



Brussels, 16 December 2009

BACKGROUND¹
TRANSPORT, TELECOMMUNICATIONS AND ENERGY COUNCIL
(transport and telecommunications items only)

Brussels, Thursday 17 and Friday 18 December 2009

Transport session on 17 December

The Council meeting will start at 10.00. It will be chaired by Ms Åsa Torstensson, minister for communications of Sweden.

*The Council will seek a political agreement on a regulation on the **rights of bus and coach passengers**.*

*Concerning the European satellite radio-navigation programmes (Galileo), the Council is due to reach a general approach on a regulation on the **European Global Navigation Satellite System (GNSS) agency**.*

*The Council will take note of the state of play on a directive regarding the deployment of **Intelligent Transport Systems** in the field of road transport*

*Moreover, it is expected to adopt conclusions on a communication from the Commission outlining the priorities for the **future European transport policy**.*

As regards the aviation sector, the Council will

- *take note of a progress report regarding a proposal for a directive on **aviation security charges**.*
- *authorise the Commission to negotiate a cooperation **agreement with the International Civil Aviation Organisation (ICAO)**.*
- *be informed by the Commission on the progress of the second stage **air services negotiations with the United States**.*

*In the field of shipping policy, the Council will attempt to reach a general approach on a draft directive on **reporting formalities for ships** arriving in or departing from EU ports.*

¹ This note has been issued under the responsibility of the Press Office.

All transport items, except the conclusions on the future for transport, the authorisation to open negotiations and the information by the Commission on negotiations, concern legislative acts and will accordingly be dealt with in public session.

Over lunch, transport ministers will discuss the issue of "green corridors", that is, freight transport corridors combining different modes of transport and advanced technology to achieve energy efficiency and reduce environmental impact.

The presidency will hold a press conference at +/- 15.30.

Telecommunications session on 18 December

The Telecommunications session will start, under the chair of Åsa Torstensson, Minister for Communication, on Friday 18 December at 10.00.

All items will be taken in public deliberation.

*The Council will hold a policy debate on the future of **the i2010 strategy**, based on a Commission report of the main achievements of the i2010 strategy over the period 2005-2009; the Council is due to adopt conclusions on the subject.*

*Ministers are then expected to adopt conclusions on the Communication from the Commission titled "**transforming the digital dividend into social benefits and economic growth**".*

*The Council will also adopt a resolution on collaborative European approach on **Network and Information Security**.*

Over lunch Ministers will discuss Next Generation Networks (NGN).

Press conference: *at the end of the meeting (+/- 12.15).*

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Press conferences and public events can be followed by video streaming:
<http://video.consilium.europa.eu/>

TRANSPORT SESSION - THURSDAY 17 DECEMBER

LAND TRANSPORT

Rights of passengers in bus and coach transport

In public deliberation, the Council will seek a political agreement on a draft regulation on passengers rights in bus and coach transport ([17412/09](#)).

The objective of the proposal is to strengthen the rights of bus and coach passengers as regards assistance to persons with disabilities or reduced mobility, compensation issues, passenger information and handling of complaints.

The most difficult issue still to be resolved concerns the **scope** of the draft regulation. The presidency proposes that the legal act should apply to regular services in general, while providing for a range of possible exemptions. So urban, suburban and regional services may be exempted, except from the rules on compensation and non-discrimination. A transitional exemption of maximum 15 years may be granted for domestic regular services in general as well as for particular regular transport links with countries outside the EU. Non-commercial own-account transport and special regular services reserved for a specific category of passengers would remain outside the scope. Occasional services would have to comply with the rules on compensation and non-discrimination, but not the other provisions.

A considerable number of member states, however, would prefer to restrict the scope to national and international regular services, arguing above all that in view of national specificities of regional or sub-regional services, regulating such services should be left to the member states; in addition, inclusion of those services would generate important financial costs for the carriers.

