

Competitiveness council

Brussels, 29 and 30 May 2017

On Monday 29 May, the Council will deal with internal market and industry items. It will be chaired by **Christian Cardona**, Minister for the Economy, Investment and Small Business of Malta.

The Council will be invited to agree, during a public deliberation, on a general approach to reform the system of **type-approval and market surveillance for motor vehicles**. A Council general approach will allow to start negotiations with the European Parliament.

In public deliberation, the Council will also be invited to agree on general approaches on two legislative proposals of the "**Services Package**" to improve the functioning of the single market:

- a draft directive aimed at carrying out a proportionality test before adoption of new national measures on **professions**, and
- a draft directive laying down rules on notification for **authorisations in the services sector**.

During the regular "Competitiveness check-up" part, ministers will address the state of play of the **real economy**.

They will also exchange views on the progress made in the implementation of the **single market** and the **digital single market strategies**.

Ministers will discuss the future of the EU industrial policy. Afterwards they will adopt conclusions on "**A future EU industrial policy strategy**".

The **digitisation of industry** will be the topic for the working lunch debate.

Following a presentation by the Commission on its report on the "Fitness check of EU **consumer and marketing legislation**", issued on 23 May, ministers will exchange views on this subject.

The Maltese Presidency will debrief ministers on the outcome of a conference on **business transfers** and will invite ministers to express views on this issue.

Information items will include: the state of play of the unified patent court and the **unitary patent protection** system and the implementation of the Marrakesh treaty on **access to published works for blind** and visually impaired people.

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

On Tuesday 30 May, the Council will deal with space policy and research and innovation items. It will be chaired by **Chris Agius**, Parliamentary Secretary for Research, Innovation, Youth and Sport of Malta.

In the morning, the Council will have a debate on the implementation of the **space strategy** for Europe also with a view to adopting conclusions.

In the afternoon, the Council will exchange views on the economic rationale for **public research and innovation funding**.

The Council is due to adopt conclusions on streamlining the **research and innovation monitoring** and reporting landscape.

Prospects for a "**European Innovation Council**" will be the topic for the working lunch debate.

Information items will include: the successful launch of the **satellite Sentinel-2B**, the EU-Mediterranean partnership for food and water projects ("**PRIMA**" initiative), the state of play on **open science** and the **European Spallation Source** research facility.

Press conferences:

Monday 29/05 at +/- 18.00 (internal market and industry)

Tuesday 30/5 at +/- 17.15 (research-innovation and space policy)

* * *

Video streaming of press conferences and public events: <http://video.consilium.europa.eu>

Video coverage in broadcast quality (MPEG4) and photo gallery: www.eucouncil.tv

INTERNAL MARKET AND INDUSTRY

Reform of the type-approval system for cars

The Council will be invited to agree, during a public deliberation, on a general approach to reform the system of type-approval and market surveillance for motor vehicles ([9271/17](#)).

The reform seeks to modernise the system, adapting it to new technologies available on the market and to improve control tests on car emissions data.

A Council general approach will allow to start negotiations with the European Parliament. The Parliament voted its position on 4 April.

The [draft regulation to modernise the type-approval](#) system of motor vehicles was presented by the Commission on 27 January 2016. It will replace the EU's current legal framework which is set out in [directive 2007/46/EC](#).

The draft regulation maintains the objective of directive 2007/46/EC, namely to facilitate the free movement of motor vehicles and trailers in the internal market and applying the principle of mutual recognition, by laying down harmonised type-approval requirements. The aim is to achieve an adequate level of safety and environmental performance of motor vehicles and to address the main shortcomings identified in the existing type-approval system. However, substantial changes will be introduced in the following areas:

- Strengthening of the quality of testing that allows a car to be placed on the market through the reinforcement of provisions concerning technical services;
- Introduction of an effective market surveillance system to control the conformity of cars already available on the market, with the possibility for member states and the Commission to carry out spot-checks on vehicles in order to detect non-compliance at an early stage;
- Reinforcement of the type-approval system with greater European oversight in the type-approval process, in particular through the establishment of a Forum for the exchange of information on enforcement, made up of representatives of national approval and market surveillance authorities.

All member states agree on the need to improve the harmonised implementation of the rules across the EU so as to reduce the possible differences in interpretation and application by national type-approval authorities and technical services. They also agree that more effective market surveillance rules should apply to better detect non-compliance at an early stage.

