



Brussels, 25 November 2009

Background¹

EMPLOYMENT, SOCIAL POLICY AND HEALTH COUNCIL

Brussels, 30 November and 1 December 2009

*The Council's meeting will start on both days at 10.00. Employment and social policy items will be dealt with on 30 November under the chair of Mr **Sven Otto LITTORIN**, Swedish minister for Employment and Ms **Nyamko SABUNI**, Swedish minister for Integration and Gender Equality. Health items will be addressed on 1 December under the chair of Ms **Maria LARSSON**, Swedish minister for Elderly Care and Public Health, and Mr **Göran HÄGGLUND**, Swedish minister for Health and Social Affairs.*

Employment and social policy

*The Council will hold two public policy debates. The first debate will focus on **how to recover from the crisis and prepare for the post-2010 Lisbon Strategy**. Within this context, ministers are expected to adopt conclusions on **promoting labour market inclusion - recovering from the crisis and preparing for the post-2010 Lisbon Strategy**. The second debate will highlight **gender equality: strengthening growth and employment**. Ministers are expected to adopt also conclusions on this topic.*

The Council will also endeavour to adopt conclusions on

- **healthy and dignified ageing, and on**
- **the follow-up of the implementation of the Beijing Platform of Action - "Beijing 15+": a review of progress.**

The Council will endeavour to reach political agreement on

- **a draft directive giving legal effect to a revised framework agreement on parental leave concluded by the social partners on European level,**
- **a decision authorising member states to ratify the work in fishing convention of the International Labour Organisation and on**
- **a draft directive on the principle of equal treatment between men and women engaged in an activity in a self-employed capacity.**

*Finally, the Council will be informed by the Presidency about the state of play in the discussions on the Commission's proposal concerning a **draft directive on the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation**.*

¹ This note has been drawn up under the responsibility of the press office.

Public Health

*The Council plans to reach political agreement on a draft directive on **patients' rights in cross-border healthcare**.*

Ministers will adopt conclusions on

- ***innovative incentives for effective antibiotics,***
- ***safe and efficient healthcare through eHealth and***
- ***alcohol and health.***

*Furthermore, ministers will have an exchange of views on **pandemic A(H1N1)** as an update and follow-up to the Council meeting of 12 October 2009, on the basis of information from the Presidency.*

The Presidency will hold press conferences on each day at the end of the session:

Monday 30 November 2009: +/- 13:00 and +/-18:00

Tuesday 1 December 2009: +/- 13:00 and +/- 18:00

Public events may be followed by video streaming at:

<http://www.consilium.europa.eu/videostreaming>

Employment and social policy

RECOVERING FROM THE CRISIS AND PREPARING FOR THE POST-2010 LISBON STRATEGY

The ministers will hold a policy debate on this item.

The discussion will be framed by the following questions suggested by the Presidency:

- *It is evident that the negative effects of the recession require targeted measures which are limited in time. How can we ensure that the necessary measures are implemented in a way which enables us to exit the recession both with structurally stronger labour markets and well-prepared for our long term objectives?*
- *Increased levels of sustainable employment are essential if the EU is to cope with an ageing population and increased global competition. What elements of labour market and social security policies are conducive to creating more inclusive labour markets, in order to ensure an increased labour supply in the long run?*

The policy debate should contribute to preparation of the December European Council conclusions.

During the debate, the Council will adopt conclusions entitled "Promoting labour market inclusion - recovering from the crisis and preparing for the post-2010 Lisbon Strategy" ([16214/09](#)), emphasizing that support measures to the economy and employment should be maintained until sustainable recovery is secured, while exit strategies are in place which lead to more and better jobs. These conclusions are based on the high level conference on labour market inclusion on 26-27 October in Stockholm.

The ministers will also endorse an opinion of the Employment Committee on the European Employment Strategy within the post-2010 Lisbon Agenda ([15529/09](#)) and another from the Social Protection Committee on the post-2010 Lisbon Strategy ([15850/09](#)), supporting calls for a stronger social dimension in the post-2010 Lisbon Agenda.