The draft regulation contains in particular rules on

- compensation in the event of **accidents** for death or injury of passengers as well as for loss of or damage to their luggage. In this respect ceilings per passenger for financial compensation under national law must respect the minimum amounts set in the regulation. Damage to assistive devices such as wheelchairs has to be compensated entirely. Moreover, the provisions include assistance to cover passengers' immediate practical needs after an accident.
The issue of liability, that is, of who eventually has to pay for compensation, is to be dealt with in accordance with national law, in order to take account of diverging legislations on this subject in different member states;
- non-discrimination and assistance concerning **disabled persons** and persons with reduced mobility: they shall not be refused transport except for safety reasons or for lack of necessary infrastructure. No extra charge shall be asked. Assistance is to be provided at specific terminals designated by member states, subject to prior notification of the need for assistance. An accompanying person has the right to be carried free of charge;
- passenger rights in the event of **cancellation or delay** of a journey: carriers shall offer the choice between continuation of the journey or re-routing or else reimbursement. In addition, assistance shall be offered in form of provision of snacks, meals or refreshments as well as in finding accommodation, where necessary.

The obligations under this draft regulation do not imply technical requirements for the carriers to modify or replace vehicles or infrastructure and equipment at terminals.

The proposal is part of a general EU policy to ensure equal treatment of passengers, regardless of the mode of transport chosen, while reinforcing passenger rights, with particular attention paid to non-discrimination of persons with disabilities or reduced mobility. Similar legislation has been adopted for air and rail transport and is underway for ship passengers.

The Commission presented its proposal in December 2008 (16933/09). The European Parliament adopted its first-reading opinion in April 2009. If political agreement is reached, the Council will be able to adopt its first-reading position on the proposal at a forthcoming meeting and to transmit it to the European Parliament for the second reading.

Legal basis: articles 91 (1) and 294 of TFEU (Treaty on the Functioning of the EU); voting by qualified majority; ordinary legislative procedure (i.e. co-decision procedure between the Parliament and the Council).

INTERMODAL QUESTIONS AND NETWORKS

European Global Navigation Satellite System (GNSS) agency

In public deliberation, the Council is due to reach a general approach, pending the European Parliament's position at first reading, with regard to a draft regulation amending the 2004 regulation on the structures for the management of the European satellite radio-navigation programmes ([17240/09](#)).

The objective of the proposed regulation is to bring regulation 1321/2004, which established a European Global Navigation Satellite System Supervisory Authority, now to be called "European GNSS agency", into line with the rules adopted in 2008 for the governance and financing of the European satellite navigation programmes.

The rules, introduced by regulation 683/2008 on the further implementation of those programmes, take account of the fact that the concept of private management of the navigation satellite programme Galileo, as initially provided for in the regulation of 2004, had been abandoned. As a consequence, the entire responsibility for the management has been given to the Commission and ownership of all Galileo assets has been transferred to the EU.

It has therefore become necessary to adapt regulation 1321/2004 accordingly. To this end, the new draft regulation

- redefines the relation between the agency and the Commission by strengthening the powers of the Commission, which will provide the guidelines for the agency's work.
- establishes rules for security accreditation. While the Commission keeps the general responsibility for all security matters, security accreditation and the operation of the Galileo security monitoring centre will be in the remit of the agency. A Security Accreditation Committee will be set up as an autonomous body within the agency, to deal with tasks such as approval of the security accreditation strategy and of satellite launches, authorisation to operate systems and services as well as authorisation to manufacture certain products.

Ministers might address the issue of clarifying whether the staff regulations for EU officials, applicable to the staff of the agency, also apply to the staff of the Galileo Security Monitoring Centre (GSMC) operated by the agency.

The Commission submitted its proposal ([6257/1/09](#)) in March 2009. During the discussions in the Council preparatory bodies, the proposal has been substantially modified as regards the provisions on security accreditation. The European Parliament's position at first reading is expected for early 2010.

Legal basis: articles 172 and 294 of TFEU (Treaty on the Functioning of the EU); voting by qualified majority; ordinary legislative procedure (i.e. co-decision procedure between the Parliament and the Council).

