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Subject: **3233rd** meeting of the Council of the European Union (**ENVIRONMENT**),  
held in Brussels on 21 March 2013

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## **PUBLIC DELIBERATION ITEMS<sup>1</sup>**

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<sup>1</sup> Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

## **LEGISLATIVE DELIBERATIONS**

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

### **"A" ITEMS**

- 1. Regulation of the European Parliament and of the Council on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 [First reading] (LA + S)**

PE-CONS 75/12 ENER 539 CADREFIN 524 CODEC 3066 OC 762

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Article 172 of the TFEU).

#### **Statement by the European Commission**

*as regards the eligibility of projects of common interest for EU financial assistance in the context of trans-European energy infrastructures (Chapter V of Regulation xxx on Guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC).*

"The Commission underlines that it considers important that the support from EU and national sources extends to grants for works to enable the implementation of projects of common interest enhancing the diversification of energy supply sources, routes and counterparts. The Commission reserves the right to make proposals in this direction based on the experience gained from the monitoring of the implementation of projects of common interest in the context of the report foreseen in Article 17 of the Regulation on guidelines for trans-European energy infrastructures (No XXX)."

#### **Joint statement by Austria, Bulgaria and Romania**

"The abovementioned Member States, firmly convinced that hydropower and pumped storage play an important role in meeting the EU renewables target, express their regret for the exclusion of the hydro-pumped electricity storage projects from the projects eligible for EU financial assistance in the form of grants for works, as provided by the Proposal for a Regulation of the European Parliament and of the Council on guidelines for trans-European energy infrastructure.

Austria, Bulgaria and Romania recall the acknowledgement, in the Commission's Communication *Renewable Energy: a major player in the European energy market*, that the renewables energy goal is "a headline target of the Europe 2020 strategy for smart, sustainable and inclusive growth". At the same time, Austria, Bulgaria and Romania refer to the Energy Roadmap 2050, which indicates that renewable energy sources are an essential part of the three no-regret options to achieve the decarbonisation of the European energy system in the most cost-effective and sustainable way. In addition, the need for major investments, including for speeding up the integration of storage, is also underlined in the last Commission's Communication relating to the Internal Energy Market and in the Council conclusions on "Renewables Energy: a major player in the European energy market", adopted today.

Furthermore, considering that hydropower is a major renewables source, with still available potential to be expanded, the development of grid, including storage, is a must for meeting the challenge of infrastructure needs. Therefore, hydro-pumped electricity storage investments fit very well this goal, being of vital importance for both EU energy transition and a well-functioning European electricity market.

In conclusion, recognising the need of this Regulation and in the spirit of overall compromise, we will not object its adoption, but considering the need of financial assistance to make a pump and storage investment economically feasible, we emphasize our preference for the inclusion of the hydro- pumped electricity storage projects in the category of projects eligible for EU financial assistance for works under supplementary criteria."

**Statement by Germany**  
**on Article 15 and recital 30:**

"Germany assumes that the three tier approach described in recital 30 will be consistently applied when evaluating the eligibility of projects of common interest in accordance with Article 15. Financing is therefore primarily a task for the market and adequate regulation in the Member States. Public co financing from the EU's Connecting Europe Facility can be considered only as a last resort. Consequently, for each project it should be examined whether or not there are regulatory investment obstacles before a decision on public support is taken. Insofar as this examination establishes that the financing need of a project can also be covered by adjusting the regulatory framework, EU financing assistance should be ruled out."

**Statement by Germany**  
**on Article 17(b):**

"Germany points out that, in the interests of system security and confidentiality of business data, it should be ensured that information on system operation should be supplied only to trustworthy authorities which satisfy the internal market requirements for transmission system operators. Germany therefore assumes that "any entity duly mandated" in Article 8(3)(a)(iii) of (new) Regulation No 714/2009 refers to any entity duly mandated by transmission system operators under existing cooperation (TSC, SSC, Coreso)."

**2. Regulation of the European Parliament and of the Council on European Venture Capital Funds [First reading] (LA + S)**

PE-CONS 73/12 EF 320 ECOFIN 1085 COMPET 783 SOC 1007 IND 238  
CODEC 3064 OC 759

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

**Statement by Poland**

"Poland welcomes the political agreement on the *Regulation of the European Parliament and of the Council on the European venture capital funds* and the *Regulation of the European Parliament and of the Council on the European social entrepreneurship funds* ("the Regulations"). We believe the Regulations will remove obstacles to cross – border fundraising and enhance the investor protection. In particular, we appreciate the harmonised standards on sanctions adopted to ensure proper enforcement of the provisions. However, we remain concerned with the change that has been made with regard to term "administrative sanctions", amended as "administrative penalties" in both Regulations. We consider it against the original intention.

First, such a significant change has been made at the lawyer linguist meeting aimed at discussing linguistic changes that do not affect the substance of the text. Replacing "administrative sanctions" by "administrative penalties" alters the scope of the term at question which leads us to conclude that proposed change goes beyond the lawyer linguist working group's competence and therefore was not legitimate.

