition that adequate involvement of member states is guaranteed. This will be ensured through legislative acts of the Union adopted in an ordinary legislative procedure or through the adoption of implementing acts.

ACER has already improved coordination between regulators on cross-border issues. The agency was officially launched in March 2011 and has its seat in Ljubljana, Slovenia. Since its creation, the agency has received important new tasks concerning the monitoring of wholesale markets and in the field of cross-border energy infrastructure.

Greater market integration and the move towards more variable electricity production require increased efforts to coordinate national energy policies with neighbours and greater use of the opportunities related to cross-border electricity trade. Such a coordinated approach enables EU member states to prepare themselves against unexpected supply crises and to ensure security of electricity supply. The Union electricity grid is closely interconnected and there is an increasing need for neighbouring countries to cooperate in order to maintain grid stability and integrate large volumes of renewable energies.

The recast regulation includes several amendments to the current ACER regulation that had become necessary since 2009, thereby improving the clarity and readability of the regulation. Special care has been taken to ensure appropriate governance mechanisms by providing a clearer definition of the respective roles of the director of ACER and of the board of regulators.

General approach ([9478/18](#))

[Press release](#)

Commission proposal ([15149/16](#))

[Website of ACER](#)

Any other business

The Council took note of the information from the Presidency on the state of play on the three files of the clean energy package which are currently in the phase of trilogue negotiations: governance, renewable energy and energy efficiency. All ministers intervened to provide further information about their positions and they welcomed the progress achieved. Although great progress was made and many compromise texts were provisionally agreed between the co-legislators, a few key outstanding issues remain to be agreed in each of the files. The aim of the Bulgarian Presidency remains to reach a political agreement with the European Parliament on these files during its Presidency.

– Regulation on governance of the Energy Union

- The Presidency briefed ministers on the latest developments in negotiations with the European Parliament on the regulation on the governance of the Energy Union. Trilogues were held on 21 February, 26 April and 23 May. The next trilogue will take place on 19 June.
- Note ([9287/18](#))
- Commission proposal ([15090/1/16 REV 1](#) + [ADD 1 REV 1](#))

– Directive on renewable energy

- The Presidency briefed ministers on the latest developments in negotiations with the European Parliament on the directive on renewable energy. Trilogues were held on 27 February, 27 March, 17 May and 31 May. The next trilogue will take place on 13 June.
- Note ([9287/18](#))
- Commission proposal ([15120/1/16 REV 1](#))

– ***Directive on energy efficiency***

- The Presidency briefed ministers on the latest developments in negotiations with the European Parliament on the directive on energy efficiency. Trilogues were held on 22 February, 20 March, 16 May and 30 May. The next trilogue will take place on 13 June.
- Note ([9287/18](#))
- Commission proposal ([15091/16](#) + [ADD 1](#))

– ***Recent developments in the field of external energy relations***

- The Commission informed the Council on developments regarding Egypt, Ukraine, the Western Balkans, Iran and the Clean Energy Ministerial and Mission Innovation.
- Information note ([8557/18](#))

– ***Work programme of the incoming Austrian presidency***

- The Austrian delegation informed ministers about its presidency work programme and priorities in the field of energy. The Austrian Presidency wants to dedicate its efforts to delivering a strong and resilient Energy Union in order to pave the way for a safe and sustainable, renewables-based energy system. Advancing work on the clean energy package will be one of its priorities.
- In particular, Austria will focus on the electricity market design, which is decisive for the functioning of the future energy system. The informal meeting of energy ministers in Linz on 17 and 18 September 2018 will be an important milestone in building consensus on the remaining legislative files of the clean energy package. The Austrian Presidency is especially interested in innovative energy technologies, and it will put renewable hydrogen, storage technologies and the role of energy-intensive industry for the energy transition on the agenda of the informal meeting in September.

- The 11th SET Plan conference on 20 and 21 November 2018 in Vienna will be dedicated to innovative energy technologies and focus on the following topics:
 - Smart and resilient cities and buildings
 - Sustainable energy systems (renewables and storage)
 - Energy efficiency in industry
 - Joint projects for achieving the EU-2030 targets and the potential of the new European financing platform for renewables.
- The Austrian Presidency wants to stimulate dialogue across national and institutional borders. It seeks to foster active cooperation between international energy organisations and to strengthen energy relations of the EU and its member states.
- Information from the Austrian delegation ([7683/18](#))

OTHER ITEMS APPROVED

TRANSPORT

International Civil Aviation Organisation (ICAO) – coordination

The Council approved an information note containing recommended EU positions for the ICAO Council meeting on 11 to 29 June 2018, so that the information note can be used as the basis for interventions by the representatives of the EU countries which are members of the ICAO Council.

FOREIGN AFFAIRS

EU-NATO cooperation

The Council adopted the following conclusions on the third progress report on the implementation of the common set of proposals endorsed by the EU and NATO Councils on 6 December 2016 and 5 December 2017:

"1. Reaffirming its Conclusions of 6 December 2016 and of 19 June 2017 and 5 December 2017, the Council, considering that EU and NATO continue to face common security challenges, welcomes the continued close and mutually reinforcing co-operation with NATO. This co-operation takes place in areas of shared interest, both strategically and operationally, in crisis management in support of international peace and security as well as on defence capability development where requirements overlap working with and for the benefit of all Member States. For the EU, the implementation of the Joint Declaration signed in Warsaw in July 2016 by the President of the European Council, the President of the European Commission and the Secretary General of the North Atlantic Treaty Organization remains a key political priority with the overall objective of building a true organisation-to-organisation relationship. It constitutes an essential element of broader efforts aimed at strengthening the Union's ability to act as a security provider and strengthen its ability to cooperate with partners and to protect its citizens.