Building on the work carried out by previous presidencies and intensive technical examination under the Maltese Presidency, the Presidency will submit a [compromise text](#) for Council approval.

The main political issues identified in the proposal are:

a) **Market surveillance rules**

The Presidency compromise proposal improves the original Commission proposal with regard to market surveillance rules through the imposition of a minimum number of checks on vehicles each year. The proposal also gives sufficient flexibility for smaller countries which can delegate their responsibilities to other market surveillance authorities.

b) Compliance verification by the Commission

Under the Presidency compromise proposal, the Commission will be allowed to carry out tests and inspections of vehicles to react to irregularities immediately. This seeks to increase the independence and quality of the EU type-approval system.

c) Forum for exchange of information on enforcement

In line with the original Commission proposal, the Presidency text sets out an advisory Forum with the purpose to harmonise different interpretations and practises among the member states.

d) National fee structure for type approvals and market surveillance

The Presidency compromise foresees an obligation for member states to finance market surveillance activities.

The fees for type-approval activities are to be levied on manufacturers who have applied for type-approval.

e) Validity of the type-approval certificate

The Presidency proposal maintains the existing regime with no limitation of the validity of the type-approval certificate, whereas the Commission had proposed to limit the validity to 5 years.

f) Peer-evaluation of type approval authorities and assessment of technical services

The Commission proposal introduced the concept of peer-evaluations of type-approval authorities. Under the Presidency text, type-approval authorities will be exempted to peer-evaluation only in cases where they designate all their technical services on the basis of accreditation of internationally recognised standards.

As far as technical services are concerned, the Presidency text proposes the involvement of the national accreditation bodies in the assessment of the technical services and the establishment of joint assessment teams.

The joint assessment will only be compulsory in relevant circumstances, while allowing some exemptions for technical services carrying out national individual vehicle approvals and those only checking the correct installation of components of certain trailers.

g) Administrative fines

Following on from the Commission proposal, the Presidency compromise foresees administrative fines which the Commission may impose, under certain circumstances, upon economic operators for infringement as regards the non-compliance of vehicles, systems, components and separate technical units.

Services package: tests before new rules on professions - notifications under the Services Directive

In public deliberation, the Council will be invited to agree on general approaches on two legislative proposals of the "Services Package" to render the internal market more effective:

- a draft directive aimed at carrying out a proportionality test before adoption of new regulation of professions, and
- a draft directive laying down rules on notification for authorisation schemes and requirements in the services sector.

A Council general approach allows to start negotiations with the European Parliament.

The "[Services Package](#)", released on 10 January 2017, contains the following legislative proposals:

- [Proposal for a services e-card](#)
- [Proposal for a services notification procedure](#)
- [Proposal for a proportionality test before adoption of new regulation of professions](#)

It also contains [Guidance on reform recommendations for regulation in professional services](#).

Promoting the competitiveness of services markets is central for the creation of jobs and growth in the EU, with the services sector accounting for around 70% of the EU's GDP.

- Professions: tests before adoption of new national rules

The draft directive seeks to improve transparency on the way certain professions are regulated in the member states.

More in particular, it aims at ensuring that national measures are fit for purpose and do not create unjustified burdens in the internal market.

When regulating professions according to their national objectives, member states will have to make an assessment as to whether the new or amended rules are justified so as to appreciate their effect on stakeholders and businesses. The future directive will therefore harmonise the way in which these proportionality tests should be carried out and the criteria that have to be applied.

The Presidency will submit a compromise text ([9057/17](#)) under which the ability of member states to regulate the professions according to well-justified aims should not be impaired.

The obligation to do a proportionality test before introducing new regulation of professions must be read together with the [Professional Qualifications Directive](#) (2013/55/EU).

- Notification obligations under the Services Directive

The draft directive seeks to ensure that new national measures approved in the member states fulfil the necessary conditions to facilitate the competitiveness and integration of the single market in the services sector.

More in particular, it aims at improving the current notification procedure of the [Services Directive](#) (2006/123/EC). This procedure provides that member states must notify to the Commission new or changed authorisation schemes or requirements falling under the scope of this directive, in order to guarantee its correct implementation.

The Presidency will submit a compromise text ([9507/17](#)) taking into account the required compatibility between member states' competences and the need to implement a notification procedure more effective.