Intelligent Transport Systems

In public deliberation, the Council will take note of the state of play regarding a proposal for a directive on the deployment of Intelligent Transport Systems (ITS) in the field of road transport.

The objective of the proposed directive is to accelerate and to coordinate deployment of interoperable ITS in road transport, including interfaces with other transport modes, by creating the necessary conditions and mechanisms through a coherent EU-wide framework.

The Commission proposal, presented in December 2008 ([17564/08](#)), has been considerably modified during its examination by the Council preparatory bodies, which also took into account the European Parliament's first-reading opinion of April 2009 ([8899/09](#)). Moreover, changes have been introduced following several informal talks with the European Parliament in recent weeks in order to prepare the ground for swift adoption by both institutions once the Council has adopted its position at first reading.

The key question where opinions diverged until recently is if or to what extent the deployment of ITS applications and services should be mandatory. Many member states think, notably in view of the financial and administrative implications, that any decision to deploy ITS services should be taken at national level. Other member states initially favoured making at least some ITS services mandatory, but were not unanimous which services should be chosen. The European Parliament, in its first-reading opinion, advocated mandatory introduction of certain ITS services. Now it seems a compromise solution has been found. The solution envisaged includes, on the one hand, an assurance to member states that they will have the final say on the deployment of ITS on their territory, and on the other hand, a two-stage procedure for introducing ITS through EU legislation: first, the Commission adopts the necessary specifications for the action concerned; then, within 12 months and, where appropriate, after an impact assessment, the Commission presents a proposal for deployment of this action to the European Parliament and the Council, which will jointly decide upon it.

Member states would be able to accept this compromise solution, although some of them still fear that the non-mandatory character of the deployment provisions might not be clear enough and consider making a statement on this issue. The European Parliament has just signalled that it too can, in substance, accept this compromise.

Intelligent Transport Systems integrate telecommunications, electronics and information technologies with transport engineering in order to plan, design, operate, maintain and manage transport systems.

To foster the deployment of ITS, the proposed directive defines priority areas and priority and other actions within those areas. The Commission will have the task of establishing specifications for the actions planned in the priority areas. The priority areas and corresponding main actions outlined in the draft directive include:

- optimal use of road, traffic and travel data;
priority actions: EU-wide multimodal travel and real-time traffic information services as well as road safety related minimum universal traffic information services
- continuity of traffic and freight management ITS services;
(actions: e.g. ensuring information flow; tracking and tracing of freight)
- ITS road safety and security applications;
priority actions: EU-wide eCall services as well as reservation and information systems services for safe and secure parking places for trucks and commercial vehicles

Similar initiatives integrating information and communication technologies for transport management purposes are pursued in other areas. For example, work is under way on traffic management systems for railways (ERTMS) and aviation (SESAR); in the shipping sector, a maritime information exchange system (SafeSeaNet) and a vessel traffic monitoring and information system (VTMIS) are already in place.

Legal basis: article 91 of TFEU (Treaty on the Functioning of the EU); voting by qualified majority; ordinary legislative procedure (i.e. co-decision procedure between the Parliament and the Council).

A sustainable future for transport

The Council is expected to adopt conclusions on a Commission communication on a sustainable future for transport, presented by the Commission and discussed in public debate at the last Transport Council meeting in October.

The conclusions will give guidance for the preparation of a new White Paper on the European transport policy agenda for the period from 2011 to 2020, which the Commission is expected to publish in the second half of 2010. The previous White Paper setting out the transport policy agenda until 2010 was issued by the Commission in 2001 and reviewed at mid-term in 2006.

In its communication ([11294/09](#)), the Commission took stock of developments in the transport sector in the last years and described trends and challenges ahead as well as possible paths for a future transport policy.

