

COMPETITIVENESS COUNCIL

Brussels, 28 and 29 November 2016

On Monday 28 November the Council will deal with internal market and industry items. The meeting will be chaired by **Peter Žiga**, Minister for the Economy of Slovakia.

The Council will start its discussions with the draft regulation on addressing unjustified **geo-blocking** to facilitate cross-border trade in the single market with a view to achieving a general approach during a public deliberation.

Ministers will also hold a discussion on the **single market strategy** to assess the progress made one year after its launch. The Commission is due to present its Start-up and Scale-up Initiative adopted on 22 November.

During the working lunch, ministers are due to discuss the future of the European **automotive industry**.

The Council will continue with the customary debate on the **competitiveness check-up**, which allows ministers to address key issues of the **real economy**. It will have a focus on the '**New Skills Agenda for Europe**' and in particular the skills mismatch and future needs.

Ministers will be invited to exchange views on the completion and entry into force of the **unitary patent protection** system.

They will also be informed of a number of any other business points: on industrial policy, requested by Germany, type-approval for vehicles and consumer protection cooperation to be presented by the Presidency, the legal protection of biotechnological invention, the SME envoys' report, the 2nd copyright package to be presented by the Commission, the outcome of a conference on the collaborative economy hosted by the Presidency, the social rights pillar requested by Hungary and the work programme of the incoming Presidency for internal market and industry.

On Tuesday 29 November the Council will deal with space policy in the morning and research and innovation policy items in the afternoon. The Council will be chaired by **Peter Plavčan**, Minister for Education, Science, Research and Sport of Slovakia.

During a public session, the Commission will present the **new space strategy for Europe**. The presentation will be followed by a ministerial policy debate.

The research and innovation Council session will be preceded by an informal lunch of research ministers, who will debate cooperation and **networks for excellence**, including young researchers, in the European research landscape.

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

Research ministers will be called on to adopt conclusions aimed to **support young researchers** and raise the attractiveness of scientific careers. Moreover, they will exchange views on the implementation of the strategy for **international cooperation in research and innovation**.

Ministers will be informed of a number of any other business points: on open science and quantum technologies to be presented by the Commission, the outcome of a conference on the European bioeconomy hosted by the Presidency, the Azores International Research Centre for the Atlantic Ocean requested by Portugal, the Commission communication on clean energy innovation and the work programme of the incoming Presidency for research and space policy.

Press conferences:

- Monday 28/11 (internal market and industry) at +/- 18.00
- Tuesday 29/11 (research and space) at +/- 17.15

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

INTERNAL MARKET AND INDUSTRY

Geo-blocking: removing barriers to e-commerce

In public deliberation, the Council will be invited to agree on a general approach on a draft regulation aimed at banning unjustified geo-blocking within the internal market.

Geo-blocking is a discriminatory practice that prevents online customers from accessing and purchasing products or services from a website based in another member state.

The draft regulation is thus intended to remove discrimination based on customers' nationality, place of residence or place of establishment and to boost e-commerce.

The general approach will serve as the Council's common position to start negotiations with the European Parliament under the EU's ordinary legislative procedure.

Following intensive work carried out by the Council preparatory bodies on the basis of the Commission original proposal, the Slovak Presidency will present a compromise text and invite ministers to discuss on it with a view to reaching an agreement ([14663/16](#)).

The main political issues discussed so far within the Council have been as follows:

Scope and objective

The regulation will only apply to commercial offers and transactions between member states and not happening within the same country, to which national legislation will apply.

It will comply with other EU legislation in force applicable to cross-border sales, such as the rules on copyright and Union law concerning judicial cooperation in civil matters, in particular the Rome I and Brussels I regulations.

The regulation will not apply to those activities excluded from the scope of the [Services Directive](#), like financial, audio-visual, transport or healthcare services.

Access to online interfaces

Traders should not be required to have the customer's explicit consent each time the same customer visits the same online interface respecting non-discrimination for e-commerce website access. Once the customer's explicit consent has been given, traders should be allowed to store the information on the customer's consent for subsequent visits.

If a trader blocks or limits access or redirects customers to a different version of the online interface, a clear explanation should be provided to customers by the trader. Traders must inform the customer and provide an adequate explanation.