Beside the opinions from the Employment Committee and the Social Protection Committee the debate will be based on the following documents:

- Commission background paper: "The Employment Crisis: Trends, Policy Responses and Key Actions" ([15995/09](#));
- Second joint report of the Social Protection Committee and the Commission on the social impact of the crisis ([16169/09](#));
- Analytical paper of the Employment Committee: "Bringing more people into labour markets" ([15530/09](#));
- Policy conclusions of the Employment Committee: "The 2009 Cambridge Review of the National Reform Programme - Policy Conclusions" ([16215/09](#)).

REVISED FRAMEWORK AGREEMENT ON PARENTAL LEAVE

The ministers are expected to reach political agreement on a draft directive implementing the revised framework agreement on parental leave concluded by the social partners on European level ([15994/09](#)). This agreement lays down minimum requirements on parental leave designed to contribute to better reconciliation of professional and family life and to promoting gender equality on the labour market. The revised text extends in particular workers' right to parental leave from three to four months for each parent, of which at least one month would be strictly non-transferable. Other new elements compared to the previous agreement of 1995 include the clarification that fixed-term, part-time and temporary agency workers are also covered.

In accordance with the EU treaty, social partners may request jointly that agreements concluded by them at EU level in a number of matters be implemented by a Council decision. The recent agreement on parental leave was concluded in June 2009 between four European cross-industry social partners: BUSINESSEUROPE (Confederation of European Business), UEAPME (European Association of Craft, Small and Medium-sized Enterprises), CEEP (European Centre of Employers and Enterprises providing Public Services) and ETUC (European Trade Union Confederation). It replaces their previous agreement of December 1995 implemented by Council directive 96/34, which will be repealed by the new directive.

HEALTHY AND DIGNIFIED AGEING

The Council will adopt conclusions on healthy and dignified ageing ([14996/09](#)), highlighting the importance of improved cooperation between the member states to enhance dignity in elderly care in the EU.

Member states will be invited to make the issue of healthy and dignified ageing one of their priorities of the coming years and to shift their focus towards preventive measures in order to reduce the burden of chronic diseases, frailty and disability. Healthier ageing would also allow costs for care to be reduced and could partially offset the financial impact of demography in the health and social sectors. The Commission will be invited to consider coming forward with an action plan for further activities in 2011 to promote dignity, health and quality of life for older persons.

WORK IN FISHING CONVENTION

The Council will seek a political agreement on a decision authorising member states to ratify the Work in Fishing Convention of the International Labour Organisation (ILO) in matters within the exclusive competence of the EU (*15960/09 + ADD 1 + ADD 2*).

The Work in Fishing Convention ("Convention 188") which was adopted in June 2007 at the International Labour Conference in Geneva is aimed at improving the working conditions of fishers on board fishing vessels. It establishes, in particular, minimum international standards for the fishing sector, such as the conditions of service, the right of repatriation, rules on accommodation and food, occupational health and safety, medical care and social security.

Legal basis: Article 42 (measures in the field of social security) in conjunction with the second sentence of the first subparagraph of article 300(2) and the first subparagraph of article 300(3) (conclusion of agreements with international organisations); unanimity required for a Council decision; consultation procedure: the European Parliament adopted its resolution in January 2009.

GENDER EQUALITY: STRENGTHENING GROWTH AND EMPLOYMENT

The Council will adopt conclusions on "Gender equality: strengthening growth and employment" ([15488/09](#)), following a public policy debate based on the question: "What actions are required to strengthen gender equality in the post-2010 Lisbon Strategy and to ensure that policy responses to the recession promote gender equality?"

By adopting these conclusions, the ministers will recognise gender equality as being crucial for fulfilling the EU objectives of economic and social cohesion, a high level of employment, sustainable growth and competitiveness, as well as for tackling the demographic challenge. The member states will be invited to strengthen the gender dimension in the post-Lisbon Strategy in 2010 and to reaffirm the European Pact for Gender Equality, adopted by the European Council in 2006. The incoming Spanish Presidency will be invited to ensure that a section on gender is integrated into the key messages to be adopted by the EPSCO Council and forwarded to the Spring European Council of 2010.