The objective of the [Services Directive](#) is to remove barriers to the establishment of service providers and the temporary provision of cross-border services.

Digital single market strategy and single market strategy: progress on implementation

The Council will examine the progress made on the implementation of the digital single market strategy and the single market strategy.

The ministerial debate will contribute to preparations for the next EU summit on 22-23 June, at which the heads of state and/or government will review the progress made in implementing the two strategies.

The Maltese Presidency will summarise the outcome of the debate with a view to forwarding it to the President of the European Council.

To structure the debate, the Presidency will invite ministers to express views on a set of questions ([9000/17](#)).

The Commission recently presented its mid-term review of the Digital Single Market Strategy on 10 May: "[A connected digital single market for all](#)", together with the state of play of ongoing actions ([8998/17 ADD 1](#) and [8998/17 ADD 2](#)).

The European Council conclusions of 28 June 2016 called on the Council of ministers to report annually on progress in deepening the single market, starting in June 2017.

Competitiveness check-up: state of play of the real economy

Under the "competitiveness check-up" part of the Council session, ministers will exchange views on the state of play of the real economy.

To some extent the single market is a mature economic reality, but it also keeps on evolving and adapting to the new trends and changes, particularly in the context of the emergence of new global economic players as well as technology developments.

The monitoring of the single market from the viewpoint of the evolution and transformation of value chains provides new insights on the competitiveness of sectors. New methodologies based on firm data can help to get a more precise assessment of the performance of the single market from an integration and competitiveness perspective, in particular in relation to:

- global value chains and the reorganisation of production, which have changed the geographic distribution of production activities, and
- new and more precise approaches to measure integration and its real impacts, which call for new indicators and methods for the monitoring of the performance of the single market.

Given the economic importance and growth potential of these changes, some dimensions of the single market such as the services sectors and the situation of the SMEs have been greatly affected.

The 'competitiveness check-up' allows ministers to put forward priorities and respond to urgent issues and developments in the real economy.

It is a regular working method that was established in 2015 aimed at improving the role of the Competitiveness Council as regards the analysis of horizontal and sectoral economic issues as well as the monitoring of competitiveness mainstreaming.

In practice, it is based on a presentation by the Commission of the latest figures and trends related to micro-economic issues, with ministers being invited to respond and provide input on possible implications for EU companies and citizens.

Consumer and marketing legislation: fitness check

Following a presentation by the Commission on its report on the "Fitness Check of EU Consumer and Marketing legislation", issued on 23 May 2017, ministers will exchange views on this subject.

The Commission is currently performing a [Fitness Check of EU Consumer and Marketing legislation](#) which covers the following directives:

- Unfair Commercial Practices Directive (2005/29/EC)
- Sales and Guarantees Directive (1999/44/EC)
- Unfair Contract Terms Directive (93/13/EEC)
- Price Indication Directive (98/6/EC)
- Misleading and Comparative Advertising Directive (2006/114/EC)
- Injunctions Directive (2009/22/EC)

This exercise is a part of the Commission's Regulatory Fitness and Performance programme, known as "[REFIT](#)".

Business transfers

The Maltese Presidency will debrief ministers on the outcome of a [conference on business transfers](#) which was organised, in cooperation with the Commission, in Malta on 17 March 2017.

Ministers will be invited to express views on this issue.

The conference was useful to identify the main obstacles for a successful transfer of ownership of businesses and to discuss possible incentives and policy solutions to overcome these obstacles.

The Presidency is expected to present the main outcomes of the conference notably as regards actions needed, communication and educational needs, upgrading of skills and improving access to finance.

Buying an existing company is an alternative way of starting a business. It is often more advantageous than starting from scratch. Every year, around 450 000 enterprises and more than 2 million employees are transferred to new owners within the EU. However, up to one third of these transfers fail. The Presidency decided therefore to launch a debate on further streamlining the transfer of businesses.

Industrial policy in Europe

The Council will hold a debate with a view to adopting conclusions on a future EU industrial policy strategy.

The debate will be structured by means of a [Presidency policy document](#). Ministers will be invited to express views on the main initiatives that should be part of an integrated EU industrial policy strategy.

The conclusions will call on the Commission to provide a holistic EU industrial policy strategy for the future in time for the European Council meeting in spring 2018.

The strategy should present medium to long term objectives and an action plan with concrete measures developed in close consultation with member states and relevant stakeholders.

