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THE EUROPEAN UNION**



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3280th Council meeting

Employment, Social Policy, Health and Consumer Affairs

Brussels, 9 and 10 December 2013

Presidents **Algimanta Pabedinskienė**
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Main results of the Council

Employment and Social Policy

*The Council agreed a general approach on the **enforcement directive on the posting of workers**. The President of the Council Ms Algimanta Pabedinskienė said: "it is a very important agreement that will bring benefits to all member states regardless of whether they are a hosting or a sending state. This directive will help improve the protection of the rights of posted workers and will prevent possible abuse and fraud. It will also contribute to fair competition and equal conditions. The agreement reached today by the Council will enable it to start negotiations with the European Parliament immediately and seek an agreement before the end of the current legislature."*

*The Council also reached a general approach on a decision enhancing cooperation between **public employment services**.*

*It took stock of initiatives fostering **youth employment**, notably the youth guarantee and the youth employment initiative.*

*The Council held an exchange of views on the **European Semester 2014** in the field of employment and social policy.*

*Ministers took stock of progress reports on a directive improving the **gender balance** among non-executive directors of companies listed on stock exchanges and related measures and on a directive on **equal treatment**. The Council also adopted conclusions on "the effectiveness of institutional mechanisms for the advancement of **women and gender equality**".*

*The Council adopted a recommendation on effective **Roma integration** measures in the member states.*

Health and Consumer Affairs

*The Council exchanged views on two draft regulations concerning **medical devices**. Ministers also adopted conclusions on the "Reflection process on **modern, responsive and sustainable health systems**". "EU member states have to be proactive. Our healthcare systems have to be ready to withstand current and future challenges. EU citizens have rightful expectations. While making decisions on future healthcare systems we, the EU Ministers of Health, have to consider these expectations seriously," said the President of the Council, [Vytenis Povilas Andriukaitis](#).*

*The Presidency also briefed ministers on the state of play regarding the draft revised **EU tobacco directive**.*

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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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Vice-President
Member
Member
Member

ITEMS DEBATED**EMPLOYMENT AND SOCIAL POLICY****Posting of workers**

The Council reached a general approach on the posting of workers enforcement directive so that negotiations can start with the European Parliament with a view to reaching an agreement at first reading ([17611/13](#)).

Ministers reached an overall compromise agreement on the two outstanding issues of the directive; national control measures and joint and several liability in subcontracting chains.

- With regard to national control measures (article 9), they agreed that member states may only impose administrative requirements and control measures necessary in order to ensure effective monitoring of compliance with the obligations set out in this directive and in the posting of workers directive of 1996 provided these measures are justified and proportionate in accordance with Union law. These measures will have to be notified to the Commission and service providers will have to be informed through a single national website.
- With regard to joint and several liability in subcontracting chains (Article 12), the agreed text provides that, as regards the activities mentioned in the annex to directive 96/71/EC¹, member states shall provide for measures ensuring that in subcontracting chains, posted workers can hold the contractor, of which the employer is a direct subcontractor, liable, in addition to or in place of the employer, for the respect of posted workers' rights regarding any outstanding net remuneration corresponding to the minimum rates of pay. Instead of these liability rules, member states may take other appropriate enforcement measures, in accordance with EU and national law and/or practice, which enable in a direct subcontracting relationship, effective and proportionate sanctions against the contractor, to tackle fraud and abuse, in situations where workers have difficulties in obtaining their rights.

The enforcement directive aims to promote a climate of fair competition between all service providers by guaranteeing both a level playing-field and legal certainty for service providers, service recipients, and workers posted for the provision of services. This means that the protection of posted workers has to be reconciled with the interests of the freedom to provide services.

The directive improves the supervision and enforcement of the rules of the posting of workers directive (96/71/EC) which regulates the employment conditions for workers temporarily posted to another member state in connection with cross-border services and stipulates that host countries should ensure that posted workers have a minimum protection in the host country (health and safety, maximum working hours, minimum wage, etc).