The draft conclusions reflect the results of a ministerial conference entitled "What does gender equality mean for economic growth and employment?" organised by the Presidency on 15-16 October in Stockholm. The participants at this conference agreed, in particular, that a high female employment rate can make an important contribution to economic growth.

BEIJING PLATFORM OF ACTION - "BEIJING 15+"

The Council will adopt conclusions on the follow-up of the implementation by the member states and the EU institutions of the Beijing Platform of Action - "Beijing 15+": A Review of Progress ([15992/09](#)).

The conclusions are designed to highlight the need for a more systematic implementation and monitoring of gender mainstreaming. They reflect the content of a Presidency report entitled "Beijing 15+: The Platform for Action and the European Union" which, in particular, called for better data and more effective use of the indicators developed in the context of the Beijing Platform.

The Beijing Platform is a United Nations agenda for women's empowerment, established fifteen years ago at the Fourth World Conference on Women held in Beijing. In March 2010, the United Nations Commission on the Status of Women will undertake the fifteen-year review of the implementation of the Beijing Platform.

SOCIAL PROTECTION OF SELF-EMPLOYED WORKERS AND ASSISTING SPOUSES

The Council will endeavour to reach political agreement on a draft directive aiming at improving the social protection of self-employed workers and of "assisting spouses".

Under the Swedish Presidency, significant progress has been made, in particular on key issues such as the principle of equal treatment (article 3), social protection (article 6) and maternity benefits (article 7).

Some elements still need further discussions, notably with regard to maternity benefits and the directive's legal basis.

The main elements of the Commission's proposal are to grant self-employed women maternity leave rights, to recognise the contribution of assisting spouses to the family business by providing them, at their request, with social protection rights equivalent to at least that of their self-employed partners, and to give national equality bodies competence in cases of discrimination. The majority of assisting spouses are women (farmers' wives are a typical example), and many of them are in a vulnerable position due to the lack of formal recognition and social protection.

The proposal concerning assisting spouses forms part of the Commission's work-life balance package.

Legal basis proposed: Article 141(3) (on equal treatment between women and men) of the Treaty; qualified majority required for a Council decision; co-decision procedure: the European Parliament adopted its first reading opinion on 6 May 2009 ([8840/09](#)).

EQUAL TREATMENT IRRESPECTIVE OF RELIGION, DISABILITY, AGE OR SEXUAL ORIENTATION

On the basis of a progress report ([15575/09](#)), the Presidency will brief the Council on the state of play in the discussions on the draft directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation.

The Commission's proposal seeks to extend the protection against discrimination on the grounds of religion or belief, disability, age or sexual orientation to areas outside the labour market, including social protection, social advantages, education and access to goods and services.

Under the Swedish Presidency, the preparatory bodies of the Council have advanced the discussion to some extent by improving the clarity of the disability provisions, the scope and the respective competences of the EU and its member states. However, further extensive work still needs to be done on numerous issues in order to guarantee legal certainty and to ensure that all newly introduced obligations and their possible cost implications are fully understood. This concerns in particular the accessibility of buildings and infrastructure. In order to meet concerns expressed, the Swedish Presidency has suggested a nuanced implementation calendar where existing infrastructure and buildings would have given longer time than new ones.

Legal basis proposed: Article 13 (on measures against discrimination) of the Treaty; unanimity required for a Council decision; consultation procedure: the European Parliament adopted its opinion on 2 April 2009.

Other business (Employment and social policy items)

(a) **Meeting of the Ministerial Working Group on "The EU economic and employment policies coordination: The future post-2010 Lisbon Strategy"
Liblice, 19-20 October 2009**