The conclusions of the European Council of 15 December 2016, called on the Council and the Commission to evaluate the impact of mainstreaming industrial policy into the EU strategic initiatives, and to consider concrete action to strengthen and modernise the industrial base of the single market.

RESEARCH AND INNOVATION

Monitoring and reporting on research and innovation (R&I)

The Council is due to adopt conclusions aimed at streamlining the R&I monitoring and reporting landscape ([8462/17](#)).

The conclusions will propose measures to reduce reporting burden on the member states in the field of R&I.

Last March, the advisory committee for the European Research Area, the [ERAC](#), issued a set of [recommendations](#) on the process of R&I monitoring and reporting and on the impact of the produced reports. The conclusions are expected to call for the implementation of the recommendations as soon as possible.

The Maltese Presidency identified streamlining the R&I monitoring and reporting landscape as one of its priorities. This initiative was broadly welcomed by the EU member states, associated countries and the Commission.

Economic rationale for public R&I funding

The Council will exchange views on the economic rationale for public R&I funding and its impacts.

The debate will be structured by means of a [Presidency policy document](#).

Ministers will be invited to express views on the following questions:

- *Which measures of public R&I policy and funding are most appropriate to speed up the creation and diffusion of innovation? How do you think that this should affect public R&I policy, notably in relation to market-creating innovation?*
- *In a context where the nature of innovation is deeply and swiftly changing, what impacts should public policy makers, at both national and European level, seek to obtain from public R&I investments and what should be done to maximise such impacts?*

In the context of the interim evaluation of the current research framework programme "Horizon 2020", and with a view to preparing the next EU framework programme for R&I, the Commission has commissioned a study on the ["The Economic Rationale for Public R&I Funding and its Impact"](#), which was published in March 2017.

The study presents the economic case for public R&I funding and makes recommendations for the design of public R&I policy.

SPACE POLICY

Space strategy for Europe

The Council will have a debate on space policy with a view to adopting conclusions on the space strategy for Europe.

The exchange of views will be structured by means of a [Presidency document](#).

Ministers will be invited to express views on the following questions:

- 1) *Taking stock of the Union's achievements in space and considering the increasingly complex global geopolitical context, including economic, security and environmental aspects, how should Europe best tackle the rising challenges? What do Member States consider to be the most important focus at both Union and national levels?*
- 2) *Considering the long cycles of space systems, what would be the appropriate timeliness for European actions aimed at ensuring continuity and long-term visibility of the space sector and possible other market sectors that could use space to enable new solutions?*
- 3) *In view of the EU-ESA joint statement on possible roles and responsibilities for the Union, ESA and their Member States, what are the best ways to achieve complementarity among all relevant European actors, avoid fragmentation, maintain and enhance the European leading position at global level? What actions can Member States take in that respect?*
- 4) *What capacity building measures shall be taken to particularly assist Member States and regions with emerging space capabilities? How to engage a wider participation of SMEs, microenterprises and users from society?*

The Commission adopted the communication on the [Space strategy for Europe](#) on 26 October 2016 with the aim of developing and creating new services and promoting Europe's leadership in space.

The strategy revolves around four strategic goals:

- 1) maximising the benefits of space for society and the EU economy
- 2) fostering a globally competitive and innovative European space sector
- 3) reinforcing Europe's autonomy in accessing and using space in a secure and safe environment
- 4) strengthening Europe's role as a global actor in space and promoting international cooperation

Europe owns world-class space systems with Copernicus² for Earth observation, EGNOS³ and Galileo⁴ for satellite navigation and geo-positioning. With 18 satellites currently in orbit and over 30 planned in the next 10 to 15 years, the EU is the largest institutional customer for launch services in Europe.

² [European Earth Observation Programme](#).

³ [European Geostationary Navigation Overlay Service](#), which augments GPS signals over Europe.

⁴ [European Global Navigation Satellite System](#), similar to the GPS.

Space technologies, data and services have become indispensable in the daily lives of European citizens: when using mobile phones and car navigation systems, watching satellite TV or withdrawing cash.

They support numerous EU policies and key political priorities, including the competitiveness of our economy, migration, climate change, the digital single market and the management of natural resources. The combination of space data with digital technologies open up many business opportunities for all member states.

Space policy can help boost jobs, growth and investments in Europe. Investing in space pushes the boundaries of science and research.