The draft conclusions acknowledge the challenges identified in the communication (climate change and other environmental challenges, globalisation, ageing, migration, scarcity of fossil fuels, urbanisation) and the urgency to move to an eco-efficient economy. Integrating the results of the Council debate of October and developing further certain aspects, the conclusions outline the priorities to be taken into account when designing the European transport policy for the next

decade. The wide range of topics addressed includes issues such as:

- more efficient use and better integration of all modes of transport;
- development and introduction of traffic management tools and intelligent transport systems;
- innovative and energy-efficient technologies;
- internalisation of external costs in all modes of transport;
- safety and security of transport users;
- fostering cohesion and mitigating regional differences within the EU in the field of transport;
- enhanced international cooperation, in particular with neighbouring countries.

There remains one major issue ministers are likely to address: some member states would like to introduce the term "modal shift" into the text in order to underline that there should be a move to more environment-friendly modes of transport. A large number of delegations, however, while supporting more ecological means of transport, fear that the term could be understood as allowing to penalise one particular mode of transport, namely road transport.

AVIATION

Aviation security charges

In public deliberation, the Council will take note of a progress report (17393/09) on a proposal for a directive establishing common principles for the levying of security charges at EU airports.

The purpose of the proposed legislation is to ensure that security charges are set and levied in a non-discriminatory and transparent way throughout the Union, but not to fix the level of those charges nor to determine the methods for financing security measures, which will remain under the responsibility of each member state. The new framework should allow air carriers to know on what basis the charges are calculated and to enter into a dialogue with the bodies setting or applying such charges.

To this end, the text provides for regular **consultations** between air carriers and the body responsible for the charges. Moreover, it contains **transparency** rules designed to ensure that carriers, on the one hand, obtain information on the methodology, components and structure of the charges and, on the other hand, give information on their transport projects and requirements to the responsible body so that these elements can be taken into account.

In addition, member states which introduce more stringent aviation security measures than the common standards and as a consequence propose a modification of the security charges would be required to undertake an **impact assessment** showing the effects of the costs of those measures on the level of the charges.

Furthermore, the proposed directive would establish the principle of **cost-relatedness**, meaning that security charges shall not exceed security costs levied.

Each member state should have an independent **supervisory authority** to ensure correct implementation of the measures taken to comply with the directive; this authority would also have the task to develop procedures for resolving disagreements between carriers and the responsible bodies.

The Council preparatory bodies dealing with this file were able to resolve many technical difficulties resulting from the different charging and regulatory systems in place in individual member states. The key issue where positions still differ is the **scope** of the proposed legislation. Under the original Commission proposal, the directive would apply to all EU airports. At the current stage of discussions, the presidency proposes that all commercial EU airports with annual traffic of over five million passenger movements should be covered. A broad majority could support this. A number of delegations, however, would prefer to include all commercial airports or to lower the threshold for passenger movements, whereas the member states sticking to the threshold of five million passengers fear that this might entail an important administrative burden.

The provisions on impact assessment and cost-relatedness as well as a possible exemption from the obligation to have an independent supervisory authority are also issues on which ministers might wish to express their views.

The Commission submitted its proposal in May 2009 ([9864/09](#)) in response to a commitment it made to the European Parliament in 2007 during the negotiations leading to the adoption of framework regulation 300/2008 on aviation security. The European Parliament has recently started its examination of the proposal.

Legal basis: article 100 (2) of the of TFEU (Treaty on the Functioning of the EU); qualified majority voting under the ordinary legislative procedure (i.e. co-decision procedure between the Parliament and the Council).

Cooperation agreement with the ICAO

The Council is due to authorise the Commission to open negotiations on a memorandum of cooperation with the International Civil Aviation Organisation (ICAO), providing a general framework for enhanced cooperation.

The development of mutual cooperation between the EU and ICAO would ensure that EU interests are taken into consideration as much as possible within ICAO. On the other hand, it would allow ICAO and its contracting parties to better benefit from developments in the EU in the field of aviation.

The agreement could potentially cover all aspects of the EU aviation-related legislation and policies in fields such as aviation safety, aviation security, air traffic management and environmental protection. It might, for example, provide for systematic exchange of information, technical support and cooperation with regard to regulatory developments in all those fields.

The Commission submitted its recommendation for a decision to authorise such negotiations in June 2009.