- Information from the Czech delegation

(b) **Information on events organised during the Swedish Presidency**

- (i) Conference on "Healthy and Dignified Ageing", Stockholm, 15-16 September 2009
- (ii) Second Meeting of the European Platform for Roma Inclusion: "Improving the quality of education for Roma", Brussels, 28 September 2009
- (iii) Conference on "What does Gender Equality mean for Economic Growth and Employment?", Stockholm, 15-16 October 2009
- (iv) 8th Round Table on Poverty and Social Exclusion "Social Inclusion in Times of Recession", Stockholm, 15-16 October 2009
- (v) Conference on "Inclusive Labour Markets", Stockholm, 26-27 October 2009
- (vi) Conference on "Violence against Women", Stockholm, 9 November 2009
- (vii) Conference Celebrating the 20th Anniversary of the Convention on the Rights of the Child", Stockholm, 20 November 2009
- (viii) Third Equality Summit: "Cooperation for Equality!", Stockholm, 16-17 November 2009
- (ix) Euromed Ministerial Conference "Strengthening women's role in society", Marrakesh, 11-12 November

Work programme of the incoming Presidency

- Information from the Spanish delegation

Health

PATIENTS' RIGHTS IN CROSS-BORDER HEALTHCARE

The Council plans to reach political agreement in public deliberation on a draft directive concerning the application of patients' rights in cross-border healthcare.

Since July 2009, the Swedish Presidency presented several new compromise proposals covering key issues such as the control of the outflow (such as prior authorisation) and the inflow of patients, the general principle for reimbursement of costs and the cooperation on healthcare.

The discussions at the Council meeting will focus mainly on the reimbursement of costs with regard to non-contractual healthcare providers and the definition of the member state of affiliation in relation to pensioners living abroad.

Concerning non-contractual healthcare providers, the search for a compromise is featured by the intention to fully respect the case-law of the European Court of Justice while taking into account the situation in certain member states.

As far as the definition of the member state of affiliation is concerned, two options have been discussed so far: to define the member state of residence as the member state of affiliation (meaning that the state of residence would have to reimburse the costs of cross-border in a third member state of the EU, if its opted for reimbursement for fixed amounts according to the regulation 883/2004) or to consider the member state where the pensioner is insured as the member state of affiliation (i.e. the member state from where the pensioner is coming has to reimburse the costs of cross-border healthcare).

The Commission submitted this legislative initiative as part of the social agenda package of 2 July 2008, focusing on a triple objective: to guarantee that all patients have care that is safe and of good quality, to support patients in the exercise of their rights to cross-border healthcare; and to promote cooperation between health systems. The aim of the second objective is in particular to codify the case law of the Court of Justice relating to the reimbursement of cross-border healthcare.

Legal basis proposed: Article 95 (on internal market) of the Treaty; qualified majority required for a Council decision; co-decision procedure with the European Parliament's first reading opinion voted on 23 April 2009 ([8903/09](#)). The Council is expected to agree to change the legal base for article 13 and 15 of the directive to article 152 of the Treaty.

INNOVATIVE INCENTIVES FOR EFFECTIVE ANTIBIOTICS

The Council will adopt conclusions on innovative incentives for effective antibiotics during a public debate on the same subject ([16006/09](#)).

Recognising that the spread of antibiotic resistance is a major threat to public health security worldwide, the conclusions recall the possible consequences which a lack of effective antibiotics could have. In fact, without access to effective antibiotics, common infectious diseases may again become lethal threats and many medical and therapeutic procedures, such as cancer treatments and transplantations, will carry high risks.

The conclusions include calls to the member states and the Commission to adopt measures diminishing the resistance of the antibiotics and to creating incentives for the research and development of new effective antibiotics. In particular, the Commission is asked to develop a comprehensive action-plan with concrete proposals concerning incentives to develop new effective antibiotics within 24 months.

SAFE AND EFFICIENT HEALTHCARE THROUGH EHEALTH

The Council will adopt conclusions on safe and efficient healthcare through eHealth ([16008/09](#)) during a public debate on this issue.

The conclusions aim essentially to:

- recognise the need for further political leadership and to integrate eHealth into health policy;
- invite the member states to improve eHealth services and develop their use;
- invite the member states and the Commission to empower a high-level mechanism of governance at EU level which would coordinate eHealth activities.

eHealth is considered to be no longer merely a technical tool in the hands of the healthcare operators, but became a political instrument to develop health policy.

eHealth can be understood as the use of information and communication technologies for health purposes, such as for the treatment of patients, research, education, the tracking of diseases and the monitoring of public health. eHealth includes different services:

- electronic health records (which enables easy communication of patient data between doctors or pharmacies);
- telemedicine (in situations where the health professional and the patient are not in the same location; this includes for example teleradiology and telepathology);
- consumer health informatics (both healthy individuals and patients would be informed on medical topics);
- virtual healthcare teams (healthcare professionals who collaborate and share information on patients through digital equipment);
- mHealth (includes the use of mobile devices).