¹ (building work)

Women on company boards

The Council took note of a progress report on a directive to improve the gender balance on company boards ([16437/13](#) +[COR 1](#)).

The proposed directive would, inter alia, set a binding quantitative objective (as opposed to an obligatory quota) of increasing the proportion of women among non-executive company board members in publicly listed companies to 40% by 2020. In order to reach this objective, neutral criteria for ensuring fair recruitment would need to be applied together with transparency measures.

The directive aims to address the issue of women's under-representation in economic decision-making at the highest level by setting a quantitative objective, for the proportion of the under-represented sex on the boards of listed companies, of 40% by 2020 (by 2018 in the case of public undertakings). The companies would be obliged to work towards that objective, inter alia, by introducing procedural rules on the selection and appointment of non-executive board members.

Women account for around 60 % of new university graduates in the EU, yet are heavily under-represented in economic decision-making positions, especially at the top. The situation is improving, albeit slowly, thanks to measures being taken nationally as well as to the intensifying public debate on this issue.

According to the Commission, in April 2013, only around 16.6% of board members (one in six) of the largest companies listed on the stock exchanges of the EU Member States were women.

On 20 November, the Parliament adopted its position at first reading, broadly endorsing the approach taken by the Commission in its proposal.

Youth employment

Ministers discussed the implementation of measures combating youth unemployment, in particular the youth guarantee and the youth employment initiative (YEI).

Member states concurred on the gravity of the youth unemployment situation in the EU and thus welcomed the opportunity to hold another exchange of views on the matter. The Commission proposal on a quality framework for traineeships was welcomed as an additional contribution towards fighting youth unemployment ([17367/13](#)).

The complexity of setting-up a youth guarantee scheme and the necessary coordination of all actors in the process were stressed. Difficulties encountered in the financing of the YEI were addressed, in particular the issue of advanced payments under the European Social Fund. Member states called for simplified and transparent procedures for the delivery of funding.

The compatibility of budgetary efforts to deliver the youth guarantee with the fulfilment of deficit objectives was also tackled. Member states welcomed the ongoing work of the Employment Committee on the monitoring of the youth guarantee and youth-related country specific recommendations.

Implementation of the youth guarantee and the youth employment initiative

The Council adopted the recommendation on establishing a youth guarantee on 22 April 2013 ([OJ C 120, of 26 April 2013, page 1](#)). In order to support the youth guarantee schemes and to tackle youth unemployment more generally, the European Council of 7-8 February 2013 agreed on a financial envelope for the YEI of EUR 6 billion for the period 2014-2020.

The European Council on 27-28 June called on member states benefitting from the YEI to adopt plans for implementation of the youth guarantee (youth guarantee implementation plans - YGIPs) by the end of 2013, so that the funds of EUR 6 billion could be used as from January 2014. It supported frontloading the funds in the years 2014 and 2015. Furthermore, the European Council also decided on using the margins left under the multiannual financial framework (estimated at an additional EUR 2 billion) to fund youth employment in particular.

To help support member states in developing their YGIPs, the Commission has developed a YGIP template and organised a working and learning seminar on 17-18 October 2013.

Quality framework for traineeships

In its communication entitled "Towards a job-rich recovery" of 18 April 2012 (employment package), the Commission announced that it would present a Council recommendation on a quality framework for traineeships (QFT) by the end of 2012. After two rounds of consultations, the social partners could not agree to launch negotiations on a quality framework for traineeships. The Commission therefore decided to present its own proposal for a Council recommendation on a quality framework for traineeships, adopted on 4 December 2013.

European semester 2014 in the employment and social policy areas

The Council held an exchange of views on the basis of the annual growth survey 2014 ([15803/13](#)), the joint employment report ([16348/13](#)) and the alert mechanism report ([15808/13](#)).

On the European Semester, member states welcomed the analysis provided by the Commission in the annual growth survey and generally agreed with the continuation of the policy priorities. It was recognised that the employment situation remains worrying and that economic growth needs to be job-rich for the fragile recovery to have tangible effects on the labour market. Focus on particular groups such as youth was further highlighted.