Second stage air services negotiations with the United States

The Council will be informed by the Commission on the progress of the second stage air services negotiations provided for in the EU-US "Open Skies" agreement, which was signed in 2007 and entered into provisional application in March 2008.

While the 2007 agreement established a framework for regulatory cooperation with the US and brought new commercial freedoms for airline operators, it did not fully open access to the US

domestic market. It included therefore a roadmap for second stage negotiations, which have been initiated in 2008. The aim is to reach a second stage agreement in 2010, as underlined by the EU-US summit last November.

Significant progress has already been achieved on regulatory aspects of the agreement, namely on further enhancing regulatory cooperation, on aviation security issues and on mutual acceptance of decisions relating to airline ownership and management.

The main issues still to be addressed include securing full market access, removing barriers for investing in each other's airlines, and environmental matters. The next rounds of negotiations are scheduled for January and February 2010.

SHIPPING

Reporting formalities for ships

In public deliberation, the Council will try to reach a general approach, pending the European Parliament's position at first reading, on a draft directive on the reporting formalities to be fulfilled by ships arriving in or departing from EU ports in maritime transport ([17414/09](#)). The proposed legislation is to replace directive 2002/6/EC on the same subject.

The draft directive aims at simplifying and harmonising administrative procedures, in particular by generalising electronic data transmission for complying with reporting formalities. The information received shall to the greatest extent possible be transmitted through the Union's maritime data exchange system SafeSeaNet. The use of the paper format for reporting will be phased out.

This focus on electronic data transmission has been agreed during the discussions in the Council working party since the broader approach originally proposed by the Commission was found lacking in clarity. However, the draft directive as it stands also contains a more general provision in favour of further harmonisation of reporting formalities on national and EU level.

As the directive does not create new reporting formalities, ships currently exempted from such obligations will remain outside its scope of application. Moreover, countries without any sea port will not be required to transpose the directive in respect of ports.

Some ministers may wish to take the floor on aspects such as the relationship with other EU legislation, in particular regarding customs rules and the Schengen border code.

The proposal is among a number of measures announced by the Commission in a communication from January 2009 ([5775/09](#)) with a view to creating a European maritime transport space without barriers.

The Commission presented its proposal in January 2009 ([5789/09](#)). The adoption of the draft directive is subject to the ordinary legislative procedure (that is, co-decision procedure with the European Parliament). The Parliament has started its examination of the text this autumn.

Legal basis: article 100 (2) of TFEU (Treaty on the Functioning of the EU); voting by qualified majority; ordinary legislative procedure (i.e. co-decision procedure between the Parliament and the Council).

Other business

- Integrated Maritime Policy including Integration of Maritime Surveillance
 - Information from the presidency
- Revised Annex VI to the MARPOL Convention - monitoring of developments and implications
 - Information from the Finnish delegation
- State of play of the situation of the transport sector in Europe
 - Information from the Commission
- Outcome of the ministerial conference "TEN-T Days 2009" (Naples, 21-22 October 2009)
 - Information from the Commission and the Italian delegation
- Road safety: providing sufficient resources and improving vehicle and infrastructure quality
 - Information from the Italian delegation
- State of play of Galileo full operational capability procurement process
 - Information from the Commission
- Agreement on the Establishment of a Danish-Swedish Functional Airspace Block
 - Information from the presidency
- Work programme of the incoming presidency
 - Information from the Spanish delegation

TELECOMMUNICATIONS SESSION - FRIDAY 18 DECEMBER

Post - i2010 strategy/ towards an open, green and competitive knowledge society

The Council will hold a **policy debate** and will be called on to adopt conclusions on the future of the i2010 strategy, on the basis of a report from the Commission ([12600/09](#)).

The debate is meant to contribute to forthcoming Commission initiative to succeeding the i2010 strategy; it will be steered by the following two questions suggested by the Presidency ([16644/09](#)):

- *Which are the new post-i2010 priorities in view of ensuring growth, job creation and a sustainable EU?*
- *How the Internet and other "social media" may involve citizens further in policy making ?*

The initial i2010 strategy was designed as the strategic framework for Europe's information society and media policies. It has given an important boost to the development of the EU's telecoms and media industries and has become an integral part of the Lisbon strategy.