Non-discrimination on access to goods and services

The trader cannot discriminate between customers with regard to the general terms and conditions – including prices – they offer for selling goods or services in three cases. These cases are where the trader:

1. sells goods that are delivered in a member state to which the trader offers delivery or are collected at a location agreed upon with the customer.

2. provides electronically supplied services. This does not apply to services the main feature of which is the provision of access to or use of copyright protected works or other protected subject matter, or the selling of copyright protected works in an intangible form, like e-books or online music.

3. provides services and those services are received by the customer in the country where the trader operates. This concerns the provision of services other than electronically supplied services, such as hotel accommodation, sporting events, car rental, and entry tickets to music festivals or leisure parks.

Unlike price discrimination, price differentiation should not be prohibited, and traders are therefore free to offer different general conditions of access, including prices, and to target certain groups of customers in specific territories.

Moreover, traders will not be obliged to deliver goods to customers outside the member state to which they offer delivery.

Payment transactions

The regulation will prohibit unjustified discrimination of customers in relation to the payment means used in the transaction. Traders will not be allowed to apply different payment conditions for customers because of nationality, place of residence or place of establishment.

Passive sales

The Presidency proposes keeping the exemptions permitted by EU competition law in situations where the traders are bound by an agreement with their supplier requiring them to restrict their passive sales (i.e. sales where the trader does not actively solicit the customer's business). The new regulation would not apply to such cases.

The Commission submitted the [original proposal](#) to the Council and the European Parliament on 25 May 2016. It is based on article 114 of the EU Treaty. It was presented together with supplementary legislative proposals on cross-border parcel delivery services ([9706/16](#)) and a revision of the Consumer Protection Cooperation Regulation ([9565/16](#)), with the objective of delivering on both the Digital Single Market and the Single Market strategies.

EU member states generally support the proposal's objectives, i.e. the promotion of a truly integrated single market by banning unjustified online and offline trading practices which discriminate customers (consumers and companies) based on their nationality, place of residence or place of establishment.

In its conclusions of 25 and 26 June 2015, the European Council emphasised the importance of the Digital Single Market strategy and called for action to implement key components of the strategy, including the removal of remaining barriers to the free circulation of goods and services sold online and to tackle unjustified discrimination on the grounds of geographic location.

Competitiveness 'check-up': new Skills Agenda for Europe

Ministers will exchange views on the new Skills Agenda for Europe.

The debate will be introduced by the Commission, which presented its [communication](#) 'New Skills Agenda for Europe: working together to strengthen human capital, employability and competitiveness' last June.

The [Skills Agenda for Europe](#) provides a framework for boosting the skills needed for a competitive economy by focusing on three objectives:

- (1) developing and upgrading basic and higher skills;
- (2) improving transparency and recognition of skills and qualifications; and
- (3) generating better and more timely information about labour market skill needs.

A number of actions put forward by the Skills Agenda are of particular relevance to industry, policy makers and social partners, in particular:

- promoting the development of flexible, future-proof vocational education and training systems;
- upskilling the workforce, notably through the proposal for establishing a [Skills Guarantee](#);
- validating skills acquired and facilitating recognition across companies, sectors and countries;
- supporting the skills profiling and validation of refugees for easier integration in the labour market;
- better anticipating future skill needs, including through the set-up of sectorial blueprints in key sectors of the economy and the set-up of national and local coalitions for digital jobs and skills.

According to the European Centre for the Development of Vocational Training (CEDEFOP)², the five occupations for which there is a critical shortage with important implications for the national economies are: ICT professionals; medical doctors; science, technology, engineering and mathematics professionals; nurses and midwives; and teachers.

According to the CEDEFOP forecast for 2015 to 2025, future skill needs in the EU will concentrate on high-skilled occupations. Job opportunities will grow for high-skilled occupations only, will stagnate for medium-skilled occupations and will decline severely for low-skilled occupations. These trends are expected to impact employment, occupations and qualifications in all sectors across the EU but in different ways.

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.

² [Skill shortage and surplus in Europe](#), CEDEFOP Briefing Note, November 2016.

Single market strategy

The Council will exchange views on the state of implementation of the [single market strategy](#) with a view to assessing the progress made one year after its launch.