PHARMACEUTICALS PACKAGE

On the basis of progress reports, the Presidency will inform the Council on the state of play in the negotiations on two parts of the "pharmaceutical package": the prevention of falsified medicines from entering into the legal supply chain of medicinal products and the strengthening and rationalising of the current pharmacovigilance system ([16055/09](#)).

Under the Swedish Presidency, the preparatory bodies of the Council pursued their work with high priority on these two parts of the package.

Concerning the draft directive aiming at preventing the entry into the legal supply chain of falsified medicinal products, the working group reached tentative agreement on a number of technical aspects, including the definition of "falsified medicinal products" and the relationship between the new provisions and EU rules on intellectual property rights. Other elements of the proposal still need further discussion, notably with regard to the strengthening of controls of non-active substances used in pharmaceuticals (excipients) and the proposed safety features aiming to render falsification more difficult.

Concerning the proposals for a regulation and a directive aiming at strengthening the EU system for the safety monitoring of medicinal products ("pharmacovigilance"), the working group tentatively agreed notably on the strengthening of the role of the Pharmacovigilance Risk Assessment Committee and its composition. A number of issues still require continued examination, such as the recording and reporting of adverse reactions and the proposed list of medicinal products for human use under intensive monitoring.

With regard to the third part of the "pharmaceutical package", the proposals for a regulation and a directive concerning the information to the general public on medicinal products, the Presidency intends to provide ministers with oral information of purely procedural nature, pending the vote of the European Parliament's committee in charge of environment, public health and food safety expected for April 2010.

Legal basis proposed: all five proposals are based on Article 95 (on internal market) of the Treaty; qualified majority required for a Council decision; co-decision procedure with the European Parliament.

ALCOHOL AND HEALTH

The Council is expected to adopt conclusions entitled "Alcohol and Health" ([16010/09](#)), during a public debate on this subject.

The conclusions are designed to recall the commitment the member states and the Commission have taken within the EU alcohol strategy adopted in 2006 and to invite them to increase their efforts towards reducing alcohol-related harm. Member states and the Commission are for example encouraged to engage actors in the alcohol beverage chain to work proactively in enforcing regulatory measures so that their products are produced, distributed and marketed in a responsible manner. The protection of unborn children, children, adolescents and young people is one the main concerns of the conclusions.

PANDEMIC A(H1N1)

The Council will have an exchange of views on recent developments in the EU and its neighbouring countries on the current situation of the A/H1N1 influenza outbreak. The discussion will be based on the Council conclusions adopted on 12 October 2009 ([14311/09](#)) and structured around the two following questions:

- *what have we learnt so far from the Pandemic (H1N1) 2009 in regard to the issues of availability of vaccines, vaccination strategy, the regulatory process, information and communication to the public, global cooperation and multi-sectoral issues?*
- *What are the challenges for the future and how could we best work together to meet these challenges?*

Other business (health items)

(c) Proposal for a directive of the European Parliament and of the Council on standards of quality and safety of human organs intended for transplantation

- Information from the Presidency

[16521/08](#)

16042/09

(d) Commission Communication "Action Against Cancer: European Partnership"

- Information from the Presidency and the Commission

[11516/09](#)

[16043/09](#)

(e) Commission Communication "Combating HIV/AIDS in the European Union and neighbouring countries, 2009 -2013"

- Information from the Commission

[15204/09](#)

[16045/09](#)

(f) Commission Communication "Solidarity in health: Reducing health inequalities in the EU"

- Information from the Commission

[14848/09](#)

[16047/09](#)

(g) Information on the Presidency's Conferences

- Information from the Presidency

[16048/09](#)

Work programme of the incoming Presidency

- Information from the Spanish delegation
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