The Council approved the scoreboard of employment and social indicators ([16844/13](#)), and more broadly chapter 3 of the joint employment report (which presents the scoreboard). This is the first time that this scoreboard has been included in the Semester governance cycle. The Council noted that further work in refining the instrument and integrating it into the existing instruments of employment and social governance needs to continue in order to realise its full potential.

Council' discussions also drew on the contributions of the Employment (EMCO) and Social Protection (SPC) Committees, which result from their discussions of the scoreboards, the employment performance monitor and the SPC's work on ex ante coordination.

At its meeting on 27-28 June 2013, the European Council concluded that "the social dimension of the EMU should be strengthened. As a first step, it is important to better monitor and take into account the social and labour market situation within EMU, notably by using appropriate social and employment indicators within the European semester. It is also important to ensure better coordination of employment and social policies, while fully respecting national competences. The role of the social partners and social dialogue, including at national level, is also key"([EUCO 104/2/13](#), paragraph 14.c).

The Council endorsed the employment performance monitor (EPM) ([16845/13](#)). The monitor is a joint Commission/EMCO report providing a summary of the assessment determined by the joint assessment framework and an overview of key challenges emerging from that analysis.

Since December 2012, the EPM has also contained a benchmarking tool designed to give a visual representation of performance.

The Council took note of a report from the SPC chair on ex ante coordination of major reforms ([16890/13](#)).

Equal treatment

The Council took note of a progress report ([16438/13](#)) on the directive on equal treatment with regard to religion or belief, disability, age or sexual orientation. The directive prohibits discrimination in the following areas: social protection, including social security and healthcare; social advantages; education; and access to goods and services, including housing.

The Lithuanian presidency has brought forward the technical work on certain issues, including the scope (definition of "access") and the concept of discrimination.

The European Parliament adopted its opinion under the consultation procedure on 2 April 2009. The proposal falls under article 19 TFEU (unanimity in Council + EP consent). Certain delegations still have general reservations, questioning the need for the proposal, which they believe encroaches upon national competences and conflicts with the principles of subsidiarity and proportionality.

Other delegations have concerns relating, in particular, to the lack of legal certainty, the division of competences, and the practical, financial and legal impact of the proposal.

Public employment services network

The Council reached a general approach on a decision on enhanced cooperation between public employment services (PES) ([17071/13](#)).

The Commission adopted its proposal for the creation of a PES network on 17 June 2013. The June European Council stated that the Commission proposals leading to the creation of a network of public employment services should be rapidly examined.

The aim of the proposal is to formalise the current heads of PES (HoPES) informal advisory expert group and turning it into a fully-fledged network. Strengthening PES cooperation is all the more important at a time when unemployment has reached high levels in most member states; this network would contribute to improving the employment situation in the EU.

The creation of the PES network would be a positive contribution to wider ongoing efforts to make existing structures more effective in tackling the unemployment crisis.

The present agreement will allow for the trilogue negotiations to begin early next year.

Roma integration measures

The Council adopted a recommendation on effective Roma integration measures in the member states.

The recommendation aims to provide guidance to member states in enhancing the effectiveness of their measures to achieve Roma integration and to strengthen the implementation of their national strategies. It stresses the importance of adopting an integrated approach, covering housing, education, healthcare and employment. Involving Roma themselves in the social inclusion process is also important.

The recommendation also highlights the vital importance of the gender dimension: many Roma women and girls find themselves in a particularly difficult situation.

It was put forward by the Commission in the context of the EU framework for national Roma integration strategies up to 2020 that was launched in 2011.

Mechanisms for the advancement of women and gender equality

The Council adopted conclusions on "the effectiveness of institutional mechanisms for the advancement of women and gender equality" ([17605/13](#)).

Based on a report prepared by the European Institute for Gender Equality, the conclusions call on the member states, in particular, to pursue *de facto* gender equality, *inter alia* by ensuring the effective and efficient functioning of institutional mechanisms (e.g. equality bodies).

The conclusions include four non-binding indicators (one of which is new, three having already been established in 2006).