The debate will be structured in a Presidency document ([14246/16](#)). Ministers will be invited to identify initiatives with the biggest potential to create economic growth and on ways of ensuring their swift implementation.

Commissioner Bieńkowska is also expected to present the new Start-up and Scale-up Initiative ([14261/16](#)).

The overall objective of the single market strategy is to eliminate the remaining economic barriers from the single market. These barriers tend to limit consumer choices and to impede the emergence of new business models, thus limiting innovation and job creation.

Therefore, the actions included in the strategy for the internal market deal with three main areas:

- creating opportunities for consumers, professionals and businesses,
- encouraging and enabling modernisation and innovation,
- ensuring results that benefit consumers and businesses in their daily lives. To this end, the strategy includes a roadmap for the years 2016 to 2018.

This strategy, which was released by the Commission on 28 October, is complementary to efforts made in other areas to ensure economic prosperity, job creation and Europe's attractiveness for investments, such as the digital single market, the internal market for energy, labour mobility, the capital markets union, the circular economy package, the new 'Trade for All' strategy and the better regulation agenda.

On 29 February 2016, the Council adopted [conclusions](#) focusing on three key areas of the strategy which are particularly crucial for creating growth and jobs: support for SMEs, start-ups and innovative businesses, releasing the untapped potential in services and the efficient implementation, compliance and enforcement of single market rules.

Unitary patent protection system

Ministers will exchange views on the finalisation of implementation and entry into operation of the unitary patent and the Unified Patent Court (UPC).

The aim of the debate is to reiterate the importance of a timely entry into force of the unitary patent package.

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.

In particular, and given the importance for improving innovation and creation of growth and jobs in Europe, they are expected to underline that the prerequisite of ratification of the UPC agreement should be achieved as soon as possible, to allow operationalisation of the system with the broadest possible geographical coverage.

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. Croatia, which was not an EU member state at the time, is also not yet participating.

The UPC was signed on 13 February 2013 by all member states except Spain, Poland (although Poland participates in the enhanced cooperation) and Croatia. So far, it has been ratified by 11 member states: Austria, France, Sweden, Belgium, Denmark, Malta, Luxembourg, Portugal, Finland, Bulgaria and the Netherlands (in order of the date of ratification).

Italy, Slovenia and Lithuania have stated that they have finalised their respective internal ratification procedures and Germany is expected to follow suit in early 2017. Following the referendum on Brexit, the United Kingdom has not reached a final position on ratification yet.

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

At the Competitiveness Council on 29 September, the Council took note of a [progress report](#) for setting up the unified patent protection system and the situation concerning the ratification process in the member states of the UPC agreement. Many delegations and the Commission welcomed the progress made and called for the ratification process of the UPC agreement to be speeded up in those member states that have not yet done so with a view to a swift entry into force.

Future of the European automotive industry

Over the informal working lunch, ministers will exchange views on the future of the automotive sector, with a focus on low- and zero-emission mobility and automated and connected vehicles.

Building upon the [strategy for low-emission mobility](#) adopted this summer, in its 2017 work programme, the Commission announced its intention to work in an integrated way on mobility, connectivity and the future of the automotive industry.

The working lunch will be attended by Commissioner Bińkowska and by the president of the European Automobile Manufacturers' Association (ACEA) Dieter Zetsche.

OTHER BUSINESS (internal market and industry)

Reform of the type-approval system for cars

The Slovak Presidency will report, in public deliberation, on the state of play of the ongoing examination of a [draft regulation to improve the current type-approval](#) system of motor vehicles ([14569/16](#)).

The objective of the draft regulation is to revise the EU's legal framework for the type-approval of motor vehicles, which is set out in [directive 2007/46/EC](#). The revision seeks to modernise the system to adapt it to new technologies available on the market and to improve control tests on car emissions data in order to address shortcomings identified in the existing type-approval system.

Consumer protection: cooperation between national authorities

The Presidency will inform the Council about the state of play on the ongoing examination of a draft regulation aimed at improving cooperation between national authorities responsible for the enforcement of consumer protection laws ([14604/16](#)).

The general objective of the proposal is to modernise the cooperation mechanisms to further reduce the consumer damage caused by cross-border infringements to Union consumer law.