Space is also of strategic importance as it reinforces Europe's role as a stronger global player and is an asset for its security and defence.

For this reason, the EU will invest over EUR 12 billion in space activities for the period 2014 to 2020.

Any Other Business

Unitary patent protection system

The Council will take note of information on the finalisation of implementation and entry into operation of the unitary patent and the Unified Patent Court (UPC).

Some delegations are expected to call on member states to intensify their efforts so as to bring this major reform into operation as quickly as possible.

The unified patent package is built on three pillars:

- a [regulation establishing unitary patent protection](#)
- a [regulation on the translation arrangements](#)
- an intergovernmental [agreement setting up the UPC](#) for the settlement of disputes relating to European patents and European patents with unitary effect.

The two regulations were adopted under the enhanced cooperation procedure, with Italy and Spain not participating initially. In September 2015, Italy confirmed its participation in the system. Nor is Croatia, which was not an EU member state at the time, participating yet.

The UPC was signed on 13 February 2013 by all member states except Spain, Poland (although Poland participates in the enhanced cooperation) and Croatia.

Ratification details of the UPC can be found in the [Council database](#).

Until today, the UPC agreement has been ratified by 12 member states.

To take effect, the package requires ratification of the UPC agreement by 13 member states including France, Germany and the United Kingdom.

Implementation of the Marrakesh Treaty

The Maltese Presidency will provide an update on the [agreement](#) reached on 10 May 2017 with the European Parliament on new implementing legislation with a view to the ratification of the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled.

The agreement was endorsed by the Council's Committee of Permanent Representatives (Coreper) on 19 May.

Empowerment of competition authorities

The Council will take note of a presentation by the Commission on a draft directive aimed at improving the enforcement of competition law to ensure the proper functioning of the internal market.

The Commission submitted its proposal to the Parliament and the Council on 23 March 2017 ([7621/17](#)).

EU-Mediterranean partnership for food and water projects: the "PRIMA" initiative

The Presidency will provide an update on the [agreement](#) reached on 11 April with the European Parliament on the Partnership in Research and Innovation in the Mediterranean Area (PRIMA initiative).

The agreement was endorsed by the Council's Committee of Permanent Representatives (Coreper) on 26 April.

The PRIMA initiative was one of the main topics of the informal ministerial meeting on research and innovation that took place in La Valetta, Malta, on 3 and 4 May 2017. At this meeting it was underlined the importance of the PRIMA initiative to help to respond to major challenges Mediterranean countries currently face, and particularly concerning food and water.

During the Presidency ministerial conference on Euro-Mediterranean R&I cooperation held on 4 May 2017, ministers endorsed the Valetta Declaration on "[Strengthening Euro-Mediterranean Cooperation through Research and Innovation](#)". The declaration reaffirms, among other things, the commitment to support research cooperation in the Euro-Mediterranean region, while underlining the importance of a stable and lasting cooperation on R&I within the region.

Open science

The Commission is expected to provide information on the state of play regarding open science, in response to the [Council conclusions](#) from May 2016, which called on the Commission to inform the member states and the stakeholders on a regular basis on the ongoing developments and outputs of the Open Science Policy Platform at least twice a year.

European Spallation Source

The Council will take note of information about the [European Spallation Source](#) (ESS), which is a research facility based on the world's most powerful neutron source.

In the future the ESS will provide up to 100 times brighter neutron beams than existing facilities today. It is under construction in Lund, Sweden.

The ESS was established as a European Research Infrastructure Consortium.

Sentinel-2B satellite

The Commission will give a presentation of images collected by the Copernicus satellite "Sentinel 2B". The Sentinel-2B was successfully launched on 6 March 2017 from Europe's Spaceport in Kourou, French Guiana.

[Copernicus](#) is the EU space flagship programme aimed at developing European information services based on satellite earth observation.

Work programme of the incoming Presidency

The Estonian delegation will give an overview of the priorities in the field of competitiveness under its Presidency term in the first half of 2018.

* * *

Corporate tax avoidance - Hybrid mismatches

The Council is expected to adopt, without discussion, new rules aimed at closing down 'hybrid mismatches' with the tax systems of third countries.

The directive is the latest of a number of measures designed to prevent tax avoidance by large companies.

[Press release: Council agreement on hybrid mismatches](#) (February 2017).