With the aim of monitoring the implementation of the 12 critical areas for action identified in the Beijing Platform, successive presidencies have worked on the collection and analysis of data and the elaboration of indicators in a specific critical area. The Lithuanian Presidency has chosen to focus on institutional mechanisms, a topic previously addressed under the Finnish Presidency in 2006.

The Beijing Platform for action is an international agenda for women's empowerment established within the framework of the United Nations.

Any other business

New Commission initiatives

The Commission presented to the Council the following new initiatives:

- Communication from the Commission on "free movement"
- Proposal for an amending directive on seafaring workers

Ongoing issues

- The presidency informed the Council about ongoing issues.
- The incoming Greek presidency informed the Council about its work programme.

HEALTH AND CONSUMER AFFAIRS

Medical devices

Ministers exchanged views on two draft regulations on medical devices and on in vitro diagnostic medical devices in order to give guidance for future presidencies' work. The discussion was based on a presidency progress report ([16610/13](#)) and guided by a presidency questionnaire ([16610/13](#)).

Ministers stressed the importance of striking the right balance between reinforcing patient safety on the one hand and accelerating access to innovations on the other, while avoiding an increase in the administrative burden.

Many member states called for a reinforcement of the medical devices supervision process, the majority of them preferring to strengthen pre-market measures such as the scrutiny mechanism or the certification of notified bodies. Some insisted that the powers and the scope of action of notified bodies should be reinforced and subject to further requirements. As regards high risk medical devices a few delegations considered that they should be subject to a systematic scrutiny mechanism. Several delegations emphasised the need to reinforce post-market measures such as the tracing of medical devices as well.

Many delegations opposed the reprocessing of medical devices classified by the manufacturer as "single use" and considered that if reprocessing was allowed at EU level, operators should be subject to the same requirements as manufacturers. Referring to possible cost savings through reprocessing some delegations wanted to make sure that only medical devices which could not be reprocessed to be classified as "single use". Others preferred to let member states decide on national level whether medical devices could be reprocessed, as long patient safety was ensured.

Medical devices cover a huge spectrum of products, ranging from sticking plasters, corrective glasses or dental filling material to bone screws, heart valves and breast implants, including all X-ray or scanner machines. Likewise, there is a wide range of in vitro diagnostic medical devices which include, for instance, blood tests and other products which provide information on the physiological or pathological state.

Unlike medicinal products medical devices and in vitro diagnostic medical devices are not subject to any pre-market authorisation but to a conformity assessment which, depending on the risk potential of the product, involves an independent third party, the notified body. Notified bodies are designated and monitored by the member states and act under the control of the national authorities.

The Commission proposals ([14493/12](#) + [14499/12](#)) are aimed at strengthening the transparency and safety of available medical devices and in vitro diagnostic medical devices, increasing their traceability, beefing up market surveillance and reinforcing the powers of so-called notified bodies.

Modern, responsive and sustainable health systems

The Council adopted conclusions on the ongoing reflection process on a modern, responsive and sustainable health system.

The conclusions ([16570/13](#)) take stock of the progress achieved since the reflection process was launched in June 2011, review the challenges which national health systems currently face and invite the Commission and the member states to make further efforts in order to identify effective ways of investing in health.

Any other business

Ongoing issues

The Presidency informed the Council about the state of play in negotiations on:

- A draft revised EU tobacco directive aimed at making tobacco products less attractive by strengthening the rules on how tobacco products can be manufactured, presented and sold. The revision addresses labelling and packaging of tobacco products, additives such as flavourings, internet sales of tobacco products and tracking and tracing of these products. It also seeks to regulate products which do not contain tobacco but which are closely linked to smoking or tobacco consumption, such as electronic and herbal cigarettes. The presidency's objective is to conclude the negotiations with representatives of the European Parliament and of the Commission at a trilogue on 16 December.
- A draft regulation concerning clinical trials, aimed at speeding up the authorisation of investigations of medicines in humans while maintaining the high standards of patient safety. The presidency intends to conclude negotiations with the European Parliament by the end of the year.
- A draft regulation imposing fees on marketing authorisation holders for the European Medicines Agency if it contributes to the safety monitoring of medicinal products for human use ("pharmacovigilance"). The Commission proposal is aimed at ensuring that the new pharmacovigilance procedures carried out at EU level by the European Medicines Agency and national competent authorities are financed adequately, as these activities constitute a key contribution to strengthening and rationalising the system of safety monitoring of medicines in the EU.