On 25 May, the Commission presented the [proposal on the review of the consumer protection cooperation](#) as part of a broader package including proposals on cross border parcel deliveries and on tackling unjustified geo-blocking.

SME envoys network

Commissioner Bińkowska will present the [SME envoys network](#) annual report, which was adopted at the [SME Assembly](#) that took place in Bratislava on 23 to 25 November ([14414/16](#)).

Collaborative economy

The Presidency will present the outcome of the [conference on collaborative economy](#) that took place on 15 November in Brussels ([14677/16](#)).

Ministers held a first discussion on the collaborative economy during the [Competitiveness Council](#) meeting of 29 September 2016.

Industrial policy in the 2017 Commission work programme

The German and Luxembourg delegations ([14343/16](#)) will request further discussions within the Competitiveness Council on ways to prioritise industrial policy in the context of the [Commission's work programme for 2017](#).

Social rights pillar and competitiveness

The Hungarian delegation will draw attention to the competitiveness aspects of the European pillar of social rights ([14578/16](#)).

In March 2016, the Commission launched a public consultation on a European pillar of social rights, which aims to strengthen the focus on employment and social aspects and to make the European social model fit for the challenges of the 21st century. The consultation runs until the end of this year.

This subject will be discussed at the Employment and Social Policy Council meeting on 8 December.

Patentability of plants

The Commission is expected to present an [explanatory notice](#) clarifying certain articles of [directive 98/44](#) on the protection of biotechnical inventions.

The Commission notice seeks to clarify the demarcation line between patentable biotechnological inventions and plant varieties obtained through conventional breeding, for whom a separate system of protection exists which includes the 'plant breeders' privilege'.

The notice, which was published on 8 November, states that products created through essential biological processes should be excluded from patentability.

It comes in response to recent decisions of the European Patent Office on the patentability of plant material obtained through conventional breeding methods, and the impact of these decisions on the plant breeder's privilege.

The breeder's privilege of the [Community plant variety](#) rights system enables breeders to use any plant variety, whether protected by a Community plant variety right or not, for the creation of new ones.

Reform of the copyright framework

The Commission will provide information about the second copyright package. The overall objective of this package, presented on 14 September 2016, is to make EU copyright rules fit for the digital age ([14447/16](#)).

SPACE POLICY

Space strategy for Europe

During a public session, the Commission will present the new space strategy for Europe. The presentation will be followed by a ministerial policy debate.

The debate will be structured by means of a Presidency note ([14212/16](#)).

In particular, ministers will be invited to focus on those actions and measures proposed in the space strategy that can have a major positive impact in competitiveness and bring tangible benefits to European citizens and companies in terms of economic growth and job creation.

Given the strategic importance of space capacities, ministers are also expected to reflect on key aspects that will contribute to reinforcing Europe's autonomy in accessing and using space in a secure and safe environment.

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, and
- 4) strengthening Europe's role as a global actor in space and promoting international cooperation.

Europe owns world-class space systems with Copernicus³ for Earth observation, EGNOS⁴ and Galileo⁵ 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.

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.

³ [European Earth Observation Programme](#).

⁴ [European Geostationary Navigation Overlay Service](#), which augments GPS signals over Europe.

⁵ [European Global Navigation Satellite System](#), similar to the GPS.

RESEARCH and INNOVATION

Support for young researchers and scientific careers

The Council will be called on to adopt conclusions to support young researchers and to raise the attractiveness of scientific careers.

The [draft conclusions](#) contain a set of commitments to create better conditions new generations of scientists and researchers, which are of vital importance to Europe's future competitiveness and leadership, as they are the driving force for innovation and economic growth.

Measures to support young, early stage researchers and the attractiveness of scientific careers are the main priority of the Slovak Presidency in the field of research and innovation.

The issue of young researchers was discussed in a seminar organised by Slovakia in June 2016 as well as at the [informal ministerial meeting](#) held in Bratislava on 19 July, where the Presidency introduced the [Bratislava declaration of young researchers](#).

The Horizon 2020 EU framework programme for research and innovation (2014-2020) includes a number of initiatives in relation to early stage researchers, including the Marie Skłodowska-Curie actions which provide grants for researchers and encourages their mobility. In addition, the European Research Council (ERC) Starting Grants are designed to encourage young talented research leaders to gain independence in Europe and to build their own careers.