Its ultimate goal is to complete the single market for Information and Communication Technologies (ICT) products and services to benefit European consumers, businesses and administrations.

As the current programme will come to an end by next year, the Commission transmitted to the Council a report on the main achievements of it over the period 2005-2009. It also launched a consultation for a new digital agenda following the i2010 strategy with all stakeholders. In this context, the Presidency convened a high level conference called *Visby Agenda, creating impact for an eUnion 2015*.

Taking stock of the above, the Council intends to draw up **conclusions** which will list items that should be addressed in the new "digital agenda for Europe". This new agenda is planned to be adopted by the Commission in Spring 2010 and to be debated under the Spanish Presidency.

The draft conclusions underline *inter alia* following issues:

- The importance of fostering the open, decentralised and dynamic nature of the Internet, promoting its further expansion,
- the importance of developing solutions to electronic identification that guarantee data protection and respect citizens' privacy,
- accessibility for everyone is key to achieving an inclusive, empowering knowledge society.

The digital dividend

The Council will be invited to adopt conclusions, on the basis of a communication from the Commission, on transforming the digital dividend into social benefits and economic growth ([15289/09](#)).

In its communication, the Commission calls on the member states on a coordinated approach to the switchover from analogue to digital broadcasting and to the (technical) use of the resulting digital dividend.

The switchover from analogue to digital terrestrial TV in Europe will free up highly valuable radio frequencies; this "digital dividend" has great potential for the provision of a wide range of services. It represents a unique opportunity for Europe to provide wireless broadband to rural areas to stimulate the take-up of new wireless services and to support the development of terrestrial broadcasting.

Taking into account that this switchover is expected to be finalised by the Member States between now and the end of 2012, the purpose of the Council conclusions is to achieve a certain level of technical and political coordination among the member states in view of a future harmonised use of the digital dividend.

The draft conclusions, in particular:

- Highlight the fact that **radio spectrum** is a scarce resource that needs to be used efficiently,
- stress the importance of the **digital dividend** in helping to provide high speed broadband services in rural areas,
- invite the member states to contribute to the development of a common EU approach towards **spectrum coordination** issues with **third countries**.

Network and Information Security

The Council is expected to adopt a resolution on collaborative European approach on network and information security (NIS).

The resolution responds firstly to the Commission's communication on this subject (8375/09) whose objective is to develop an EU policy on the protection of critical information infrastructure. Since electronic communication services and networks are highly interconnected and interdependent, their disruption or destruction would have a serious impact on vital societal functions spreading beyond national borders.

Secondly, the resolution recalls the debate held by the Council in June on security issues in general and on this communication in particular, while taking into account the results of the Tallinn conference² on network security of April 2009 and of the Commission's on-line public consultation on the possible objectives for a modernised network and information security policy.

Moreover, a proposal from the Commission concerning the future of the European Network and Information Security Agency (ENISA) is expected during the Spanish Presidency, who is envisaging to address the proposal in the May 2010 TTE Council.

The resolution addresses these issues giving an orientation for the future and in particular,

- notes that security incidents risk undermining user confidence in technology, networks and services,
- underlines that a high level of NIS in the EU is needed in order to support the freedoms and rights of citizens, including the right to privacy,
- recognises the need for increased awareness and tools for risk management for all stakeholders.

The resolution is to be published in the Official Journal.

² for more information see:
http://www.tallinnciip.eu/doc/EU_Presidency_Conclusions_Tallinn_CIIP_Conference.pdf

Other business

- Internet governance

The Presidency will inform delegations on the recent activities concerning Internet governance under the Swedish Presidency, including the Internet Governance Forum (IGF) in Egypt in November 2009.

- Working programme of the incoming Presidency

The Spanish delegation will inform the Council on the major outlines of the work programme of the future Presidency.