Secondly, whilst the legislative acts take form of regulation which is binding entirely in all its elements and substitutes for national law, the relevant explanation provided at the lawyer linguist meeting should have been reflected in recitals to clarify that the term "administrative penalties" does not pre-judge certain type of sanctions.

Thirdly, the reference to "administrative penalties" in the Regulations will result in inconsistency across the EU legislative acts, a number of which refers to "administrative sanctions" (e.g. MiFID, MAD)."

**3. Regulation of the European Parliament and of the Council on European Social Entrepreneurship Funds [First reading] (LA + S)**

PE-CONS 74/12 EF 321 ECOFIN 1086 COMPET 784 SOC 1008 IND 239  
CODEC 3065 OC 760

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

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**4. Proposal for a Council Regulation amending Regulation (EEC/Euratom) No 354/83, as regards the deposit of the historical archives of the institutions at the European University Institute in Florence**

- Request by the Council for the consent of the European Parliament  
7432/13 INF 42 ARCH 5 OC 144  
6867/13 INF 27 ARCH 4 OC 95

The Council agreed on the text of the proposed Regulation and decided to transmit the draft text of the Regulation to the European Parliament with a view to obtaining its consent.

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AGENDA ITEMS

**4. Proposal for a Directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources [First reading]**

Interinstitutional file: 2012/0288 (COD)

- Orientation debate  
15189/12 ENV 789 ENER 417 ENT 257 TRANS 346 AGRI 686 POLGEN 170  
CODEC 2432  
6854/13 ENV 152 ENER 63 ENT 61 TRANS 80 AGRI 116 POLGEN 30  
CODEC 429

Following the debate in the TTE Council (Energy) on 22 February 2013 the Council held an orientation debate on the proposed Directive. At the Presidency's request, the debate focused on (1) whether the proposed Directive adequately meets its objectives of addressing indirect land-use change emissions and of encouraging the transition to advanced biofuels and (2) whether it supports the achievement across the Union of the existing EU energy and climate change objectives. Written contributions were provided by some delegations (7466/13).

The Chairman noted general support for the overall aim of the proposal, but different views on how to achieve this objective. He announced that the Presidency would intensify work, including on different options.

**5. Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment [First reading]**

Interinstitutional file: 2012/0297 (COD)

- Orientation debate
  - 15627/12 ENV 825 CODEC 2533
  - + REV 1 (bg)
  - 6853/1/13 ENV 151 CODEC 428 REV 1

The Council held an orientation debate on the Commission's proposal on the basis of three questions prepared by the Presidency and contained in doc. 6853/1/13. Ministers discussed in particular the following issues:

- 1) the proposed introduction of a "one-stop shop" to ensure coordinated or joint EIA procedures in conjunction with environmental assessments required under other relevant Union legislation,
- 2) the introduction of mandatory scoping, and
- 3) the proposal for a system of accredited experts.

Member States in general welcomed the objective to review the EIA Directive in order to simplify the EIA procedures and to improve their quality. However, considerable concerns were raised with regard to the type of measures proposed by the Commission to achieve this aim, in particular in relation to their compatibility with the different environmental assessment systems in Member States and to the risk of increased administrative burden and additional costs. Many Member States considered not appropriate to establish a very prescriptive system at EU level and advocated more flexibility for Member States to cater for specific situations.

The Commission noted the different views expressed and indicated that some change to the current systems was inevitable to improve the EIA processes for the benefit of the users and the environment.



**6. Proposal for a Regulation of the European Parliament and of the Council on "Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union" [First reading]**

Interinstitutional file: 2012/0278 (COD)

- Orientation debate  
14641/12 ENV 750 AGRI 650 WTO 321 PI 116 DEVGEN 272 MI 604  
SAN 221  
+ COR 1  
6889/13 ENV 154 AGRI 122 WTO 52 PI 34 DEVGEN 56 MI 154 SAN 73  
CODEC 441

The Council held an orientation debate on the above-mentioned Commission's proposal. The main objective of the proposal is to implement the Nagoya Protocol in the EU and to enable its ratification by the EU. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity was adopted in October 2010 in Nagoya, Japan.

To steer further work on the proposal, Ministers were invited to answer a set of questions prepared by the Presidency and focusing on the proposed obligations of users of genetic resources and their monitoring by the competent authorities of the Member States.

The Presidency highlighted the following points emerging from the discussion:

- an overriding aim remains to keep burden and costs for users or authorities at a reasonable, proportional level. Certainty for users was also identified as a key issue. However, any new legislation should be comprehensive enough to cover the provisions of the Nagoya Protocol;
- due diligence obligations of users should be accompanied by their monitoring by competent authorities in order to ensure compliance with the Nagoya Protocol. While some Member States are generally satisfied with the approach proposed by the Commission, others want to see monitoring of, and checks on, user compliance strengthened and increased user obligations. There were also some views expressed in support of less detail on enforcement by authorities so as to allow Member States to devise systems as they see fit.

The issues of prohibition on the use of illegally accessed genetic resources and the links with other international instruments relating to the use of genetic resources were also mentioned during the debate.

The Commission underscored the importance of having this new piece of legislation in place by July 2014 in order to fulfil the EU international commitments.

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