In its conclusions of May 2015, the Council highlighted the role of human capital in the advancement of the European Research Area and the necessity to strengthen comprehensive human resources strategies, as well as the empowerment of young researchers by providing them with attractive career paths.

The 'New Skills agenda for Europe' adopted in June 2016 is also of particular importance for research and for young researchers. The quality of skills is of vital importance in a research environment that is evolving considerably and which fuels a knowledge-based economy.

Young, early stage researchers constitute a vast pool of talent that can play a central role by providing the intellectual capital needed to grow strong research and innovation systems.

International cooperation in research and innovation

During a public session, the Council will exchange views on the implementation of the EU's strategy for international cooperation in research and innovation (R&I).

The exchange of views will be based on a [Presidency document](#) and on a Commission report.

The [Commission's report](#) was issued on 13 October and is the second biennial report on the implementation of the strategy.

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

- the framework conditions to boost international cooperation
- the measures to strengthen international cooperation in/beyond Horizon 2020 and
- the role of science diplomacy.

The 2012 strategy for international cooperation for R&I supports the objectives of strengthening the

EU's R&I excellence, attractiveness and economic and industrial competitiveness, tackling global societal challenges, and supporting the EU's external policies.

These objectives apply in different ways depending on the international partner country or region.

The strategy is structured around six main areas of action:

- (i) opening up the EU's research framework programme Horizon 2020 to researchers and innovators from across the world and supporting targeted activities on the basis of priority areas for cooperation with international partner countries and regions;
- (ii) improving the framework conditions that underpin international cooperation;
- (iii) playing a leading role in multilateral fora and working with international organisations;
- (iv) reinforcing the partnership with member states;
- (v) intensifying synergies with the EU's external policies; and
- (vi) widening communication and strengthening monitoring.

Networks for excellence in the European research area

The research and innovation Council session will be preceded by an informal lunch of research ministers, who will debate, together with Commissioner Moedas, on the cooperation and networks for excellence, including young researchers, in the European research landscape. Professor Dr Michal Juríček, from the Chemistry department of the Basel University, will be the key-note speaker⁶.

OTHER BUSINESS (research and innovation)

Open science

The Commission is expected to outline the state of play in response to the Council conclusions on the [transition towards an Open Science system](#) 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 ([14520/16](#)).

The [Open Science Policy Platform](#) works in support of the European Open Science policy to promote the uptake by stakeholders of best practices, including on issues such as adapting reward and evaluation systems, alternative models for open access publishing, management and reuse of research data and other aspects of open science.

⁶ Professor Juríček has worked in the team of James Fraser Stoddardt, who received the 2016 Nobel Prize in chemistry.

Quantum technologies

The Commission is expected to brief the meeting on preparations for the Quantum Technologies flagship initiative. The initiative started last September and is intended to launch an operational ramp-up phase within Horizon 2020 starting in 2018 ([14579/16](#)).

At the conference 'Quantum Europe 2016: A New Era of Technology', which was held in Amsterdam, the Netherlands, on 17 and 18 May, a European team of scientists, industries and policy makers presented a "[Quantum Manifesto](#)" with a proposal for the set-up of a flagship initiative in the field of quantum technologies.

European bioeconomy

The Slovak Presidency, will brief the Council on the outcome of a high-level conference organised on 17 October in Bratislava with the title '[The role of regions in the European Bioeconomy](#)'.

At the Agriculture Council on 14 and 15 November, ministers for agriculture exchanged views on EU agricultural research and innovation in preparation for the upcoming review of the European bioeconomy strategy, due by 2017, and the working programme for 2018 and 2020 under the Horizon 2020 research programme.

Azores International Research Centre for the Atlantic ocean

The Portuguese delegation will invite EU member states to join an international cooperation project for the development of a world class research infrastructure on the Azores Islands: the Azores International Research Centre (AIR Centre) ([14593/1/16 REV 1](#)).

Clean energy innovation

The Commission is expected to provide information on its communication on 'Accelerating Clean Energy Innovation', to be issued on 30 November.

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Work programme of the incoming Presidency

The Maltese delegation will give a short overview of the priorities of its EU Presidency term during the first half of 2017 in the fields of internal market, industry, research and space.