Outcomes and conferences of the Lithuanian presidency

The presidency informed the Council about the outcomes achieved and conferences held under its auspices ([16572/13](#)).

Working Party on Public Health at Senior Level

The presidency informed the Council about the work done by the Working Party on Public Health at Senior Level ([16661/13](#)).

Patients' rights in cross-border healthcare

The Commission informed the Council about the transposition of directive 2011/24 on the application of patient's rights in cross-border healthcare and urged the member states which have not yet transposed the directive to go forward ([16632/13](#)). Directive 2011/24 was due to be transposed by the member states by 25 October 2013.

Joint procurement of medical countermeasures

The Commission informed the Council about the joint procurement of medical countermeasures ([16631/13](#)). Following the pandemic vaccines shortage in 2009 the Council and the European Parliament agreed on a legal basis for a joint procurement procedure of medical countermeasures, provided for by decision 1082/2013 on serious cross-border health threats. A joint procurement agreement is currently being finalised and will be submitted for signature and ratification by all member states in January 2014. It will enter into force once one third of the signatory states have ratified it (or have notified the Commission that they can approve it without a ratification procedure). Member states that have signed the agreement are not obliged to participate in the procurement of medical countermeasures.

"Traffic lights" nutrition labelling system

The Italian delegation expressed concerns about the possible impact of a recommendation of the British Department of Health for a "traffic lights" nutrition labelling system on the free movement of goods, traditional regional food products and health information for consumers ([16575/13](#)). Italy received support from the Slovak, Luxembourg, Spanish, Cyprus, Portuguese, Slovenian, French, Romanian and Greek delegations.

Work programme of the incoming presidency

The Greek delegation informed ministers of its work programme in the field of health and consumer affairs as the incoming Presidency of the Council of the EU.

OTHER ITEMS APPROVED

FOREIGN AFFAIRS

Support for the destruction of Syria's chemical weapons

The Council allocated EUR 2.3 million from the EU budget to support the Organisation for the Destruction of Chemical Weapons (OPCW), contributing to costs associated with the destruction of Syrian chemical weapons. The funds will go to provision of situation-awareness products related to the security of the OPCW-UN joint mission, through the delivery to OPCW of satellite imagery and related information products of the EU Satellite Centre.

EU support to disarmament in South-East and East Europe

The Council agreed to step up its support the South-East and East Europe clearinghouse for the control of small arms and light weapons (SEESAC) in Belgrade. The EU will contribute with EUR 5.1 million to the implementation of a project to reduce the threat of the illicit spread and trafficking of small arms and light weapons and their ammunition in South-East Europe.

COMMON SECURITY AND DEFENCE POLICY

EUTM Mali

The Council amended the legal basis for the EU training mission in Mali (EUTM Mali) so as to provide the mission with a project cell to manage projects of member states and third states in support of its mandate.

EU Operations Centre

The Council extended the activation of the EU Operations Centre for the Common Security and Defence Policy (CSDP) missions and operation in the Horn of Africa for one year, that is until 22 March 2015. The Operations Centre coordinates and increases synergies between EUNAVFOR Somalia - Operation Atalanta, the EU training mission (EUTM) in Somalia and the EU mission for regional maritime capacity building in the Horn of Africa (EUCAP Nestor). Captain Ad Van Der Linde remains Head of the Operations Centre.

EXTERNAL RELATIONS

Amendment to annex II to the EEA agreement

The Council adopted a decision on the position to be taken on behalf of the EU within the EEA joint committee concerning an amendment to annex II (technical regulations, standards, testing and certification) to the EEA agreement ([15552/13](#)).