2. With regards to the ongoing EU initiatives aiming at strengthening security and defence, the Council recalls all relevant Conclusions, in particular those of November 2016, March, May and November 2017. The Council stresses that security and defence efforts of the EU and NATO substantially contribute, in a coherent manner, to a secure Europe, entailing both benefits and responsibilities, and for those Member States concerned, fostering an equitable sharing of the burden.
3. Recalling that the common set of proposals is not a standalone document and must be read in conjunction with the relevant Council conclusions, the Council welcomes further progress made in the implementation of the common set of proposals (a total of 74 actions). In this regard, it acknowledges the third progress report submitted jointly by the High Representative/Vice President/Head of the European Defence Agency and the Secretary General of NATO in accordance with paragraph 7 of the Council Conclusions of 5 December 2017.
4. The Council acknowledges ongoing work and stresses the importance of ensuring demonstrable progress, and communicating it to the public where relevant, in all areas listed in the Joint Declaration signed in Warsaw and specified in the common set of proposals, including the new topics, such as military mobility, counter-terrorism, and women, peace and security.
5. The Council reaffirms that EU-NATO cooperation will continue to take place in the spirit of full openness and transparency, in full respect of the decision-making autonomy and procedures of both organisations and in close cooperation with and full involvement of Member States. It is based on the principles of inclusiveness and reciprocity without prejudice to the specific character of the security and defence policy of any Member State.
6. The Council recalls that NATO cooperation with the non-NATO EU Member States is an integral part of EU-NATO cooperation. In this regard, the Council welcomes the positive contribution of non-NATO EU Member States to NATO activities. Such activities are an integral part of EU-NATO cooperation and the Council strongly supports their continuation.

7. The Council invites the High Representative/Vice President/Head of the European Defence Agency to continue progress on implementation, in close cooperation with Member States, ensuring their full involvement and transparency, and looks forward to receiving the next report, to be submitted jointly in June 2019."

[Read the third progress report on the implementation of the common set of proposals endorsed by the EU and NATO councils on 6 December 2016 and 5 December 2017 \(PDF\)](#)

[EU cooperation on security and defence](#)

[Factsheet on EU-NATO cooperation](#)

COMMON SECURITY AND DEFENCE POLICY

EULEX Kosovo

The Council decided to refocus the mandate of the EU rule of law mission EULEX Kosovo. The mission, established 10 years ago, has had two operational objectives: a monitoring, mentoring and advising objective, providing support to Kosovo*'s rule of law institutions and to the Belgrade-Pristina dialogue, and an executive objective, supporting the adjudication of constitutional and civil justice and prosecuting and adjudicating selected criminal cases.

The decision brings the judicial executive part of the mission's mandate in Kosovo to an end: Kosovo will assume responsibility for all transferred investigations, prosecutions and trials.

As of 14 June, the mission will concentrate on:

- monitoring selected cases and trials in Kosovo's criminal and civil justice institutions
- monitoring, mentoring and advising the Kosovo correctional service
- continuing its operational support for the implementation of EU-facilitated dialogue agreements for the normalisation of relations between Serbia and Kosovo.

The mission will retain certain limited executive responsibilities in the areas of witness protection and support for the specialist chambers and the specialist prosecutor's office, as well as responsibility for ensuring the maintenance and promotion of security as second security responder.

The Council decision provides for the revised mandate to run until 14 June 2020. It also allocates a combined budget for the mission's operations in Kosovo and for the specialist chambers and the specialist prosecutor's office of EUR 169.8 million for two years (15 June 2018 - 14 June 2020).

The budget will cover the EULEX Kosovo mission's expenditure of EUR 83.6 million for the implementation of its mandate in Kosovo. EUR 86.2 million will support the specialist chambers and the specialist prosecutor's office.

EULEX Kosovo was launched in 2008. The headquarters of the mission are located in Prishtinë/Priština, Kosovo. Alexandra Papadopoulou has been the head of mission since 20 July 2016. On 5 June 2018 the Political and Security Committee extended her mandate until 14 June 2019.

[EULEX Kosovo website](#)

**References to Kosovo are without prejudice to positions on status. They are in line with United Nations Security Council Resolution 1244/1999 and the opinion by the International Court of Justice on the Kosovo declaration of independence.*

INTERNAL MARKET

Motor vehicles - Technical prescriptions for type-approval

The Council adopted a decision aimed at supporting certain amendments to UN regulations of the agreement of the United Nations Economic Commission for Europe (UNECE) concerning the adoption of uniform technical prescriptions for wheeled vehicles, which need to be adapted to reflect technical progress (9187/18).

The decision includes support for UN Global Technical Regulations Nos 15 and 19, and on proposals for two new UN Regulations and two new listings in the Compendium of Candidate Global Technical Regulations.

[UNECE](#) develops harmonised requirements intended to remove technical barriers to the trade in motor vehicles between the contracting parties to the agreement. The EU is a contracting party to this agreement and votes on behalf of the member states.