By this decision, the EEA EFTA member states will be able to comply with regulation (EU) No 528/2012 on biocides and to be associated with the work of the European Chemicals Agency in this regard.

CUSTOMS UNION

Jet fuel imports – Removal of customs duties

The Council adopted a regulation removing duties on jet fuel imports as from 1 January 2014 ([16241/13](#)).

The suspension of duties for jet fuel will avoid a price increase of price that would otherwise have occurred due to the application of the new scheme of generalised tariff preferences, which starts running as from 1 January 2014.

From that date, a number of exporting countries of jet fuel will cease to benefit from preferential access to the Union market. The imposition of customs duties on jet fuel from those suppliers would likely cause an increase in the price of jet fuel in the EU as it is not economically viable for refineries in the EU to increase their production of aviation fuel to any significant degree.

Currently, a high percentage of jet fuel imports to the Union originate in countries that already benefit from preferential access to the Union market, and thus in practice the imports are duty-free.

The suspension of the duties for jet fuel, currently at 4.7%, will be reviewed within five years.

The new regulation amends regulation 2658/87 on the common customs tariff.

Protocol against illicit tobacco trade - World Health Organisation

The Council authorised the signing of a protocol to eliminate illicit trade in tobacco products to the WHO Convention on tobacco control.

The protocol consists of core provisions on the control of the supply chain of tobacco products and of equipment for manufacturing those products².

The 2003 Framework Convention on tobacco control, which aims at reducing tobacco-related deaths and diseases around the world, recognises that the elimination of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, is an essential component of tobacco control, and obliges parties to adopt and implement effective measures to eliminate illicit trade.

The protocol is open for signature by the parties until 9 January 2014.

Sanitary articles - Simplified classification tariff system

The Council adopted a regulation aimed at simplifying the combined nomenclature and the tariff structure for imports of sanitary articles, by amending regulation 2658/87 on the common customs tariff ([16243/13](#)).

There will be four categories of sanitary articles instead of eight, associated with a single rate of duty.

² http://www.who.int/mediacentre/news/releases/2013/fctc_20130110/en/

INTERNAL MARKET

Noise limits for motor vehicles

The Council reached political agreement on a draft regulation aimed at reducing the sound level of motor vehicles.

The agreement follows the conclusion of negotiations with representatives of the European Parliament on 5 November 2013, where both parties agreed *ad referendum* on the text of the draft regulation.

The Council's position at first reading will be forwarded to the European Parliament with a view to its final approval on second reading under the legislative procedure.

The regulation is aimed at improving environmental protection and public safety and at ensuring a better quality of life and health, by reducing major sources of noise caused by motor vehicles.

It will introduce a new test method for measuring noise emissions and lower the limit values for the type-approval of motor vehicles. It will also address for the first time the issue of the minimum noise level of electric or hybrid electric vehicles.

The main features of the agreement include the setting of noise limit values for the different vehicle categories and a timeframe for implementation, labelling and consumer information, the development of acoustic alert systems and the impact of the road surface.

For more information see press release [16326/13](#).

TRANSPORT

Galileo - access to public regulated services

The Council ruled in respect to a decision on common minimum standards related to access to public regulated services provided by the global navigation satellite system established under the Galileo programme.

ENVIRONMENT

Export and import of dangerous chemicals

The Council decided not to oppose the adoption of a Commission regulation amending annex I to regulation (EC) No 689/2008 of the European Parliament and of the Council concerning the export and import of dangerous chemicals ([15479/13](#)).

The Commission regulation is subject to the so called regulatory procedure with scrutiny. This means that now that the Council has given its consent, the Commission may adopt the regulation, unless the European Parliament objects.

APPOINTMENTS

Committee of the Regions

The Council appointed Mr Frank ZIMMERMANN (Germany) as a member of the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2015 ([16865/13](#)).

TRANSPARENCY

Public access to documents

On 9 December 2013, the Council approved:

- the reply to confirmatory application No 21/c/02/13 ([15672/1/13 REV 1](#)).
-